



IOWA ADMINISTRATIVE BULLETIN

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Pages 291 to 402

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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.

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CITATION of Administrative Rules

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

441 IAC 79	(Chapter)
441 IAC 79.1	(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 7.17, 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 2009

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 7, 2009	August 26, 2009
6	Wednesday, August 19, 2009	September 9, 2009
7	Friday, September 4, 2009	September 23, 2009

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, monthly meeting on Friday, August 7, 2009, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Insect pests and diseases, 46.15 Notice **ARC 8022B** 7/29/09

ATTORNEY GENERAL[61]

Identity theft passport, ch 35 Filed **ARC 7940B** 7/15/09

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Financial assistance programs, amend chs 1, 23, 53, 57, 59 to 61, 68, 69, 165, 173 to 175, 187, 189; adopt chs 74, 75 Notice **ARC 7971B**, also Filed Emergency **ARC 7970B** 7/15/09

Film, television, and video project promotion program, amendments to ch 36 Notice **ARC 7955B**, also Filed Emergency **ARC 7956B** 7/15/09

Grow Iowa values financial assistance program—disaster recovery component, 74.7 Filed Emergency **ARC 7978B** 7/29/09

Aggregate tax credit limit for certain economic development programs, ch 76 Notice **ARC 7953B**, also Filed Emergency **ARC 7954B** 7/15/09

Community microenterprise development organization grant program, ch 113 Filed **ARC 7948B** 7/15/09

Renewable fuel infrastructure program, 314.5(2)“e” Filed Emergency After Notice **ARC 7949B** 7/15/09

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Teacher licenses and endorsements—classes of licenses, 13.10(5), 13.11 to 13.14 Filed **ARC 7987B** 7/29/09

Licenses, endorsements and authorizations, rescind 13.28(26), 13.28(27), 15.7(1) to 15.7(5), 15.8 Filed **ARC 7986B** 7/29/09

Renewal of substitute license, 20.7 Filed **ARC 7988B** 7/29/09

Definition of “practitioner,” 25.2 Filed **ARC 7979B** 7/29/09

Issuance of professional service licenses, ch 27 Filed **ARC 7980B** 7/29/09

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Air emissions reduction assistance program, ch 35 Filed **ARC 7944B** 7/15/09

Wastewater discharge from well drilling sites, 64.3(1), 64.4(2), 64.6, 64.15(6), 64.16(5) Notice **ARC 7945B** 7/15/09

Hearing procedures regarding preliminary decisions on construction permit applications, 65.10 Notice **ARC 7961B** 7/15/09

Licensing of UST professionals, 134.17 to 134.29 Filed **ARC 7946B** 7/15/09

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Annual election of board officers at first in-person meeting after April 30, 1.1(2) Notice **ARC 8000B** 7/29/09

“Electronic format” or “electronic filing” defined, 4.1(6), 4.8(4) Filed **ARC 7995B** 7/29/09

Form DR-SFA—filing requirements for subsequent elections, 4.11(3) Filed **ARC 7994B** 7/29/09

Registration of subsequent candidate’s committee, 4.26(2) Filed **ARC 7992B** 7/29/09

Item purchased at fair market value from an Iowa committee—exclusion as a contribution, 4.32 Notice **ARC 7999B** 7/29/09

Forwarding of committee records, 4.37(3) Filed **ARC 7998B** 7/29/09

Petition for waiver of civil penalty, 4.60, 7.6, 8.12, 15.2 Filed **ARC 7996B** 7/29/09

Form PFD to be filed only electronically, 7.1, 7.3 Notice **ARC 8001B** 7/29/09

Restrictions on certain lobbying activities by government personnel, 8.17(1) to 8.17(3) Filed Without Notice **ARC 8002B** 7/29/09

False communication, 8.18(2) Filed **ARC 7990B** 7/29/09

Civil penalty for violation, 9.4 Filed **ARC 7991B** 7/29/09

Remedial actions imposed after hearing, 9.4(1) Filed **ARC 7993B** 7/29/09

Time for service of notice of hearing, 11.5(3) Filed **ARC 7997B** 7/29/09

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]“umbrella”

Historic preservation and cultural and entertainment district tax credits, amendments to ch 48 Filed Emergency **ARC 7943B** 7/15/09

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

PUBLIC DEFENSE DEPARTMENT[601]“umbrella”

Continuing education requirements for local emergency management coordinators, 7.4(4)“a” Notice **ARC 7951B** 7/15/09

Update of fees charged for division services, 11.6 Notice **ARC 7958B** 7/15/09

HUMAN SERVICES DEPARTMENT[441]

Appeals and hearings, amendments to ch 7 Filed **ARC 8003B** 7/29/09
 FIP eligibility—assignment of support payments, 41.22(7) Filed **ARC 8004B** 7/29/09
 Issuing FIP assistance payments, 45.21 Notice **ARC 8006B**, also Filed Without Notice **ARC 8005B** 7/29/09
 Iowa unmet needs disaster grant program, 58.51 to 58.58 Filed **ARC 8007B** 7/29/09
 Transitional Medicaid group—changes in eligibility requirements, 75.31(1) Notice **ARC 8011B** 7/29/09
 Hearing aids, 78.14 Filed Emergency After Notice **ARC 8008B** 7/29/09
 Case management services, 78.27, 78.37(17), 78.43(1), 79.1, 79.3(2), 83.22(2), ch 90 title
 and preamble, 90.1 to 90.8 Filed Emergency After Notice **ARC 7957B** 7/15/09
 Safety standards for children's centers, ch 106 Filed **ARC 8009B** 7/29/09
 Foster family home licensing and training; foster care and adoption services, amendments to
 chs 112, 113, 117, 156, 200, 202 Filed **ARC 8010B** 7/29/09

INSPECTIONS AND APPEALS DEPARTMENT[481]

Technical amendments affecting boilers and boiler regulation, 60.11, 61.11 Notice **ARC 7989B** 7/29/09
 Elder group homes, ch 68 Notice **ARC 7960B** 7/15/09
 Adult day services programs, ch 70 Notice **ARC 7959B** 7/15/09

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COMMERCE DEPARTMENT[181]"umbrella"

Medicare supplement insurance minimum standards, 15.3(14), 37.2, 37.3, 37.5 to 37.26,
 37.50 to 37.59 Filed **ARC 7964B** 7/15/09
 Business of insurance—genetic information, 15.11(5) Filed **ARC 7965B** 7/15/09

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Iowa jobs program, ch 32 Notice **ARC 7942B**, also Filed Emergency **ARC 7941B** 7/15/09

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WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Civil penalties, 34.3(2) Notice **ARC 7952B** 7/15/09

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Snagging paddlefish, 81.1, 81.2(4) Notice **ARC 8019B** 7/29/09
 Fishing tournaments—electronic submission of applications, 88.3 Notice **ARC 8020B** 7/29/09
 Nonresident deer hunting—special licenses, 94.1(5) Notice **ARC 8016B** 7/29/09
 Wild turkey spring hunting—special licenses, 98.9(5) Notice **ARC 8017B** 7/29/09
 Wild turkey fall hunting, 99.1, 99.2(4) Notice **ARC 8018B** 7/29/09
 Nonambulatory deer hunting licenses, 106.1(9) Notice **ARC 8015B** 7/29/09

NATURAL RESOURCES DEPARTMENT[561]

Groundwater hazard documentation, 9.1(4), 9.2(1) Filed Emergency **ARC 7973B** 7/29/09

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Continuing education for optometrists, 181.3(2)"c"(1) Filed **ARC 8023B** 7/29/09

PUBLIC HEALTH DEPARTMENT[641]

Reportable diseases, poisonings and conditions, and quarantine and isolation, ch 1 Notice **ARC 7966B** 7/15/09
 Early hearing detection and intervention, amendments to ch 3 Notice **ARC 7967B** 7/15/09
 Center for congenital and inherited disorders, 4.2 to 4.4, 4.6, 4.7 Filed **ARC 7981B** 7/29/09
 Practice of tattooing, ch 22 Filed **ARC 7982B** 7/29/09
 Radiation, amendments to chs 39, 41 Filed **ARC 7983B** 7/29/09
 WIC food package approval criteria, 73.9(3) Filed **ARC 7984B** 7/29/09
 Early childhood Iowa council, ch 83 Filed **ARC 7985B** 7/29/09
 State medical examiner—required meetings for interagency coordinating council and
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 Scope of practice for Iowa EMS providers, 131.3(3)"b," 132.2(4)"b" Notice **ARC 7969B** 7/15/09

PUBLIC SAFETY DEPARTMENT[661]

Iowa sex offender registry—rule revisions and updates, 83.2, 83.3
Notice **ARC 7975B**, also Filed Emergency **ARC 7974B** 7/29/09

Motor fuel dispensing—biodiesel and ethanol blends, 221.4(2)
Filed Emergency After Notice **ARC 7977B** 7/29/09

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]
 COMMERCE DEPARTMENT[181]"umbrella"

Residential property seller disclosure statement, 14.1(6) Filed **ARC 7950B** 7/15/09
 Continuing education—distance learning, 16.4(4) Filed **ARC 7972B** 7/29/09

REVENUE DEPARTMENT[701]

Petition for rule making, 7.61 Filed **ARC 7963B** 7/15/09
 Taxation of communication services; payments made by a third party, 18.20(7), 212.8
Filed **ARC 8021B** 7/29/09

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Updates and corrections to natural gas and electric technical standards, amendments to chs
 10, 19, 20, 25 Filed **ARC 7962B** 7/15/09
 Electric load service limiters, 20.1(3), 20.4(15), 20.4(23) Filed **ARC 7976B** 7/29/09

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Iowa Veterans Home, amendments to ch 10 Filed Emergency **ARC 8014B** 7/29/09

WORKERS' COMPENSATION DIVISION[876]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Contested cases—delivery, fees, 4.7, 4.8(2) Filed **ARC 8013B** 7/29/09
 Payroll tax tables, 8.8 Filed Emergency **ARC 7947B** 7/15/09

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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

Senator Merlin Bartz
 2081 410th Street
 Grafton, Iowa 50440

Representative Marcella R. Frevert
 P.O. Box 324
 Emmetsburg, Iowa 50536

Senator Thomas Courtney
 2200 Summer Street
 Burlington, Iowa 52601

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

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

Representative Tyler Olson
 P.O. Box 2389
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Senator John P. Kibbie
 P.O. Box 190
 Emmetsburg, Iowa 50536

Representative Nathan Reichert
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 Woodbine, Iowa 51579

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AGENCY	HEARING LOCATION	DATE AND TIME
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Financial assistance programs, amend chs 1, 23, 53, 57, 59 to 61, 68, 69, 165, 173 to 175, 187, 189; adopt chs 74, 75 IAB 7/15/09 ARC 7971B (See also ARC 7970B)	ICN Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 5, 2009 2 to 4 p.m.
Film, television, and video project promotion program, amendments to ch 36 IAB 7/15/09 ARC 7955B (See also ARC 7956B)	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	August 4, 2009 3 to 4 p.m.
Aggregate tax credit limit for certain economic development programs, ch 76 IAB 7/15/09 ARC 7953B (See also ARC 7954B)	Iowa Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 6, 2009 11 a.m. to 12 noon
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Wastewater discharge from well drilling sites, 64.3(1), 64.4(2), 64.6, 64.15(6), 64.16(5) IAB 7/15/09 ARC 7945B	Cedar Falls Utilities Training Room 1 Utility Parkway Cedar Falls, Iowa	August 4, 2009 10 a.m.
	Public Library 123 S. Linn St. Iowa City, Iowa	August 4, 2009 4 p.m.
	Rooms 180E & F Muse Norris Conference Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	August 5, 2009 1 p.m.
	Conference Rooms North & South DNR Water Supply Offices, Suite M 401 SW 7th St. Des Moines, Iowa	August 5, 2009 6 p.m.
	Cherokee Community Center 530 W. Bluff St. Cherokee, Iowa	August 11, 2009 9 a.m.
	Municipal Utilities Conference Room 15 W. 3rd St. Atlantic, Iowa	August 12, 2009 10 a.m.
Hearing procedures regarding preliminary decisions on construction permit applications, 65.10 IAB 7/15/09 ARC 7961B	Board Room Clay County Administration Building 300 W. 4th St. Spencer, Iowa	August 4, 2009 1 p.m.
	Fifth Floor East Conference Room Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	August 5, 2009 1 p.m.
	Washington County Conservation Board Education Center-Marr Park 2943 Highway 92 Ainsworth, Iowa	August 6, 2009 1 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]		
Continuing education requirements for local emergency management coordinators, 7.4(4)“a” IAB 7/15/09 ARC 7951B	Division Conference Room Building W-4, Camp Dodge 7105 N.W. 70th Ave. Johnston, Iowa	August 6, 2009 10:30 a.m.
Update of fees charged for division services, 11.6 IAB 7/15/09 ARC 7958B	Division Conference Room Building W-4, Camp Dodge 7105 N.W. 70th Ave. Johnston, Iowa	August 6, 2009 10 a.m.
INSPECTIONS AND APPEALS DEPARTMENT[481]		
Elder group homes, ch 68 IAB 7/15/09 ARC 7960B (Joint hearing with ARC 7959B) (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	August 14, 2009 3 p.m.
	Room 113, Galva-Holstein High School 519 E. Maple Holstein, Iowa	August 14, 2009 3 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	August 14, 2009 3 p.m.
	Meeting Room D, Public Library 123 S. Linn St. Iowa City, Iowa	August 14, 2009 3 p.m.
Adult day services programs, ch 70 IAB 7/15/09 ARC 7959B (Joint hearing with ARC 7960B) (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	August 14, 2009 3 p.m.
	Room 113, Galva-Holstein High School 519 E. Maple Holstein, Iowa	August 14, 2009 3 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	August 14, 2009 3 p.m.
	Meeting Room D, Public Library 123 S. Linn St. Iowa City, Iowa	August 14, 2009 3 p.m.
IOWA FINANCE AUTHORITY[265]		
Iowa jobs program, ch 32 IAB 7/15/09 ARC 7942B (See also ARC 7941B)	2015 Grand Ave. Des Moines, Iowa	August 4, 2009 1:30 to 3:30 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
LABOR SERVICES DIVISION[875]		
Civil penalties, 34.3(2) IAB 7/15/09 ARC 7952B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	August 5, 2009 1:30 p.m. (If requested)
NATURAL RESOURCE COMMISSION[571]		
Snagging paddlefish, 81.1, 81.2(4) IAB 7/29/09 ARC 8019B	Room D, Clinton County Admin. Bldg. 1900 N. 3rd St. Clinton, Iowa	August 26, 2009 7 p.m.
Fishing tournaments—electronic submission of applications, 88.3 IAB 7/29/09 ARC 8020B	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 20, 2009 1 p.m.
Nonresident deer hunting, 94.1(5) IAB 7/29/09 ARC 8016B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 18, 2009 10 a.m.
Wild turkey spring hunting, 98.9(5) IAB 7/29/09 ARC 8017B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 18, 2009 10 a.m.
Wild turkey fall hunting, 99.1, 99.2(4) IAB 7/29/09 ARC 8018B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 18, 2009 10 a.m.
Nonambulatory deer hunting licenses, 106.1(9) IAB 7/29/09 ARC 8015B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 18, 2009 10 a.m.
PUBLIC HEALTH DEPARTMENT[641]		
Reportable diseases, poisonings and conditions, and quarantine and isolation, ch 1 IAB 7/15/09 ARC 7966B (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	August 5, 2009 1 to 3 p.m.
	Public Library 507 Poplar Atlantic, Iowa	August 5, 2009 1 to 3 p.m.
	Fairfield High School 605 E. Broadway Fairfield, Iowa	August 5, 2009 1 to 3 p.m.
	Kirkwood Community College 1816 Lower Muscatine Rd. Iowa City, Iowa	August 5, 2009 1 to 3 p.m.
	North Iowa Area Community College – 2 500 College Dr. Mason City, Iowa	August 5, 2009 1 to 3 p.m.
	Public Library 529 Pierce St. Sioux City, Iowa	August 5, 2009 1 to 3 p.m.
Early hearing detection and intervention, amendments to ch 3 IAB 7/15/09 ARC 7967B	Public Hearing by Conference Call: To participate, call 1-866-685-1580 and enter Pass Code 0009990487 followed by the # key.	August 4, 2009 9 to 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
PUBLIC SAFETY DEPARTMENT[661]		
Iowa sex offender registry, 83.2, 83.3 IAB 7/29/09 ARC 7975B	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 8, 2009 8:30 a.m.
UTILITIES DIVISION[199]		
Abbreviated franchise petition, 11.1(9), 11.2(3), 11.3(1)“g,” 11.5(11) IAB 7/29/09 ARC 8012B (See also ARC 7859B , IAB 6/17/09)	Board Hearing Room 350 Maple St. Des Moines, Iowa	August 20, 2009 1:30 p.m.
Wind energy tax credits, 15.18(1)“c”(2), 15.19(4), 15.20(1), 15.21(1) IAB 6/17/09 ARC 7849B	Board Hearing Room 350 Maple St. Des Moines, Iowa	July 29, 2009 10 a.m.

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

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ENERGY INDEPENDENCE, OFFICE OF[350]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]
Criminal and Juvenile Justice Planning Division[428]
Deaf Services Division[429]
Persons With Disabilities Division[431]
Latino Affairs Division[433]
Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
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Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 8022B**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****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 177A.6, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 46, "Crop Pests," Iowa Administrative Code.

The proposed amendment adds several insect pests and diseases to the listings found in rule 21—46.15(177A). The additions to the list are based on known infestations in other states and countries that pose a pest risk to Iowa because of interstate and international trade. Additionally, soybean rust is being proposed for removal from the list because the pathogen is now present in North America and may infect crops on an annual basis. Regulatory actions to safeguard against soybean rust cannot be effective.

Any interested person may make written comments on the proposed amendment on or before August 18, 2009. Comments may be sent to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; or E-mailed to Margaret.Thomson@Iowaagriculture.gov.

The proposed amendment is subject to the Department's general rules on waivers under 21—Chapter 8.

This amendment is intended to implement Iowa Code section 177A.5.

The following amendment is proposed.

Amend rule 21—46.15(177A) as follows:

21—46.15(177A) Insect pests and diseases. To comply with Iowa Code section 177A.5, there is listed below the insect pests and diseases which the state entomologist finds should be prevented from being introduced into or disseminated within Iowa, in order to safeguard the plants and plant products likely to become infested or infected with such insect pests and diseases.

Insect pests:

Asian longhorned beetle (*Anoplophora glabripennis*)

Asian gypsy moth (*Lymantria dispar dispar* (Linnaeus))

Blue alfalfa aphid (*Acyrtosiphon kondoi*)

Emerald ash borer (*Agrilus planipennis*)

European woodwasp (*Sirex noctilio*)

Gypsy (European) moth (*Lymantria dispar*)

Gypsy moth (European X Asian) (*Lymantria dispar x hybrid*)

Khapra beetle (*Trogoderma granarium*)

Rosy (pink) gypsy moth (*Lymantria mathura*)

Viburnum leaf beetle (*Pyrrhalta viburni*)

Walnut twig beetle (*Pityophthorus juglandis*)

Diseases:

Black stem rust of wheat (*Puccinia graminis*)

Corn late wilt or black bundle disease of corn (*Harpophora (Cephalosporium) maydis*)

Oat cyst nematode (*Biddera avenae*)

Golden nematode (*Globodera rostochiensis*)

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Corn cyst nematode (*Heterodera zae*)
 Columbia root-knot nematode (*Meloidogyne ~~chitwoodii~~ chitwoodi*)
Mexican corn cyst (*Punctodera chalcoensis*)
Soybean rust (*Phakopsora pachyrhizi*)
 Head smut of corn (*Sphacelotheca reiliana*)
Sudden oak death (*Phytophthora ramorum*)
Thousand cankers disease of black walnut (*Geosmithia, sp.*)
White potato cyst nematode (*Globodera pallida*)

ARC 8000B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 1, "Iowa Ethics and Campaign Disclosure Board," Iowa Administrative Code.

The proposed amendment clarifies that the election of Board officers occurs on an annual basis at the first in-person meeting after April 30.

The proposed amendment does not contain a waiver provision. The Board has adopted general waiver provisions in 351—Chapter 15.

Any interested person may make written comments on the proposed amendment on or before August 18, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68B.32(3).

The following amendment is proposed.

Amend subrule 1.1(2) as follows:

1.1(2) Election of officers. On an annual basis at the board's first in-person meeting after April 30, the members shall elect a chair and vice chair, and members may be reelected or elected to a different office.

ARC 7999B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

The proposed amendment clarifies that a federal or out-of-state committee is not required to file a Verified Statement of Registration (VSR) when purchasing an item at fair market value from an Iowa committee.

The proposed amendment does not contain a waiver provision. The Board has adopted general waiver provisions in 351—Chapter 15.

Any interested person may make written comments on the proposed amendment on or before August 18, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68A.201(5).

The following amendment is proposed.

Amend rule 351—4.32(68A), introductory paragraph, as follows:

351—4.32(68A) Contributions from political committees not organized in Iowa. Iowa committees may receive contributions from committees outside Iowa, and committees outside Iowa may contribute to Iowa committees provided the out-of-state committee complies with either subrule 4.32(1) or subrule 4.32(2). For purposes of this rule, “out-of-state committee” means a committee that is registered with the campaign enforcement agency of another state or is registered with the Federal Election Commission. For purposes of this rule, “contribution” does not include an item purchased at fair market value from an Iowa committee.

ARC 8001B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 7, “Personal Financial Disclosure,” Iowa Administrative Code.

Iowa Code section 68B.35(3) requires the Board to adopt rules for the time and manner of filing personal financial disclosure statements (Form PFD) by officials and employees of the executive branch. The proposed amendments require a Form PFD to be filed with the Board electronically via the Board’s Web site.

The proposed amendments do not contain a waiver provision. The Board has adopted general waiver provisions in 351—Chapter 15.

Any interested person may make written comments on the proposed amendments on or before August 18, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code section 68B.32A(5) and section 68B.35 as amended by 2009 Iowa Acts, Senate File 52, section 5.

The following amendments are proposed.

ITEM 1. Amend subrule 7.1(2) as follows:

7.1(2) Place of filing. Form PFD shall be filed with the board at ~~510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. The form may also be filed by fax at (515)281-4073 or~~ electronically using the board’s Web site at www.iowa.gov/ethics.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 2. Amend subrule 7.1(4) as follows:

7.1(4) *Physical Electronic receipt.* The board must ~~physically~~ receive electronically a filed Form PFD ~~on or before by 11:59 p.m. on~~ April 30 of each year. ~~If mailed, the form must bear a United States Postal Service postmark dated on or before April 30. Faxed or electronically filed forms must be submitted on or before 11:59 p.m. the required due date.~~ If the due date falls on a weekend or holiday, the filing deadline shall be extended to the first working day following the deadline.

ITEM 3. Amend subrule 7.3(3) as follows:

7.3(3) *Statewide candidates.* A person who is a candidate for statewide office shall electronically file Form PFD with the board ~~on or before by 11:59 p.m. on~~ April 30 of the year the candidate appears on the ballot. If the due date falls on a weekend or holiday, the filing deadline shall be extended to the first working day following the deadline. Once nomination papers or an affidavit of candidacy is filed, the board shall notify the person of the requirement to file Form PFD. The notification shall be sent by first-class mail or E-mail and shall include ~~a blank form or information on how to obtain a blank form for filing~~ file Form PFD electronically.

ITEM 4. Amend subrule 7.3(4) as follows:

7.3(4) *Statewide candidates in a special election.* A candidate for statewide office in a special election shall electronically file Form PFD with the board within ~~seven~~ ten days after the certification of the candidate's name as the nominee under Iowa Code section 43.88. Notification to a statewide candidate in a special election shall be sent by first-class mail or E-mail and shall include information on how to file Form PFD electronically.

ITEM 5. Amend subrule 7.3(5) as follows:

7.3(5) *Distribution of forms link.* The board shall provide each agency with ~~blank forms for distribution to the designated persons and shall make blank forms available via the board's Web site at www.iowa.gov/ethics.~~ The board shall provide each agency with the link on the board's Web site at www.iowa.gov/ethics where forms ~~may~~ shall be filed electronically. ~~The board shall also make blank forms available via the board's Web site.~~

ARC 8006B

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 239B.4(6), the Department of Human Services proposes to amend Chapter 45, "Payment," Iowa Administrative Code.

This amendment allows the Department to issue assistance under the Family Investment Program (FIP) either by electronic access card, or by direct deposit to the client's own bank account, or by warrant. Assistance payments will be issued by electronic access card unless the client requests direct deposit or the Department determines that it is not practicable to issue payment by electronic access card. The Department will use the same electronic access card to issue FIP and Refugee Cash Assistance benefits as Iowa Workforce Development (IWD) uses to issue unemployment insurance benefits.

Issuing assistance by electronic access card will reduce overhead costs in distributing benefits and will also have advantages for clients, including:

- Providing assistance in a safer, timelier manner, avoiding mail delays, losses or theft of warrants.
- Greater convenience in accessing and handling funds.
- Avoiding check-cashing fees.
- Improved financial literacy skills as clients become more familiar with using financial institutions.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment provides for waivers for clients who do not wish to use the electronic access card by offering the option of direct deposit to the client's own bank account.

Any interested person may make written comments on the proposed amendment on or before August 19, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by E-mail to policyanalysis@dhs.state.ia.us or by fax to (515)281-4980.

This amendment was also Adopted and Filed Emergency Without Notice and is published herein as **ARC 8005B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

This amendment is intended to implement Iowa Code chapter 239B.

ARC 8011B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

The proposed amendments would eliminate the following eligibility requirements from the transitional Medicaid coverage group:

- The family received Family Medical Assistance (FMAP) benefits in at least three of the six months immediately preceding the month in which the family lost FMAP eligibility due to increased income from employment.
- The family timely submits quarterly income report forms during the 12-month transitional Medicaid eligibility period.
- The family's income reports show that the family's gross earned income minus child care expenses necessary for employment is no more than 185 percent of the federal poverty level guideline for the family.
- The family continues to have earned income throughout the transitional period.

The American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, Section 5004, gives states the option to eliminate these federal requirements. The 12-month transitional period allows a family to adjust to being self-sufficient and acquire health insurance. These amendments will allow more families to qualify for transitional assistance.

The effect of reporting requirements is that assistance for some families is canceled for failure to submit timely reports. Eliminating the reporting and income requirements will ensure that any family that qualifies for transitional assistance will remain eligible for the full 12 months of benefits as long as there is a child in the household. This result is consistent with the state's goal of providing health care coverage to all eligible children for whom federal financial participation is available.

These amendments do not provide for waivers in specified situations because they benefit the families affected.

Any interested person may make written comments on the proposed amendments on or before August 19, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.3.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The following amendments are proposed.

ITEM 1. Rescind and reserve paragraph 75.1(31)“b.”

ITEM 2. Amend paragraph 75.1(31)“f” as follows:

f. Transitional Medicaid shall not be allowed under these provisions when it has been determined that the member received FMAP in ~~any of the six months~~ the month immediately preceding the month of cancellation as the result of fraud. Fraud shall be defined in accordance with Iowa Code Supplement section 239B.14.

ITEM 3. Rescind and reserve paragraphs 75.1(31)“h” and “i.”

ITEM 4. Amend paragraph 75.1(31)“k” as follows:

k. The timely notice requirements as provided in 441—subrule 76.4(1) shall not apply when it is determined that the family failed to meet the eligibility criteria specified in paragraph “g”~~or “i”~~ above. Transitional Medicaid shall be terminated beginning with the first month following the month in which the family no longer met the eligibility criteria. An adequate notice shall be provided to the family when any adverse action is taken.

ARC 7989B**INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 60, “Minimum Physical Standards for Residential Care Facilities,” and Chapter 61, “Minimum Physical Standards for Nursing Facilities,” Iowa Administrative Code.

Items 1 and 3 of the proposed amendments correct the name of the division within the Iowa Department of Workforce Development that is responsible for oversight of boilers in residential care facilities and nursing facilities and correct the chapters of the administrative rules governing boilers. The proposed amendments are technical in nature and clarify the rules under which boilers are inspected and regulated.

Items 2 and 4 remove a prohibition pertaining to plastic piping for hot or cold water systems in residential care facilities and nursing facilities. The Department has frequently received requests to waive this prohibition and believes it is no longer necessary.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entities.

The proposed amendments were presented to the State Board of Health at the Board’s July 8, 2009, meeting, at which time they were initially reviewed.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 18, 2009. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or faxed to (515)242-6863. E-mail should be sent to david.werning@dia.state.ia.us.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

The following amendments are proposed.

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

ITEM 1. Amend paragraph **60.11(1)“a”** as follows:

a. Boilers shall be installed to comply with the division of labor services rules promulgated ~~in~~ under Iowa Code chapter 89 and 875—~~Chapters 200 90 to 209 96, Iowa Administrative Code,~~ and shall be inspected annually. (III)

ITEM 2. Rescind and reserve paragraph **60.11(4)“d.”**

ITEM 3. Amend paragraph **61.11(1)“a”** as follows:

a. Boilers shall be installed to comply with the ~~bureau~~ division of labor ~~regulations~~ services rules promulgated under Iowa Code chapter 89 and ~~347—Chapters 41 to 49~~ 875—Chapters 90 to 96, Iowa Administrative Code. (III)

ITEM 4. Rescind and reserve subparagraph **61.11(4)“c”(9).**

ARC 8019B

NATURAL RESOURCE COMMISSION[571]

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 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 81, “Fishing Regulations,” Iowa Administrative Code.

The proposed amendments limit anglers to a maximum 5/0 treble hook size when snagging paddlefish, reduce the length of the fishing season, and establish a maximum size limit on paddlefish.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 1, 2009. Such written materials should be directed to Martin Konrad, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794; or E-mail Martin.Konrad@dnr.iowa.gov. Persons who wish to convey their views orally should contact the Fisheries Bureau at (515)281-6976 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on August 26, 2009, at 7 p.m. in the Clinton County Administration Building, Room D, 1900 N. 3rd Street, Clinton, Iowa. At the public hearing, 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 needs, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code section 456A.25.

The following amendments are proposed.

ITEM 1. Amend rule 571—81.1(481A) as follows:

571—81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits.

KIND OF FISH	INLAND WATERS OF THE STATE			BOUNDARY RIVERS	
	OPEN SEASON	DAILY BAG LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Rock Sturgeon	Closed	0	0		Same as inland waters

NATURAL RESOURCE COMMISSION[571](cont'd)

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS
	OPEN SEASON	DAILY BAG LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Shovelnose Sturgeon	Continuous	None	None	None	Same as inland waters except no harvest allowed in the Big Sioux River and aggregate daily bag limit 10, aggregate possession limit 20, in the Missouri River
Paddlefish*	Continuous	2	4	None	Same as inland waters <u>except for an open season and length limit in the Mississippi River</u> <u>See below*</u>
Yellow Perch	Continuous	25	50	None	Same as inland waters except no bag or possession limit in the Missouri River
Trout	Continuous	5	10	None*	Same as inland waters
Catfish*	Continuous	8 Lakes 15 Streams	30	None	Same as inland waters except no bag or possession limit in the Mississippi River
Black Bass (Largemouth Bass) (Smallmouth Bass) (Spotted Bass)	Continuous	3 In Aggregate	6	See below*	Continuous open season; aggregate daily bag limit 5, aggregate possession limit 10 See below*
Combined Walleye, Sauger and Saugeye	Continuous*	5*	10*	None*	Continuous open season; aggregate daily bag limit 6, aggregate possession limit 12; except aggregate daily bag limit 4, aggregate possession limit 8, in the Big Sioux and Missouri Rivers See below*
Northern Pike	Continuous*	3	6	None	Continuous open season; daily bag limit 5, possession limit 10; except daily bag limit 6, possession limit 12, in the Big Sioux River
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	40"	Same as inland waters
Crappie	Continuous	25*	None	None	Same as inland waters except 50 in possession
Bluegill	Continuous	25*	None	None	Same as inland waters except in aggregate with pumpkinseed on the Mississippi River

NATURAL RESOURCE COMMISSION[571](cont'd)

KIND OF FISH	INLAND WATERS OF THE STATE			BOUNDARY RIVERS	
	OPEN SEASON	DAILY BAG LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
All other fish species*	Continuous	None	None	None	See below*
Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs (Rana Catesbeiana)	Continuous	12	12	None	Same as inland waters

*Also see 571—81.2(481A), Exceptions.

ITEM 2. Amend subrule 81.2(4) as follows:

81.2(4) Paddlefish snagging is permitted in all waters of the state, except as follows:

a. There shall be no open season in the Missouri River and Big Sioux River, nor in any tributary of these streams within 200 yards immediately upstream of its confluence with the Missouri ~~or~~ and Big Sioux Rivers.

b. Snagging for paddlefish on the Mississippi River is restricted to the area within 500 yards below the navigation dams and their spillways. No hooks larger than 5/0 treble or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. The open season on the Mississippi River is the period from ~~January~~ March 1 through April 15.

c. Snagging for paddlefish is not permitted at any time in those areas where snagging is prohibited as a method of take as listed in subrule 81.2(11).

d. On the Mississippi River, a 33-inch maximum length limit shall apply; any paddlefish measuring 33 inches or more when measured from the front of the eye to the fork of the tail must immediately be released alive.

ARC 8020B**NATURAL RESOURCE COMMISSION[571]****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 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 88, "Fishing Tournaments," Iowa Administrative Code.

The proposed amendment requires electronic submission of applications and adjusts the time period during which applications may be accepted.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 1, 2009. Such written materials should be directed to Martin Konrad, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794; or E-mail Martin.Konrad@dnr.iowa.gov. Persons who wish to convey their views orally should contact the Fisheries Bureau at (515)281-6976 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on August 20, 2009, at 1 p.m. in the Fourth Floor Conference Room, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. At the public hearing, 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 amendment.

NATURAL RESOURCE COMMISSION[571](cont'd)

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

This amendment is intended to implement Iowa Code sections 462A.16 and 481A.38.

The following amendment is proposed.

Amend rule 571—88.3(462A,481A) as follows:

571—88.3(462A,481A) Application procedures. The following procedures shall be used to administer fishing tournaments:

1. Application shall be made on ~~a standard~~ an electronic form provided by the department and shall include the name, address and telephone number of the sponsoring organization or individual, the location and date of the tournament, total value of the prizes, and expected number of participants.

2. The application shall be received electronically by the department area fisheries management biologist ~~at least 30 days prior to the proposed event~~ via the centralized special events application system.

3. Applications ~~will not be accepted prior to July 1 of the year preceding the calendar year in which the tournament is scheduled~~ shall be submitted not earlier than six months or later than 30 days prior to the requested date for the tournament.

4. The number of tournaments at any one access area during a given day may be restricted if deemed necessary to avoid congestion with the public or competing tournaments. The capacity of facilities such as boat ramps, docks and parking lots shall be considered when assigning tournament sites.

5. Permits are not transferable.

ARC 8016B

NATURAL RESOURCE COMMISSION[571]

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 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 94, "Nonresident Deer Hunting," Iowa Administrative Code.

Chapter 94 gives the regulations for nonresident deer hunting and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements. The proposed amendments allow this chapter to conform with Iowa Code section 483A.24(10), which requires the Commission to adopt rules to implement the license provisions.

Iowa Code section 483A.24(10) specifies that nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness may obtain a special license to hunt deer during any season in any zone. A nonresident who receives a special license pursuant to this section must purchase a hunting license and the nonresident deer hunting license and pay the wildlife habitat fee but is not required to complete the hunter safety and ethics education course if the person is accompanied and aided by a person who is at least 18 years of age. The accompanying person must be qualified to hunt and have a hunting license. During the hunt, the accompanying adult must be within arm's reach of the nonresident licensee. The person requesting the special license must apply on a form which requires that the person's attending physician sign the form declaring that the person has a severe physical disability or has been diagnosed with a terminal illness and is eligible for the special license.

NATURAL RESOURCE COMMISSION[571](cont'd)

Any interested person may make written suggestions or comments on the proposed amendments on or before August 18, 2009. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-5918 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on August 18, 2009, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should inform the Department of Natural Resources of specific needs.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.8 and 483A.24.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 94.1(5):

94.1(5) *Special licenses.* The commission shall issue licenses in conformance with Iowa Code section 483A.24(10) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½" × 11" letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 2. Amend **571—Chapter 94**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, ~~and~~ 483A.8 and 483A.24.

ARC 8017B

NATURAL RESOURCE COMMISSION[571]

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 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 98, "Wild Turkey Spring Hunting," Iowa Administrative Code.

Chapter 98 regulates hunting wild turkeys during the spring and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take, and transportation tag requirements. The proposed amendments allow this chapter to conform with Iowa Code section 483A.24(10), which requires the Commission to adopt rules to implement the license provisions. The proposed amendments also update the implementation sentence for Chapter 98.

Iowa Code section 483A.24(10) specifies that nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness may obtain a special license to hunt turkey during any season in any zone. A nonresident who receives a special license pursuant to this section must purchase a hunting license and the nonresident turkey hunting license and pay the

NATURAL RESOURCE COMMISSION[571](cont'd)

wildlife habitat fee but is not required to complete the hunter safety and ethics education course if the person is accompanied and aided by a person who is at least 18 years of age. The accompanying person must be qualified to hunt and have a hunting license. During the hunt, the accompanying adult must be within arm's reach of the nonresident licensee. The person requesting the special license must apply on a form which requires that the person's attending physician sign the form declaring that the person has a severe physical disability or has been diagnosed with a terminal illness and is eligible for the special license.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 18, 2009. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-5918 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on August 18, 2009, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should inform the Department of Natural Resources of specific needs.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7 and 483A.24.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 98.9(5):

98.9(5) *Special licenses.* The commission shall issue licenses in conformance with Iowa Code section 483A.24(10) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½" × 11" letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 2. Amend **571—Chapter 98**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, ~~and~~ 483A.7 and 483A.24.

ARC 8018B

NATURAL RESOURCE COMMISSION[571]

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 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 99, "Wild Turkey Fall Hunting by Residents," Iowa Administrative Code.

The proposed amendments allow this chapter to conform with Iowa Code section 483A.24(10), which specifies that nonresidents 21 years of age or younger who have a severe physical disability or who have

NATURAL RESOURCE COMMISSION[571](cont'd)

been diagnosed with a terminal illness may obtain a special license to hunt turkey during any season in any zone. Iowa Code section 483A.24(10)“e” requires the Commission to adopt rules to implement the license provisions.

A nonresident who receives a special license pursuant to this section must purchase a hunting license and the nonresident turkey hunting license and pay the wildlife habitat fee but is not required to complete the hunter safety and ethics education course if the person is accompanied and aided by a person who is at least 18 years of age. The accompanying person must be qualified to hunt and have a hunting license. During the hunt, the accompanying adult must be within arm’s reach of the nonresident licensee. The person requesting the special license must apply on a form which requires that the person’s attending physician sign the form declaring that the person has a severe physical disability or has been diagnosed with a terminal illness and is eligible for the special license.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 18, 2009. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-5918 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on August 18, 2009, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should inform the Department of Natural Resources of specific needs.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7 and 483A.24.

The following amendments are proposed.

ITEM 1. Amend **571—Chapter 99**, title, as follows:

WILD TURKEY FALL HUNTING ~~BY RESIDENTS~~

ITEM 2. Amend rule 571—99.1(481A) as follows:

571—99.1(481A) General. When hunting wild turkey, all hunters must have in possession a fall wild turkey hunting license valid for the current year, the unused transportation tag issued with that license, a hunting license, and evidence of having paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt). No person shall carry or have in possession a fall wild turkey hunting license or transportation tag issued to another person while hunting wild turkey. No one who is issued a wild turkey hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while turkey hunting or tagging a turkey. Licenses for the fall turkey season will only be issued to Iowa residents except as specified in subrule 99.2(4).

ITEM 3. Adopt the following **new** subrule 99.2(4):

99.2(4) Special licenses. The commission shall issue licenses in conformance with Iowa Code section 483A.24(10) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant’s attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant’s attending physician that specifies criteria met shall be on 8½” × 11” letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 4. Amend **571—Chapter 99**, implementation sentence, as follows:
These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, ~~and~~ 483A.7
and 483A.24.

ARC 8015B**NATURAL RESOURCE COMMISSION[571]****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 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

The proposed amendments allow this chapter to conform to 2009 Iowa Acts, Senate File 187 [new Iowa Code section 483A.8C]. 2009 Iowa Acts, Senate File 187, specifies that a nonambulatory person who is a resident may be issued one any sex deer license which is valid and may be used to hunt deer with a shotgun or muzzleloading rifle during any established deer season. This license is in addition to any other deer license for which the person is eligible. The person must purchase this deer license and is required to have a hunting license but is not required to pay the habitat fee. The legislation requires the Commission to adopt rules to implement the new Iowa Code section.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 18, 2009. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-5918 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on August 18, 2009, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should inform the Department of Natural Resources of specific needs.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.24, and 483A.24B and 2009 Iowa Acts, Senate File 187.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 106.1(9):

106.1(9) Nonambulatory deer hunting licenses. The commission shall issue licenses in conformance with 2009 Iowa Acts, Senate File 187. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant is nonambulatory using the criteria listed in 2009 Iowa Acts, Senate File 187. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½" × 11" letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 2. Amend **571—Chapter 106**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.24, and 483A.24B, and 483A.24C and 2009 Iowa Acts, Senate File 187.

ARC 7975B

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 2009 Iowa Acts, Senate File 340, section 29, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 83, "Iowa Sex Offender Registry," Iowa Administrative Code.

Legislation creating the Iowa Sex Offender Registry was enacted in 1995, and the Registry began operation that year. Various revisions to the Registry have been enacted and implemented in the intervening years. Major revisions to the Registry and to the treatment of sex offenders in the State of Iowa were enacted this year in 2009 Iowa Acts, Senate File 340. The rule making proposed herein implements the changes made by that legislation.

A public hearing on these proposed amendments will be held on September 8, 2009, at 8:30 a.m. in the First Floor Public Conference Room (Room 125) at the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us at least one day prior to the public hearing. Any written comments or information regarding the proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 8, 2009, or may be submitted at the public hearing.

These amendments have also been Adopted and Filed Emergency and took effect July 1, 2009. The emergency amendments are published herein as **ARC 7974B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapter 692A as amended by 2009 Iowa Acts, Senate File 340.

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 James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for July is 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.

TREASURER OF STATE(cont'd)

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

New official state interest rates, effective July 9, 2009, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS		
7-31 days	.....	Minimum 0.20%
32-89 days	.....	Minimum 0.35%
90-179 days	.....	Minimum 0.35%
180-364 days	.....	Minimum 0.60%
One year to 397 days	.....	Minimum 0.90%
More than 397 days	.....	Minimum 1.45%

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 8012B

UTILITIES DIVISION[199]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code sections 17A.4 and 476.1 and 2009 Iowa Acts, Senate File 279, the Utilities Board (Board) gives notice that the oral presentation scheduled for July 28, 2009, in Docket No. RMU-2009-0006, In re: Requirements for Abbreviated Franchise Petition [199 IAC Chapter 11], is rescheduled for August 20, 2009, at 1:30 p.m. in the Board's hearing room located at 350 Maple Street, Des Moines, Iowa. Persons with disabilities who require assistive services or devices to observe or participate should contact the Board at (515)281-5256 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

The rule making involves proposed amendments which implement the abbreviated franchise process recently passed by the legislature as 2009 Iowa Acts, Senate File 279. The proposed amendments were published in the Iowa Administrative Bulletin in IAB Vol. XXXI, No. 26, (6/17/09) p. 2785, as **ARC 7859B**. The oral presentation is being rescheduled because of conflicts and other commitments of the Board, interested persons, and Board staff. The Board has determined that the oral presentation scheduled for July 28, 2009, should be rescheduled to allow for oral comments and Board questions of interested parties. The oral presentation will allow interested persons the opportunity to make oral comments on the proposed amendments.

ARC 7978B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 74, “Grow Iowa Values Financial Assistance Program,” Iowa Administrative Code.

These amendments allow businesses affected by the 2008 disasters to apply for assistance under the disaster recovery component through the end of July 2009 and align the eligibility requirements for businesses affected by the 2008 disasters with the requirements of the disaster recovery provisions under the former CEBA program.

The Iowa Economic Development Board adopted the amendments July 1, 2009.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because there is an immediate need to continue to assist businesses affected by the 2008 disasters.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and the amendments be made effective on July 1, 2009, the same date on which 2009 Iowa Acts, Senate File 344, became effective. These amendments confer a benefit on the public by extending the window of opportunity for disaster-affected businesses to seek financial assistance which will assist those businesses in resuming operations to a pre-disaster state.

These amendments became effective on July 1, 2009.

These amendments are intended to implement 2009 Iowa Acts, Senate File 344.

The following amendments are adopted.

Amend rule 261—74.7(83GA,SF344) as follows:

261—74.7(83GA,SF344) Disaster recovery component.**74.7(1) Eligibility—*for businesses affected by a disaster occurring before July 1, 2009.***

a. Eligibility requirements. In order to qualify for financial assistance under the disaster recovery component of the program, a business shall meet all of the following conditions:

(1) The business is located in an area declared a disaster area by a federal official before July 1, 2009.

(2) The business must document that it has sustained substantial physical damage related to the natural disaster. For purposes of this rule, “substantial physical damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(3) The business must commit to bring its employment level up, within six months of the award date, to at least 90 percent of its base employment prior to the closure of the business due to the natural disaster in a federally declared disaster area. The business shall submit payroll records to establish the business’s employment base prior to the date of the federal disaster declaration.

(4) The business must commit to paying wages, within six months of the award date, that are no less than the wages paid prior to the closure of the business due to the natural disaster in a federally declared disaster area. The business shall submit payroll records to establish the wages that were paid prior to the date of the federal disaster declaration.

(5) The business must apply for assistance by July 31, 2009.

b. Project initiation. The board may elect to fund applications under this component for projects which have been initiated.

c. Local match. The board will determine if local match will be needed and what level of local match will be acceptable.

~~74.7(1)~~ 74.7(2) Eligibility—*for businesses affected by a disaster occurring on or after July 1, 2009.*

a. Eligibility requirements. In order to qualify for financial assistance under the disaster recovery component of the program, a business shall meet all of the following conditions:

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

~~a-~~ (1) The business is located in an area declared a disaster area by a federal official on or after July 1, 2009.

~~b-~~ (2) The business has sustained substantial physical damage and has closed as the result of a natural disaster. For purposes of this rule, “sustained substantial physical damage” means damage of any origin sustained by a structure or the machinery and equipment contained within whereby the cost of restoring the structure to its before-damaged condition or replacing the machinery and equipment would exceed 50 percent of the market value of the structure or machinery and equipment before the damage occurred. If the business is located in a multitenant building, the market value of the structure before the damage occurred may be prorated based on the percentage of space within the building which the business occupies.

~~e-~~ (3) The business must commit to bringing its employment level up, within six months of the award date, to at least 90 percent of its base employment prior to the closure of the business due to the natural disaster in a ~~presidentially~~ federally declared disaster area. The business shall submit payroll records to establish the business’s employment base prior to the date of the ~~presidential~~ federal disaster declaration.

~~f-~~ (4) The business must commit to paying wages, within six months of the award date, that are no less than the wages paid prior to the closure of the business due to the natural disaster in a ~~presidentially~~ federally declared disaster area. The business shall submit payroll records to establish the wages that were paid prior to the date of the ~~presidential~~ federal disaster declaration.

~~e-~~ (5) The business must apply for assistance within 12 months of the date of the declaration of disaster by a federal official.

~~74.7(2)~~ b. *Local match not required.* A business applying for financial assistance under ~~the~~ this disaster recovery component is eligible for financial assistance regardless of whether the business has received matching funds from a city or county. This paragraph only applies to businesses eligible for assistance under subrule 74.7(2).

[Filed Emergency 7/1/09, effective 7/1/09]

[Published 7/29/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 8008B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

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

This amendment eliminates the requirement for completing two forms in order to qualify for Medicaid payment for a hearing aid. Through consultation with the Audiology and Hearing Aid Dispenser Medicaid Advisory Group, the Department has determined that the documentation required on Form 470-0361, Report of Examination for a Hearing Aid, and Form 470-0828, Hearing Aid/Evaluation Selection Report, is available in the patient record and can be submitted upon request. Copying the information onto these forms is a duplication of effort and unnecessarily time-consuming. Selected elements from these forms have been combined into new, shorter Form 470-4767, Examiner Report of Need for a Hearing Aid, which is required only in the few circumstances when prior approval of the hearing aid purchase is required.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on May 20, 2009, as **ARC 7771B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment does not provide for waivers in specified situations because it removes restrictions on hearing aid coverage. Requests for waiver of this rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment on July 8, 2009.

The Department finds that this amendment confers a benefit on Medicaid members who need hearing aids and on practitioners involved in providing hearing aids by streamlining procedures. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

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

This amendment shall become effective on August 1, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [78.14] is being omitted. This amendment is identical to that published under Notice as **ARC 7771B**, IAB 5/20/09.

[Filed Emergency After Notice 7/9/09, effective 8/1/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 7973B**NATURAL RESOURCES DEPARTMENT[561]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 558.69, the Department of Natural Resources hereby amends Chapter 9, “Groundwater Hazard Documentation,” Iowa Administrative Code.

These emergency amendments have two purposes. The first is to improve the implementation of the septic tank time-of-transfer requirements adopted by the Iowa Legislature in 2008. The second purpose is to simplify for county recorders the determination of when a Groundwater Hazard Statement is required.

Pursuant to Iowa Code section 17A.4(3), the Department has determined that the provision of notice and comment would be contrary to the public interest. Pursuant to Iowa Code section 455B.172(11), as enacted by 2008 Iowa Acts, chapter 1033, the private sewage disposal inspection requirements take effect on July 1, 2009. The Department adopted revisions to Chapter 9, which became effective on April 1, 2009, to assist in the implementation of the statutory inspection requirement. Comments received from county recorders, the Iowa Bar Association, the Iowa Land Title Association, realtors, and other interested parties indicate that immediate action is necessary to revise Chapter 9 and the associated Groundwater Hazard Statement. These amendments are designed to address the concerns raised.

Pursuant to Iowa Code section 17A.5(2)“b”(2), these amendments were Adopted and Filed Emergency and made effective upon filing. The Department has determined, after comment from interested parties, that these amendments confer a benefit or remove a restriction on the public or some segment thereof. The benefits conferred or restrictions removed include:

- The elimination of the filing of a Groundwater Hazard Statement for all leases and governmental transactions unless a private sewage disposal system inspection is required.
- The addition of categories on the Groundwater Hazard Statement to acknowledge instances when a private sewage disposal system inspection is not required.
- The provision of additional clarifying information for instances in which a private sewage disposal system will be filed at a later date.

Although the Department adopted these amendments on an emergency basis and made them effective upon filing, the requirement that only the new form be used will be delayed until September 1, 2009, to allow a period of transition and to allow for the dissemination of the form.

NATURAL RESOURCES DEPARTMENT[561](cont'd)

Information in regard to these amendments may be obtained from Jon C. Tack, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034; fax (515)281-8895; E-mail jon.tack@dnr.iowa.gov.

These amendments are intended to implement Iowa Code section 455B.172 as amended by 2008 Iowa Acts, chapter 1033, and section 558.69.

These amendments became effective June 29, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 9.1(4) as follows:

9.1(4) *When groundwater hazard statement is required.* A groundwater hazard statement shall be presented to the county recorder along with the real estate transaction documents for any real estate transaction in which ~~a declaration of value is required to be submitted pursuant to Iowa Code chapter 428A.~~ Additionally, a groundwater hazard statement shall be presented at the time of the recording of the following real estate transaction documents which are exempt from the filing of a declaration of value either of the following circumstances exists:

a. ~~Any recorded lease of land which has a term of five years or more, except leases related to the construction or maintenance of cell phone, television, radio or similar electronics towers and leases related to the construction or maintenance of electricity generating wind turbines. Leases or easements reserving rights to the future construction of the tower and wind turbine structures exempted by this subrule are similarly exempted. A lease of land does not include a lease of a portion of a building such as an apartment lease or business location within a mall or other multitenant building~~ A declaration of value is required to be submitted pursuant to Iowa Code chapter 428A.

b. ~~Any voluntary transfer or receipt of real property by governmental entities if title to that property was voluntarily acquired by the governmental entity. Governmental transactions which are exempted from the filing of a groundwater hazard statement include sheriff's deeds, tax deeds, and any other transaction for which the governmental entity did not voluntarily acquire title. A groundwater hazard statement is not required to accompany a clerk's change of title. A private sewage disposal system inspection is required pursuant to 2008 Iowa Acts, chapter 1033, section 1. It shall be the duty of the transferor to determine whether an inspection is required and to include the groundwater hazard statement and certified inspector's report when filing transfer documents that do not require a declaration of value.~~

ITEM 2. Amend subrule 9.2(1) as follows:

9.2(1) The transferor or the transferor's agent or attorney shall sign department Form 542-0960, "Groundwater Hazard Statement," which may be obtained from the department or local county recorder. An agent or attorney may sign the form for the transferor, but in doing so the agent or attorney represents that a good faith inquiry of the transferor has been made regarding the information contained in the form and that the information is correct. The department hereby adopts by reference Form 542-0960, "Groundwater Hazard Statement," as amended through ~~April 1, 2009~~ June 26, 2009. For all real estate transactions dated July 1, 2009, or later, a county recorder shall accept only the amended and revised form, as adopted by reference on April 1, 2009. Beginning September 1, 2009, a county recorder shall accept only the amended and revised form as amended through June 26, 2009, as adopted by reference. From July 1, 2009, through August 31, 2009, either of the above-referenced forms may be used. The department authorizes the reproduction of Form 542-0960 by any person through photocopying or electronic means so long as the general format and wording are not altered in the reproduction thereof.

[Filed Emergency 6/29/09, effective 6/29/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7974B**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of 2009 Iowa Acts, Senate File 340, section 29, the Department of Public Safety hereby amends Chapter 83, "Iowa Sex Offender Registry," Iowa Administrative Code.

Legislation creating the Iowa Sex Offender Registry was enacted in 1995, and the Registry began operation that year. Various revisions to the Registry have been enacted and implemented in the intervening years. Major revisions to the Registry and to the treatment of sex offenders in the State of Iowa were enacted this year in 2009 Iowa Acts, Senate File 340. This rule making implements the changes made by that legislation.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the new legislation took effect on July 1, 2009. Provisions of the statute which are in conflict with the current rules would override those rules. Confusion will be minimized by amending the rules immediately to be consistent with the amended statute.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments be made effective July 1, 2009. The public will benefit from requirements for registrants which are as clear as possible; this will be facilitated by making the rules consistent with the amended statute on the date on which the amendments to the statute take effect, which is July 1, 2009.

These amendments are also published herein under Notice of Intended Action as **ARC 7975B** to allow an opportunity for public comment on the amendments. A public hearing on the amendments proposed in the Notice of Intended Action is scheduled for September 8, 2009.

These amendments are intended to implement Iowa Code chapter 692A as amended by 2009 Iowa Acts, Senate File 340.

These amendments became effective July 1, 2009.

The following amendments are adopted.

ITEM 1. Rescind subrules **83.2(1)** to **83.2(13)**.

ITEM 2. Adopt the following **new** definitions in rule **661—83.2(692A)**:

"Aggravated offense" means a conviction for any of the following offenses:

1. Sexual abuse in the first degree in violation of Iowa Code section 709.2.
2. Sexual abuse in the second degree in violation of Iowa Code section 709.3.
3. Sexual abuse in the third degree in violation of Iowa Code section 709.4, subsection 1.
4. Lascivious acts with a child in violation of Iowa Code section 709.8, subsection 1 or 2.
5. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
6. Burglary in the first degree in violation of Iowa Code section 713.3, subsection 1, paragraph "d."
7. Kidnapping, if sexual abuse as defined in Iowa Code section 709.1 is committed during the commission of the offense.
8. Murder in violation of Iowa Code section 707.2 or 707.3, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.
9. Criminal transmission of human immunodeficiency virus in violation of Iowa Code section 709C.1, subsection 1, paragraph "a."
10. Any conviction for an offense specified in the laws of another jurisdiction or any conviction for an offense prosecuted in a federal, military, or foreign court that is comparable to an offense listed in paragraphs "1" through "9" shall be considered an aggravated offense for purposes of registering under this chapter.

"Aggravated offense against a minor" means a conviction for any of the following offenses, if such offense was committed against a minor or otherwise involves a minor:

1. Sexual abuse in the first degree in violation of Iowa Code section 709.2.
2. Sexual abuse in the second degree in violation of Iowa Code section 709.3.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

3. Sexual abuse in the third degree in violation of Iowa Code section 709.4, except for a violation of Iowa Code section 709.4, subsection 2, paragraph “c,” subparagraph (4).

“*Appearance*” means to appear in person at a sheriff’s office.

“*Business day*” means every day except Saturday, Sunday, or any paid holiday for county employees in the applicable county.

“*Change*” means to add, begin, or terminate.

“*Child care facility*” means the same as defined in Iowa Code section 237A.1.

“*Convicted*” means found guilty of, pleads guilty to, or is sentenced or adjudicated delinquent for an act which is an indictable offense in this state or in another jurisdiction including in a federal, military, tribal, or foreign court, including but not limited to a juvenile who has been adjudicated delinquent but whose juvenile court records have been sealed under Iowa Code section 232.150, and a person who has received a deferred sentence or a deferred judgment or has been acquitted by reason of insanity. “*Convicted*” includes the conviction of a juvenile prosecuted as an adult. “*Convicted*” also includes a conviction for an attempt or conspiracy to commit an offense. “*Convicted*” does not mean a plea, sentence, adjudication, deferred sentence, or deferred judgment which has been reversed or otherwise set aside.

“*Criminal or juvenile justice agency*” means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

“*Department*” means the department of public safety.

“*Employee*” means an offender who is self-employed, employed by another, and includes a person working under contract or acting or serving as a volunteer, regardless of whether the self-employment, employment by another, or volunteerism is performed for compensation.

“*Employment*” means acting as an employee.

“*Foreign court*” means a court of a foreign nation that is recognized by the United States Department of State that enforces the right to a fair trial during the period in which a conviction occurred.

“*Habitually lives*” means living in a place with some regularity, and with reference to where the sex offender actually lives, which could be some place other than a mailing address or primary address but would entail a place where the sex offender lives on an intermittent basis.

“*Incarcerated*” means to be imprisoned by placing a person in a jail, prison, penitentiary, juvenile facility, or other correctional institution or facility or a place or condition of confinement or forcible restraint regardless of the nature of the institution in which the person serves a sentence for a conviction.

“*Internet identifier*” means an electronic mail address, instant message address or identifier, or any other designation or moniker used for self-identification during Internet communication or posting, including all designations used for the purpose of routing or self-identification in Internet communications or postings.

“*Jurisdiction*” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, or a federally recognized Indian tribe.

“*Loiter*” means remaining in a place or circulating around a place under circumstances that would warrant a reasonable person to believe that the purpose or effect of the behavior is to enable a sex offender to become familiar with a location where a potential victim may be found, or to satisfy an unlawful sexual desire, or to locate, lure, or harass a potential victim.

“*Military offense*” means a sex offense specified by the U.S. Secretary of Defense under 10 U.S.C. Section 951.

“*Minor*” means a person under 18 years of age.

“*Principal residence*” for a sex offender means:

1. The residence of the offender, if the offender has only one residence in this state.
2. The residence at which the offender resides, sleeps, or habitually lives for more days per year than another residence in this state, if the offender has more than one residence in this state.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

3. The place of employment or attendance as a student, or both, if the sex offender does not have a residence in this state.

“Professional licensing information” means the name or other description, number, if applicable, and issuing authority or agency of any license, certification, or registration required by law to engage in a profession or occupation held by a sex offender who is required at the time of the initial requirement to register under this chapter, or any such license, certification, or registration that was issued to an offender within the five-year period prior to conviction for a sex offense that requires registration under this chapter, or any such license, certification, or registration that is issued to an offender at any time during the duration of the registration requirement.

“Public library” means any library that receives financial support from a city or county pursuant to Iowa Code section 256.69.

“Registrant” means a person who is currently registered with the Iowa sex offender registry.

“Relevant information” means the following information with respect to a sex offender:

1. Criminal history, including warrants, articles, status of parole, probation, or supervised release, date of arrest, date of conviction, and registration status.
2. Date of birth.
3. Passport and immigration documents.
4. Government-issued driver’s license or identification card.
5. DNA sample.
6. Educational institutions attended as a student, including the name and address of such institutions.
7. Employment information, including name and address of employer.
8. Fingerprints.
9. Internet identifiers.
10. Names, nicknames, aliases, or ethnic or tribal names, and, if applicable, the real names of an offender protected under 18 U.S.C. Section 3521.
11. Palm prints.
12. Photographs.
13. Physical description, including scars, marks, or tattoos.
14. Professional licensing information.
15. Residence.
16. Social security number.
17. Telephone numbers, including any landline or wireless numbers.
18. Temporary lodging information, including dates when residing in temporary lodging.
19. Statutory citation and text of offense committed that requires registration under this chapter.
20. Vehicle information for a vehicle owned or operated by an offender, including license plate number, registration number, or other identifying number, vehicle description, and the permanent or frequent locations where the vehicle is parked, docked, or otherwise kept.
21. The name, gender, and date of birth of each person residing in the residence.

EXCEPTION: “Relevant information” does not include relevant information in paragraphs “1” and “19,” when a sex offender is required to provide relevant information pursuant to this chapter.

“Residence” means each dwelling or other place where a sex offender resides, sleeps, or habitually lives, or will reside, sleep, or habitually live, including a shelter or group home. If a sex offender does not reside, sleep, or habitually live in a fixed place, “residence” means a description of the locations where the offender is stationed regularly, including any mobile or transitory living quarters. “Residence” shall be construed to refer to the places where a sex offender resides, sleeps, habitually lives, or is stationed with regularity, regardless of whether the offender declares or characterizes such place as the residence of the offender.

“Sex act” means the same as the term is defined in Iowa Code section 702.17.

“Sex offender” means a person who is required to be registered under Iowa Code chapter 692A as amended by 2009 Iowa Acts, Senate File 340.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“*Sex offense*” means an indictable offense for which a conviction has been entered that has an element involving a sexual act, sexual contact, or sexual conduct, and which is enumerated in 2009 Iowa Acts, Senate File 340, section 2, and means any comparable offense for which a conviction has been entered under prior law, or any comparable offense for which a conviction has been entered in a federal, military, or foreign court, or another jurisdiction.

“*Sex offense against a minor*” means an offense for which a conviction has been entered for a sex offense classified as a tier I, tier II, or tier III offense under this chapter if such offense was committed against a minor or otherwise involves a minor.

“*Sexually violent offense*” means an offense for which a conviction has been entered for any of the following indictable offenses:

1. Sexual abuse as defined under Iowa Code section 709.1.
2. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
3. Sexual misconduct with offenders and juveniles in violation of Iowa Code section 709.16.
4. Any of the following offenses, if the offense involves sexual abuse or assault with intent to commit sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.
5. A criminal offense committed in another jurisdiction, including a conviction in a federal, military, or foreign court, which would constitute an indictable offense under paragraphs “1” through “4” if committed in this state.

“*Sexually violent predator*” means a sex offender who has been convicted of an offense which would qualify the offender as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. Sections 14071(a)(3)(B), (C), (D), and (E).

“*SORNA*” means the Sex Offender Registration and Notification Act, which is Title I of the federal Adam Walsh Child Protection and Safety Act of 2006.

“*Student*” means a sex offender who enrolls in or otherwise receives instruction at an educational institution, including a public or private elementary school, secondary school, trade or professional school, or institution of higher education. “Student” does not mean a sex offender who enrolls in or attends an educational institution as a correspondence student, distance-learning student, or any other form of learning that occurs without the person’s physical presence on the real property of an educational institution.

“*Superintendent*” means the superintendent or superintendent’s designee of a public school or the authorities in charge of a nonpublic school.

“*Tier I offender*” means a registrant who has been convicted of one or more of the offenses enumerated in 2009 Iowa Acts, Senate File 340, section 2, subsection 1, paragraph “a.”

“*Tier II offender*” means a registrant who has been convicted of one or more of the offenses identified in 2009 Iowa Acts, Senate File 340, section 2, subsection 1, paragraph “b,” and is not a “tier I offender.”

“*Tier III offender*” means a registrant who has been convicted of one or more of the offenses enumerated in 2009 Iowa Acts, Senate File 340, section 2, subsection 1, paragraph “c,” and is not a “tier I offender” or a “tier II offender.”

“*Vehicle*” means a vehicle owned or operated by an offender, including but not limited to a vehicle for personal or work-related use, and including a watercraft or aircraft, that is subject to registration requirements under Iowa Code chapter 321, 328, or 462A.

ITEM 3. Amend rule 661—83.3(692A) as follows:

661—83.3(692A) Forms and procedures. The following forms and procedures are prescribed for use with the Iowa sex offender registry. Supplies of these forms may be obtained by contacting the Iowa sex offender registry at the division of criminal investigation.

83.3(1) Notification. Form DCI-144, Notification of Registration Requirement, which notifies offenders of their duty to register with the Iowa sex offender registry, shall be provided, in printed form or electronically, to persons identified as being required to register. Failure to provide offenders with Form DCI-144 does not relieve offenders of their duty to register with the Iowa sex offender registry.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

83.3(2) Registration.

a. Form DCI-145, Sex Offender Registration, shall be completed ~~by or~~ as required by 2009 Iowa Acts, Senate File 340, section 4, subsection 8, on behalf of each offender and submitted, in printed or electronic form, to the sheriff of the each county in which the offender will be residing, employed, or attending classes and to the division of criminal investigation, in order to satisfy the registration requirements of the Iowa sex offender registry. This form shall also be completed ~~by or~~ on behalf of each offender and submitted to the sheriff of ~~the~~ any county in which the offender will be a student, be employed, or be ~~engaging~~ engaged in a vocation on a full-time or part-time basis ~~at an institution of higher education~~, in order to satisfy the registration requirements of ~~Iowa Code section 692A.3A~~.

b. Form DCI-145, or information stored by the division of criminal investigation, shall be used to report changes of residence, telephone number, name of registrant, or change in status as a student, employee, or practicing a vocation at an institution of higher education. A completed copy of Form DCI-145 shall be submitted by the registrant to the sheriff of ~~the~~ any county of residence each time the registrant's ~~place of residence, telephone number, or name changes within five days of the change of residence, telephone number, or name, whether within or outside the state of Iowa~~ relevant information changes. A completed copy of Form DCI-145 shall be submitted by the registrant to the sheriff of the county in which the registrant is a student, employee, or practicing a vocation on a full-time or part-time basis at an institution of higher education within five days of the registrant's becoming a student, employee, or engaged in a vocation at the institution of higher education. The original of each completed Form DCI-145 shall be forwarded to the division of criminal investigation by the registering agency within three days of receiving the completed form.

(1) If a registrant moves any place of residence of a registrant changes from one county to another, the registrant shall submit copies, in printed or electronic form, of completed Form DCI-145 reporting the change of residence to the sheriff of the prior county of residence and the sheriff of the new county of residence. The sheriff of the new county of residence shall be responsible for transmitting a copy of completed Form DCI-145 to the Iowa sex offender registry.

(2) When the department receives notification that a registrant has changed residence to a location outside of Iowa, the department shall notify the registering state agency in the registrant's new state of residence of the registrant's name, new address, and telephone number. Upon notification of the appropriate out-of-state agency, the department shall remove the registrant from the active registry, unless the registrant continues to maintain a residence or place of employment in Iowa or attends school in Iowa. The registrant shall not be required to submit ~~annual or quarterly~~ periodic verifications of address while ~~residing outside of Iowa, provided that the registrant is not a student at, employed by, or engaged in a vocation at an institution of higher education in Iowa~~ not on the active registry. The department shall maintain the registrant's file in the event the registrant establishes a residence in Iowa or becomes a student, employee, or practices a vocation at an institution of higher education in Iowa in the future. The department may also maintain the file for any other purpose.

c. Upon ~~initial~~ any submission of Form DCI-145, the form shall be accompanied by current photographs and fingerprints of the offender. ~~Current photographs of the registrant shall accompany submission of Form DCI-145 upon each subsequent submission of Form DCI-145 if a current photograph of the registrant has not been submitted within the year prior to the current submission of Form DCI-145.~~

d. A list of all registrants within a county may be provided by the division of criminal investigation to the county sheriff.

83.3(3) Annual Periodic verification. A registrant shall appear personally in the office of the sheriff of the county or counties of principal residence periodically as required by 2009 Iowa Acts, Senate File 340, section 8, to verify relevant information. A tier I offender shall appear annually, or more frequently if required by the sheriff; a tier II offender shall appear every six months, or more frequently if required by the sheriff; and a tier III offender shall appear every three months, or more frequently if required by the sheriff. Form DCI-146, Annual Periodic Verification of Address Notification Form, shall be mailed ~~annually~~ by the division of criminal investigation to each registrant at the last address known to the registry ~~during the month of original registration~~ at least 30 days prior to each required appearance.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

~~Form DCI-146 shall be returned by the registrant to the division of criminal investigation within ten days of receipt. Form DCI-146 shall be mailed to the registrant in an envelope on which it is clearly stated~~ clearly state that it is to be returned to the division of criminal investigation if the addressee no longer resides at the address indicated and that Iowa law prohibits its being forwarded.

~~EXCEPTION: Form DCI-146 shall be mailed quarterly by the division of criminal investigation to each registrant who is a sexually violent predator to the last address known to the registry and shall be completed and returned to the division of criminal investigation by the registrant within ten days of receipt.~~

a. Each registrant shall report to the sheriff of a county of residence of the registrant within ten days of receipt of the ~~annual~~ periodic verification notification form. The sheriff shall take a current photograph of the registrant and shall submit the photograph to the registry.

b. The sheriff of any county of residence of a registrant may, at any time, instruct the registrant to report to the sheriff's office for the purpose of the taking of a current photograph. Such instructions shall be mailed to the registrant at the registrant's current address of registration. The registrant shall report to the sheriff's office within ten days of receiving such instructions. The sheriff shall submit the current photograph of the registrant to the registry.

83.3(4) Updating relevant information not requiring personal appearance. Any change in any item of relevant information other than changes of address, places of attendance as a student, or places of employment shall be communicated to the sheriff of the county of the registrant's principal residence in person, by telephone, or electronically, within five days of the change occurring. Any such change shall not be deemed to be completed until the registrant has received acknowledgment from the office receiving the change in printed or electronic form.

~~83.3(4)~~ 83.3(5) Application for determination. Form DCI-148, Application for Determination, shall be completed by a ~~registrant person~~ registrant person to initiate a request that the department review whether one or more offenses of which the ~~registrant person~~ registrant person has been convicted require registration with the Iowa sex offender registry, whether the time period during which the ~~registrant person~~ registrant person is required to register has expired, ~~or~~ whether the ~~registrant person~~ registrant person is exempt from the placement of information on the sex offender registry Web site, and the tier placement of the offender. A ~~registrant person~~ registrant person who submits a completed copy of Form DCI-148 for review shall provide with it copies of any sentencing or adjudicatory orders related to each offense for which a determination of whether registration is required is being requested. The completed application (Form DCI-148) shall specify the exact grounds for the application and shall include a statement of any additional facts or law which the ~~registrant person~~ registrant person intends to present to the department in support of the application. Failure to submit any of the required information shall constitute grounds for denial of the application. If the application sets forth an issue of fact which cannot be evaluated based upon the record of convictions, sentencing and adjudicatory orders, relevant statutory provisions, and other records provided, and is material to the determination, the commissioner may refer the matter to an administrative law judge or presiding officer for a contested case hearing.

NOTE: Filing an application for determination does not excuse a person from having to comply with any of the applicable provisions of Iowa Code chapter 692A as amended by 2009 Iowa Acts, Senate File 340, during the period prior to the issuance of the decision of determination.

~~83.3(5)~~ 83.3(6) Decision of determination.

a. Form DCI-149, Decision of Determination, shall be used by the division of criminal investigation to notify a ~~registrant person~~ registrant person who has submitted a ~~request~~ an application for determination (Form DCI-148) of the results of that review. A completed Form DCI-149 shall be mailed to any ~~registrant person~~ registrant person who has filed a completed Form DCI-148 within 90 days of the receipt by the division of criminal investigation of the completed Form DCI-148 and all required supporting documents. A decision of determination shall be signed by the commissioner and shall constitute final agency action for the purposes of Iowa Code chapter 17A.

b. If an administrative law judge or presiding officer has been assigned to hold a hearing regarding an application for determination, the administrative law judge or presiding officer shall prepare a proposed decision of determination. The proposed decision of determination shall be reviewed by the commissioner who may uphold or modify the proposed decision of determination and shall then sign a

PUBLIC SAFETY DEPARTMENT[661](cont'd)

final decision of determination. The final decision of determination shall constitute final agency action for the purposes of Iowa Code chapter 17A.

~~83.3(6)~~ **83.3(7)** *Request for information.* Requests for information about whether a specific individual is registered shall be made to a county sheriff or local police department and may be made in person, by telephone, or in writing. Form DCI-150, Request for Registry Information, may be used by a member of the public to request information about whether a specific person is registered with the Iowa sex offender registry. A person requesting information about whether a specific individual is registered with the Iowa sex offender registry may submit a completed copy of Form DCI-150 to a sheriff or police department. If a request for information is submitted using Form DCI-150, a separate form shall be submitted for each person about whom information is being requested.

~~83.3(7)~~ **83.3(8)** *Confidential records.* Completed forms filled out pursuant to rules 661—83.1(692A) through 661—83.5(692A) are confidential records that shall not be released to the public.

83.3(9) *Fees.* Each registrant shall pay a fee of \$25 to the sheriff of the county in which the registrant maintains a principal residence upon establishment of the principal residence and annually thereafter. If the registrant maintains more than one principal residence simultaneously, the fee shall be paid only to the sheriff of the county in which the registrant first registered on or after July 1, 2009, and continues to register.

ITEM 4. Amend **661—Chapter 83**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 692A as amended by 2009 Iowa Acts, Senate File 340.

[Filed Emergency 6/30/09, effective 7/1/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7977B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency After Notice

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 authorizes the State Fire Marshal to establish standards for the safe dispensing of flammable liquids. Generally, dispensing of flammable liquids is only allowed using dispensers listed by an independent testing laboratory for use with the liquid being dispensed. An exception to this practice has been made for blends of ethanol for which no listed dispensers exist. The Fire Marshal has determined that a parallel exception is appropriate for blends of biodiesel and petroleum diesel fuel containing up to 20 percent biodiesel. The amendment adopted herein creates a parallel exception for dispensing of biodiesel blends to that which already exists for ethanol blends. The amendment also incorporates an alternative path to allow for the dispensing of ethanol as provided in 2009 Iowa Acts, Senate File 423, allow the same path for dispensing biodiesel, and provide an additional alternative for dispensing biodiesel.

This amendment was proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on May 20, 2009, as **ARC 7772B**. A public hearing on the proposed amendment was held on June 9, 2009, and comments were received from several parties stating that the proposed requirements for dispensing blends of biodiesel fuel above B-5 were excessively restrictive. The Fire Marshal has concluded that these comments warrant the addition of another method to allow for the dispensing of biodiesel blends up to B-20, which is contingent upon information provided by the manufacturer of the dispenser stating that the dispenser is compatible with blends of biodiesel up to B-20.

Additionally, the proposed amendment has been modified to reflect a change in the underlying statute, enacted in 2009 Iowa Acts, Senate File 423, which provides that ethanol blends beyond E-10 may

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be dispensed from an ethanol-listed dispenser provided that required under-dispenser containment is provided. A parallel allowance is included for dispensing of biodiesel blends up to B-20.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment be made effective July 2, 2009. The public will benefit from the modification of requirements for dispensing certain blends of biofuels considered excessively restrictive; this will be facilitated by making the subrule consistent with the amended statute affecting ethanol blended fuels one day after the amendments to the statute took effect, which occurred on July 1, 2009, and by extending similar provisions to dispensing of biodiesel blends up to and including B-20.

This amendment is subject to the general waiver provisions which govern rules of the Fire Marshal.

This amendment is intended to implement Iowa Code chapter 101.

This amendment became effective on July 2, 2009.

The following amendment is adopted.

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 no more than 20 percent biodiesel, as defined in Iowa Code section 214A.1.

“*E-10*” means a blend of petroleum and ethanol including no more than 15 percent ethanol intended for use as a motor vehicle fuel.

“*E-blend*” means a blend of petroleum and ethanol including more than 15 percent ethanol intended for use as a motor vehicle fuel.

2206.7.1.1.2 E-blend may only be dispensed if (a) or (b) applies:

(a) Only a dispenser listed by an independent testing laboratory as compatible with E-10 gasoline shall be used to dispense E-blend, and the retail dealer shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure. The dealer 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 retail dealer 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. In addition, the retail dealer shall install an under-dispenser containment system with electronic monitoring.

2206.7.1.1.3 B-blend may only be dispensed if (a) and either (b), (c), or (d) apply:

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

(b) The retail dealer 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 retail dealer 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.

(c) 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 retail dealer has installed an under-dispenser containment system with electronic monitoring.

(d) The dispenser’s manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with B-blend, and information published or provided by the manufacturer of the dispenser is available stating that the dispenser is compatible with B-blend.

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NOTE: If options (b) or (d) are 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.

[Filed Emergency After Notice 7/1/09, effective 7/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 8014B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 35D.3, the Commission of Veterans Affairs amends Chapter 10, "Iowa Veterans Home," Iowa Administrative Code.

These amendments reflect changes made by new legislation effective July 1, 2009, relating to the rights and responsibilities of Iowa Veterans Home members (discharge and appeal criteria). Also, the U.S. Department of Veterans Affairs amended its regulations that set forth a mechanism for paying per diem to state homes providing nursing home care to eligible veterans, updated the basic per diem rate to implement provisions of the Veterans Benefits, Health Care, and Information Technology Act of 2006, and made several other changes to better ensure that veterans receive quality care in state homes. The U.S. Department of Veterans Affairs' effective date for the amended regulations was May 29, 2009. In addition, new federal regulations eliminated the 96-hour pass practice and established a new bed hold policy. The U.S. Department of Veterans Affairs now pays per diem only for the first 10 consecutive days for which the veteran is hospitalized and for the first 12 days in a calendar year during which the veteran is absent for reasons other than to receive hospital care.

Pursuant to Iowa Code section 17A.4(3), the Commission of Veterans Affairs finds that notice and public participation are unnecessary because the effective date is mandated by 2009 Iowa Acts, Senate File 407, and Public Law 109-461.

Pursuant to Iowa Code section 17A.5(2)"b"(1), the Commission of Veterans Affairs further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 10, 2009. This effective date is mandated by 2009 Iowa Acts, Senate File 407, and Public Law 109-461.

These amendments are intended to implement Iowa Code chapter 35D, 2009 Iowa Acts, Senate File 407, and Public Law 109-461.

These amendments became effective July 10, 2009.

The following amendments are adopted.

ITEM 1. Adopt the following new definitions of "Collaborative care plan" and "Interdisciplinary resident care committee" in rule **801—10.1(35D)**:

"*Collaborative care plan*" means the plan of care developed for a member by the interdisciplinary resident care committee.

"*Interdisciplinary resident care committee*" or "*IRCC*" means the member, a social worker, a registered nurse, a dietitian, a medical provider, a recreation specialist and other staff, as appropriate, who are involved in reviewing a member's assessment data and developing a collaborative care plan for the individual member.

ITEM 2. Amend rule **801—10.1(35D)**, definition of "Free time," as follows:

"*Free time*" means ~~15~~ 12 days of ~~furlo~~ leave time each calendar year for which the member is not charged for care during absence.

ITEM 3. Amend paragraph **10.4(5)"d"** as follows:

~~d. If planned~~ Following the applicant's admission is to a Title XIX certified area nursing care unit, the PASARR ~~must be is~~ completed and approval obtained prior to admission.

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ITEM 4. Rescind paragraph **10.14(3)“b.”**

ITEM 5. Amend paragraphs **10.14(3)“c”** and **“d”** as follows:

~~e. b.~~ All furlough leave days in excess of the ~~15~~ 12 free days up through the fifty-ninth furlough leave day. Any furlough leave days in excess of 59 days shall be considered billable, but the member must pay the full member support, not the amount determined by resources.

~~c.~~ The first ten days of each hospitalization. On the eleventh day the member's bed shall be held without charge until the termination of hospital stay and member returns to IVH. A hospital stay may occur more than once in a calendar year.

ITEM 6. Amend paragraph **10.15(1)“a,”** introductory paragraph, as follows:

a. ~~Nursing and infirmary levels~~ level of care.

ITEM 7. Amend subrule 10.15(2) as follows:

10.15(2) Veteran members not living on Title XIX certified units and those living on Title XIX certified units but not eligible for Title XIX medical assistance for whom IVH receives a per diem from the U.S. DVA (under Title 38). IVH shall consider this per diem as a third-party reimbursement to the charge for care and shall be an offset to the member support bill. The offset of the per diem received (billed to DVA) shall be shown as an offset for the month billed. The provisions of 38 U.S.C. 1745(a), which were established by Section 211 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109-461), set forth a mechanism for paying a higher per diem rate for certain veterans who have service-connected disabilities and are receiving nursing home care in state homes.

ITEM 8. Amend paragraph **10.16(2)“d”** as follows:

d. ~~Assets of a married member with spouse living in the community.~~ When liquid assets not exempted in paragraph “a” above are equal to or exceed \$2,000, those liquid assets shall be considered an available resource for the payment of member support. These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least \$140.

The assets attributed to the member shall be ~~one-half of~~ determined from the documented assets of both the member and spouse living in the community as of the first day of admission to IVH ~~after the first \$24,000 is exempted for the community spouse.~~ All resources of both the member and the spouse shall be added together. However, if one-half of the If the total resources is are less than \$24,000 (the amount set by 441 IAC 75.5(3) “d” and “f,” Public Law 100-365 and Public Law 100-485), then that amount shall be protected for the spouse living in the community. If applicable, the next \$24,000 shall be awarded to the member. Any resources over \$48,000 shall be split one-half to the member and one-half to the spouse up to a predetermined amount set by the department of human services. All resources over the predetermined amount shall be awarded to the member. Other resources attributed to the spouse living in the community shall be determined by the department of human services through the attribution process.

(1) to (3) No change.

ITEM 9. Amend rule **801—10.36(35D)**, catchwords, as follows:

801—10.36(35D) Passes, furloughs, Leave and room retention bed holds.

ITEM 10. Amend paragraph **10.36(1)“a”** as follows:

a. Members are free to leave IVH grounds unless contraindicated by medical determination. In cases where it is determined to be medically contraindicated and a member chooses to leave, the member or legal representative must sign “Discharge/~~Furlough~~ Leave Against Medical Advice,” Form 475-0940.

ITEM 11. Amend paragraph **10.36(1)“b”** as follows:

b. ~~Passes~~ Leaves are required if the member expects to be absent past midnight. ~~A pass shall not exceed 96 hours. If a member expects to be gone more than 96 hours, a furlough is required.~~

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

ITEM 12. Rescind paragraph **10.36(1)“c.”**

ITEM 13. Amend paragraph **10.36(1)“d”** as follows:

~~d. c.~~ All ~~furloughs~~ leaves other than free time shall require payment of member support charges as though the member were in residency. Failure to pay regular member support charges shall result in discharge of the member. ~~Furlough~~ Leave length may be changed by notification from the member or legal representative to the nursing unit social worker or domiciliary office.

ITEM 14. Amend paragraph **10.36(1)“e”** as follows:

~~e. d.~~ ~~Medical furloughs~~ Hospital leaves. ~~Furloughs~~ Leaves spent in approved medical facilities away from IVH shall not be counted against the 59-day ~~furlough~~ leave time limit as set out in paragraph 10.14(3)~~“e.”“b.”~~

Hospital furloughs leaves shall be granted and the charges for such ~~furloughs~~ leaves shall be as follows: During the first ten days of any hospital stay, the member shall pay the regular and usual assessed charge of the level of care of the bed held. Beginning on the eleventh day through the remainder of the hospitalization, the member shall not be charged. Each monthly member support bill shall reflect any adjustments related to hospitalization. Members discharged while on leave from IVH shall have the account closed before the first of the month following the discharge.

~~Furloughs~~ Leaves to other medical facilities for the purpose of treatment shall be treated as hospital ~~furloughs~~ leaves.

ITEM 15. Amend paragraph **10.36(1)“f”** as follows:

~~f. e.~~ General ~~furloughs~~ leaves.

- (1) ~~Fifteen~~ Twelve days of ~~furlough~~ leave time each calendar year shall be free time.
- (2) The member shall be charged the usual support charge for ~~furlough~~ leave time over ~~15~~ 12 days up to and including 59 days.
- (3) The member shall be charged the full member support for the level of care in which the member resides for ~~furlough~~ leave time over 59 days.
- (4) ~~Free time and other furlough~~ Leave time ~~are~~ is not cumulative from one calendar year to another calendar year.
- (5) ~~Free~~ Leave time the member has not utilized or cannot utilize shall not be credited toward the member's support.
- (6) Support charges for the member on ~~furlough~~ wishing leave who wishes to retain the member's room or bed shall be due and payable as though the member were in residency as set forth in paragraph 10.36(1)~~“d.”“c.”~~

ITEM 16. Amend paragraph **10.36(1)“g”** as follows:

~~g. f.~~ When a member is on ~~pass~~ leave, the member shall remain on in-house status for the first 12 leave days per calendar year for DVA per diem purposes and IVH shall be financially responsible for medical expenses unless these are assumed by the member or legal representative in relation to choice of medical facility.

ITEM 17. Amend paragraph **10.36(1)“h”** as follows:

~~h. g.~~ When a member ~~is on furlough~~ has used 12 non-hospital leave days, IVH is not financially responsible for any medical charges for the member.

ITEM 18. Amend paragraphs **10.36(2)“a”** and **“b”** as follows:

a. Members are free to leave IVH grounds unless contraindicated by medical determination. In cases where it is determined to be medically contraindicated and a member chooses to leave, the member or legal representative must sign “Discharge/~~Furlough~~ Leave Against Medical Advice,” Form 475-0940.

b. A ~~pass or furlough~~ leave as set out in paragraph 10.36(1)“b”~~(whichever is appropriate)~~ is required if a member expects to be absent past midnight. ~~Free time does not apply to Title XIX members.~~

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ITEM 19. Amend paragraph **10.40(2)“a”** as follows:

~~a. A period of counseling from an appropriate staff member.~~ For a first offense, a member is counseled by an appropriate staff person and options for correcting the behavior are considered. Options may include but are not limited to:

- (1) Funds restriction.
- (2) Substance abuse treatment.
- (3) Mental health services.

ITEM 20. Reletter paragraph **10.40(2)“c”** as **10.40(2)“d.”**

ITEM 21. Adopt the following **new** paragraph **10.40(2)“c”**:

c. For a second offense, a member is offered the services above and is placed on probation that warns a third offense may lead to discharge.

ITEM 22. Amend relettered paragraph **10.40(2)“d”** as follows:

d. ~~Discharge~~ For a third offense, discharge from IVH in accordance with subrule 10.40(3).

ITEM 23. Amend subrule 10.40(3) as follows:

10.40(3) The steps described in subrule 10.40(2) shall generally be followed in that order. However, if the member’s violation is of an extreme nature and the member is not amenable to counseling, the commandant or designee shall choose to discharge the member after the expiration of a 30-day written notification period which begins when the notice is personally delivered. If the IRCC, in conjunction with the medical provider and mental health personnel, deems that the member’s behavior poses a threat of imminent danger, the commandant may issue notice of an immediate involuntary discharge. In such an emergency situation, a written notice shall be given prior to or within 48 hours following the discharge.

The member’s county commission of veterans affairs and the legal representative shall be informed in writing of the decision to discharge. Written notification shall also be issued to appropriate governmental agencies including the commission, the department of inspections and appeals, and the department of ~~elder affairs~~ on aging’s long-term care ombudsman to ensure that the ~~member shall not be in danger of~~ member’s health, safety or welfare shall not be in danger upon the member’s release.

ITEM 24. Adopt the following **new** rule 801—10.43(35D):

801—10.43(35D) Rule enforcement—power to suspend and discharge members. The commandant shall administer and enforce all rules adopted by the commission, including rules of discipline and, subject to these rules, may immediately suspend the membership of and discharge any member from IVH for infraction of the rules when the commandant determines that the health, safety or welfare of the members of IVH is in immediate danger and other reasonable alternatives have been exhausted. The suspension and discharge are temporary pending action by the commission. Judicial review of the action of the commission may be sought in accordance with Iowa Code chapter 17A.

10.43(1) The commandant shall, with the input and recommendation of the IRCC, involuntarily discharge a member for any of the following reasons:

a. The member has been diagnosed with a substance use disorder but continues to abuse alcohol or an illegal drug in violation of the member’s conditional or provisional agreement entered into at the time of admission, and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member’s collaborative care plan.

(2) The member has been notified of the member’s commission of three offenses and has been given the opportunity to correct the behavior through either of the following options:

1. Being given the opportunity to receive the appropriate level of treatment in accordance with best practices for standards of care.

2. By having been placed on probation by IVH for a second offense.

Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1)“a,” if the member has demonstrated progress toward the goals established in the member’s collaborative care plan, the IRCC and the commandant may exercise discretion regarding the discharge. Notwithstanding any

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provision to the contrary, the member may be immediately discharged under paragraph 10.43(1) "a" if the member's actions or behavior jeopardizes the life or safety of other members or staff.

b. The member refuses to utilize the resources available to address issues identified in the member's collaborative care plan, and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(2) The member has been notified of the member's commission of three offenses and the member has been placed on probation by IVH for a second offense.

Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1) "b," if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the IRCC and the commandant may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged if the member's actions or behavior jeopardizes the life or safety of other members or staff.

c. The member's medical or life skills needs have been met to the extent possible through the services provided by IVH and the member no longer requires a residential or nursing level of care, as determined by the IRCC.

d. The member requires a level of licensed care not provided at IVH.

10.43(2) Provisions for member following discharge from IVH.

a. If a member is discharged under this rule, the discharge plan shall include placement in a suitable living situation which may include but is not limited to a transitional living program approved by the commission or a living program provided by DVA.

b. If a member is involuntarily discharged under this rule, the commission shall, to the greatest extent possible, ensure against the member being homeless and ensure that the domicile to which the member is discharged is fit and habitable and offers a safe and clean environment which is free from health hazards and provides appropriate heating, ventilation and protection from the elements.

10.43(3) Discharge notice, including right to appeal. An involuntary discharge of a member under this rule shall be preceded by a written notice to the member. The notice shall state that, unless the discharge is an immediate discharge due to the member's actions or behavior which jeopardizes the life or safety of other members or staff, the effective date of the discharge is 30 calendar days from the date of receipt of the discharge notice, and that the member has the right to appeal the discharge. In addition, the discharge notice shall contain:

a. The stated reason for the proposed discharge or transfer.

b. The actual effective date of the proposed discharge or transfer.

c. A statement in not less than 12-point type which reads: "You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Commission of Veterans Affairs (hereinafter referred to as "Commission") within five (5) calendar days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held, and a decision rendered within ten (10) calendar days of the filing of the appeal. Provision may be made for extension of the ten (10) day requirement upon request to the Commission designee. If you lose the hearing, you will not be discharged or transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than five (5) days following final decision of such hearing. To request a hearing or receive further information, call the Commission or write to the Commission to the attention of Chairperson, Commission of Veterans Affairs."

10.43(4) Appeal by member.

a. If a member appeals the discharge under this rule, the member shall be provided with the information relating to the appeals process as specified in rule 801—10.47(35D).

b. If a member appeals the discharge under this rule, the involuntary discharge appeal process in rule 801—10.47(35D) shall apply.

10.43(5) By the fourth Monday of each session of the general assembly, the commandant shall submit a report annually to the senate veterans affairs committee and the house veterans affairs committee

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specifying the number, circumstances and placement of each member involuntarily discharged from IVH under this rule during the previous calendar year.

10.43(6) Any involuntary discharge by the commandant under this rule shall comply with the rules adopted by the commission and by the department of inspections and appeals pursuant to 2009 Iowa Acts, Senate File 407, section 2.

ITEM 25. Adopt the following new rule 801—10.47(35D):

801—10.47(35D) Involuntary discharge appeal. When a member appeals an involuntary discharge, the following provisions shall apply:

10.47(1) The member shall file the appeal with the commission within 5 calendar days of receipt of the discharge notice.

10.47(2) The commission shall render a decision on the appeal and notify the member of the decision in writing within 10 calendar days of the filing of the appeal.

10.47(3) If the member is not satisfied with the decision of the commission, the member may appeal the commission's decision by filing an appeal with the department of inspections and appeals within 5 calendar days of being notified in writing of the commission's decision.

10.47(4) The department of inspections and appeals shall render a decision on the appeal of the commission's decision and notify the member of the decision in writing within 15 calendar days of the filing of the appeal with the department.

10.47(5) The maximum time period that shall elapse between receipt by the member of the discharge notice and actual discharge shall not exceed 55 days which includes the 30-day discharge notice period and any time during which any appeals to the commission or the department of inspections and appeals are pending.

10.47(6) If a member is not satisfied with the decision of the department of inspections and appeals, the member may seek judicial review in accordance with Iowa Code chapter 17A. A member's discharge under rule 801—10.43(35D) shall be stayed while judicial review is pending.

ITEM 26. Amend subrule 10.56(3) as follows:

10.56(3) Pets are not allowed inside the cottages without prior authorization. Visitors who bring pets must comply with IVH rules regarding pet health and safety. Visitors may maintain portable pet kennels outside.

[Filed Emergency 7/10/09, effective 7/10/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7987B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

These amendments change the different classes of licenses issued by the Board. The amendments seek to make application for licensure more user-friendly by combining several classes of licenses. The amendments combine Class B, C, and D licenses into one license, Class B, and rescind separate rules for Class C and D licenses.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 6, 2009, as **ARC 7751B**. A public hearing on the amendments was held on Wednesday, May 27, 2009. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective September 2, 2009.

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 [13.10(5), 13.11 to 13.14] is being omitted. These amendments are identical to those published under Notice as **ARC 7751B**, IAB 5/6/09.

[Filed 7/8/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 7986B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," and Chapter 15, "Special Education Support Personnel Authorizations," Iowa Administrative Code.

These amendments rescind provisions that are included in the new Chapter 27, "Issuance of Professional Services Licenses" [see **ARC 7980B** herein].

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 6, 2009, as **ARC 7744B**. A public hearing on the amendments was held on Wednesday, May 27, 2009. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective September 2, 2009.

The following amendments are adopted.

ITEM 1. Rescind and reserve subrules **13.28(26)** and **13.28(27)**.

ITEM 2. Rescind and reserve subrules **15.7(1)** to **15.7(5)**.

ITEM 3. Rescind and reserve rule **282—15.8(272)**.

[Filed 7/8/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7988B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 20, "Renewals," Iowa Administrative Code.

A teacher who retires and wishes to substitute teach may apply for renewal of a substitute license acquired prior to or during the term of the standard license. The renewal requirements for a substitute license state that a person must have completed a recent one-hour class or spent at least 30 days substitute teaching during the term of the substitute license. The person may be unable to provide evidence of substitute teaching during the term of the person's original substitute license but may have taught recently. This amendment allows a recent year of teaching experience to fulfill the requirement for renewal of a substitute license. The intent of the rule is that, since the person has experience in the classroom, teaching experience will be considered acceptable as substitute teaching experience for renewal of a substitute license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 6, 2009, as **ARC 7748B**. A public hearing on the amendment was held on Wednesday, May 27, 2009. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective September 2, 2009.

The following amendment is adopted.

Amend rule 282—20.7(272) as follows:

282—20.7(272) Specific renewal requirements for a substitute license. In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272). An applicant for renewal of a substitute license shall meet one of the requirements listed below:

1. Verification of at least 30 days of substitute teaching during the term of the license or one year of teaching experience within the last five years completed during the term of a valid Iowa teaching license.
2. Completion of a local education agency or area education agency course approved through licensure renewal guidelines established by the board of educational examiners.
3. Completion of one semester hour of credit taken from a community college, college, or university.

[Filed 7/8/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7979B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code.

The definition of "practitioner" in Iowa Code section 272.1(7) was amended by 2008 Iowa Acts, chapter 1008, section 1. This amendment conforms the definition in rule 282—25.2(272) to that definition.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 6, 2009, as **ARC 7747B**. A public hearing on the amendment was held on Wednesday, May 27, 2009. No one attended the

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective September 2, 2009.

The following amendment is adopted.

Amend rule **282—25.2(272)**, definition of “Practitioner,” as follows:

“Practitioner” means an administrator, teacher, or other school personnel, who provides educational assistance to students and who holds a license, certificate, or other authorization issued by the board-licensed professional, including an individual who holds a statement of professional recognition, who provides educational assistance to students.

[Filed 7/8/09, effective 9/2/09]

[Published 7/29/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7980B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby adopts Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

The creation of a professional service license will reduce confusion in the field. Issuance of initial and standard licenses to service professionals creates confusion about what these individuals are authorized to do. A separate license would clarify what they are allowed to do.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 6, 2009, as **ARC 7743B**. A public hearing on the rules was held on Wednesday, May 27, 2009. No one attended the public hearing, and no written comments were received. There is one nonsubstantive change from the Notice. In rule 282—27.1(272), the list of professional service licenses was reordered to reflect the order in which the professions appear in rules 282—27.2(272) and 282—27.3(272). The rule now reads as follows:

“282—27.1(272) Professional service license. A professional service licensee is an individual prepared to provide professional services in Iowa schools but whose preparation has not required completion of the professional education core as described in 282—subrule 13.18(4). The professional service license may be issued in the following areas:

- “1. School counselor.
- “2. School psychologist.
- “3. Speech-language pathologist.
- “4. Supervisor of special education (support).
- “5. Director of special education of an area education agency.
- “6. School social worker.
- “7. School audiologist.”

This amendment is intended to implement Iowa Code chapter 272.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This amendment will become effective September 2, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 27] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 7743B**, IAB 5/6/09.

[Filed 7/8/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 7995B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

Iowa Code section 68A.401(1)"a" provides that certain campaign statements and reports are required to be filed in an "electronic format as prescribed by rule." Iowa Code section 68A.402(1) provides that certain campaign reports shall be filed by "electronic filing as prescribed by rule." The amendments define "electronic format" and "electronic filing" as the Board's electronic filing system, which permits the filing of statements and reports via the Board's Web site.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7806B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on July 8, 2009.

These amendments are intended to implement Iowa Code section 68A.401(1)"a" as amended by 2009 Iowa Acts, Senate File 51, section 1, and section 68A.402(1) as amended by 2009 Iowa Acts, Senate File 49, section 4.

These amendments will become effective on September 2, 2009.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 4.1(6):

4.1(6) *Electronic format or electronic filing defined.* "Electronic format" or "electronic filing" means the board's electronic filing system for submitting a statement of organization via the board's Web site at www.iowa.gov/ethics.

ITEM 2. Amend rule **351—4.1(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement sections~~ section 68A.201 and section 68A.401 as amended by 2009 Iowa Acts, Senate File 51, section 1.

ITEM 3. Adopt the following **new** subrule 4.8(4):

4.8(4) *Electronic format or electronic filing defined.* "Electronic format" or "electronic filing" means the board's electronic filing system for submitting campaign disclosure reports via the board's Web site at www.iowa.gov/ethics.

ITEM 4. Amend rule **351—4.8(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 68A.401 as amended by ~~2007 Iowa Acts, Senate File 39, section 5, and 2007 Iowa Acts, House File 413, section 1~~ 2009 Iowa Acts, Senate File 51, section 1, and section 68A.402 as amended by 2009 Iowa Acts, Senate File 49, section 4.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7994B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

Form DR-SFA was created so that a campaign could register a committee for purposes of using the abbreviated "paid for by" attribution prior to crossing the \$750 financial filing threshold, which would mandate registering a committee. The amendment requires Form DR-SFA to be filed for each separate election in which the committee will be involved.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7807B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on July 8, 2009.

This amendment is intended to implement Iowa Code sections 68A.201 and 68A.405.

This amendment will become effective on September 2, 2009.

The following amendment is adopted.

Adopt the following **new** subrule 4.11(3):

4.11(3) Subsequent elections. A person that filed Form DR-SFA for one election and then becomes involved in a subsequent election and wants to voluntarily register a committee shall file either a new Form DR-SFA or file an amended Form DR-SFA, which provides information concerning the new election.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7992B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

This amendment clarifies that when a candidate has registered a committee for one office and then seeks another office, the candidate is required to register a new committee for the second office sought, regardless of whether the \$750 financial filing threshold for the second office will be exceeded if funds are transferred from the first committee.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7809B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on July 8, 2009.

This amendment is intended to implement Iowa Code section 68A.303.

This amendment will become effective on September 2, 2009.

The following amendment is adopted.

Amend subrule 4.26(2) as follows:

4.26(2) Transfer of assets for same candidate. A candidate's committee may transfer funds, assets, loans, and debts to a committee established for a different office when the same candidate established both committees. A candidate seeking to transfer funds, assets, loans, or debts under this subrule shall file either an amended statement of organization disclosing information for the new office sought or

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

register a new committee regardless of whether the \$750 financial filing threshold for the new office will be exceeded.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7998B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

This amendment resolves the situation that arises when a former committee officer refuses to forward committee records to a subsequently appointed or elected committee officer by setting a time period for the records to be submitted and by enabling the Board to impose sanctions for the failure to forward committee records.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7803B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on July 8, 2009.

This amendment is intended to implement Iowa Code section 68A.203.

This amendment will become effective on September 2, 2009.

The following amendment is adopted.

Adopt the following **new** subrule 4.37(3):

4.37(3) Records forwarded. An officer of a committee who is replaced by another officer shall forward within seven days any committee records to the subsequently appointed or elected committee officer. The board may grant an extension of time for good cause. The failure to forward records pursuant to this subrule may subject the former officer to board sanctions.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7996B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Chapter 7, "Personal Financial Disclosure," Chapter 8, "Executive Branch Lobbying," and Chapter 15, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

In order to provide consistency in reviewing and making determinations concerning requests for waivers of late-filed reports, the Board has created a Waiver of Civil Penalty form. The amendments reflect that a request for waiver of a civil penalty shall be submitted on this form in lieu of the current process, which permits the submission of a request for waiver by letter, with no specific guidance as to how the request is to be filed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7805B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

The Board adopted these amendments on July 8, 2009.

These amendments are intended to implement Iowa Code sections 68B.32A(5), 68B.32A(8), and 68B.32A(9).

These amendments will become effective on September 2, 2009.

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 [4.60, 7.6, 8.12, 15.2] is being omitted. These amendments are identical to those published under Notice as **ARC 7805B**, IAB 6/3/09.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 8002B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 8, "Executive Branch Lobbying," Iowa Administrative Code.

These amendments implement an amendment made to Iowa Code section 68B.5A(2) in 2008 Iowa Acts, chapter 1191, section 39. That particular section now states that the restrictions on lobbying by a head of a major subunit of a department or a full-time employee of an office of a statewide elected official apply only to an official or employee whose position involves the substantial exercise of administrative discretion or the expenditure of public funds. The amendments also include the addition of a reference to an exception to the general prohibition found in subrule 8.17(4).

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68B.5A(2).

These amendments will become effective on September 2, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 8.17(1) as follows:

8.17(1) Lobbying restrictions—statewide elected officials and executive or administrative heads.

a. A person who serves as a statewide elected official, the executive or administrative head of an agency, or the deputy executive or administrative head of an agency shall not act as a lobbyist during the time in which the person serves or is employed by the state unless the person is designated to represent the official position of the person's agency.

b. A person subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government except as provided in subrule 8.17(4).

ITEM 2. Amend subrule 8.17(2) as follows:

8.17(2) Lobbying restrictions—employees of statewide elected officials and other department or agency employees.

a. The head of a major subunit of a department or independent state agency whose position involves substantial exercise of administrative discretion or the expenditure of public funds or a full-time employee of an office of a statewide elected official whose position involves substantial exercise of administrative discretion or the expenditure of public funds shall not act as a lobbyist during the time in which the person is employed by the state before the agency that the person is employed by or before state agencies, officials, or employees with whom the person has substantial or regular contact as part of the person's duties, unless the person is designated to represent the official position of the person's agency.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

b. A person subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government if the employment involves lobbying before the agency that the person was employed by or before state agencies, officials, or employees with whom the person had substantial and regular contact as part of the person's former duties except as provided in subrule 8.17(4).

ITEM 3. Amend subrule 8.17(3) as follows:

8.17(3) Lobbying restrictions—state employees with conflicts of interest. A state employee who is not included in subrule 8.17(1) or 8.17(2) shall not act as a lobbyist in relation to any particular case, proceeding, or application with respect to which the person is directly concerned and personally participates as part of the person's employment, unless the person is designated to represent the official position of the person's agency. Persons subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government if the employment involves lobbying in relation to any particular case, proceeding, or application with respect to which the person was directly concerned and personally participated as part of the person's employment.

[Filed Without Notice 7/9/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7990B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 8, "Executive Branch Lobbying," Iowa Administrative Code.

This amendment adds an executive branch lobbyist registration statement to the communications that an executive branch lobbyist is prohibited from sending to an executive branch official or executive branch employee in the name of a fictitious person or in the name of a real person without the consent of that person.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7812B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on July 8, 2009.

This amendment is intended to implement Iowa Code section 68B.32A(13).

This amendment will become effective on September 2, 2009.

The following amendment is adopted.

Amend subrule 8.18(2) as follows:

8.18(2) *False communication.* An executive branch lobbyist shall not cause a communication or an executive branch lobbyist registration statement to be sent to an executive branch official or an executive branch employee in the name of either of the following:

- a. A fictitious person; or
- b. A real person except with the consent of that person.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7993B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 9, "Complaint, Investigation, and Resolution Procedures," Iowa Administrative Code.

This amendment clarifies that one of the remedial actions the Board may impose pursuant to Iowa Code section 68B.32D after a hearing and a finding of a violation is the assessment of costs related to the holding of the hearing.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7808B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on July 8, 2009.

This amendment is intended to implement Iowa Code section 68B.32D.

This amendment will become effective on September 2, 2009.

The following amendment is adopted.

Amend subrule 9.4(1) as follows:

9.4(1) Action after hearing. If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the actions set out in Iowa Code section 68B.32D, including as a remedial action the assessment of direct costs related to the hearing for printing, postage, long-distance telephone charges, witness fees, and compensation paid to the presiding officer.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7991B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 9, "Complaint, Investigation, and Resolution Procedures," Iowa Administrative Code.

Iowa Code section 68B.32A(9) directs the Board to "establish and impose penalties, and recommendations for punishment" for persons who violate a law or rule under the Board's jurisdiction. The amendments permit the Board to resolve certain violations by imposing a civil penalty as opposed to initiating the full contested case process. The person subject to the imposition of a civil penalty would still be able to request a contested case proceeding to challenge the determination and would still be able to seek judicial review of a Board action.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7810B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on July 8, 2009.

These amendments are intended to implement Iowa Code sections 68B.32A(9) and 68B.32D.

These amendments will become effective on September 2, 2009.

The following amendments are adopted.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 1. Amend subrule 9.4(2) as follows:

9.4(2) *Administrative resolution.* Violations may be handled by administrative resolution rather than through the full investigative and contested case proceeding process. The board may order administrative resolution by directing that the person take specified remedial action. The board may also order administrative resolution by issuing a letter of reprimand or by imposing a civil penalty as set out in subrule 9.4(7).

ITEM 2. Adopt the following **new** subrule 9.4(7):

9.4(7) *Civil penalty for violation.* If the board determines that probable cause exists to believe that a violation of any statute or rule under its jurisdiction has occurred, except for a late-filed disclosure report, the board may order administrative resolution of the violation by imposing a civil penalty not to exceed \$500. A person assessed a civil penalty may appeal the decision by requesting within 30 days of the date of the correspondence informing the person of the board's decision a contested case proceeding to be held under the process set out in subrule 9.4(4).

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7997B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 11, "Contested Case Procedures," Iowa Administrative Code.

This amendment sets out the number of days before a Board hearing that service of process is to be completed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7804B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on July 8, 2009.

This amendment is intended to implement Iowa Code chapter 17A and Iowa Code sections 68B.32A and 68B.32C.

This amendment will become effective on September 2, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [11.5(3)] is being omitted. This amendment is identical to that published under Notice as **ARC 7804B**, IAB 6/3/09.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 8003B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.22, the Department of Human Services amends Chapter 7, "Appeals and Hearings," Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments change the definition of “aggrieved person” by adding a drug manufacturer that has received a notice of decision regarding disputed drug rebates, pursuant to the dispute resolution procedures of a national drug rebate agreement or Iowa Medicaid supplemental drug rebate agreement.

Pursuant to the national drug rebate agreements and Iowa supplemental rebate agreements, the state is required to make available to the manufacturer the state hearing mechanism available under the Medicaid program. The Office of Inspector General and the Centers for Medicare & Medicaid Services of the federal Department of Health and Human Services have recommended that the state develop policies and procedures to allow manufacturers to file administrative appeals. Currently, most drug rebate disputes are settled by the state informally through working with the manufacturer. The Department expects that pattern to continue after this change.

The rules regarding time limits for appeals have been reworked to make them easier to understand. Language about the timeliness of child abuse appeals has been incorporated. Other technical changes are made to:

- Remove references to the “Food Stamp” program and replace with “Food Assistance.”
- Update form names and numbers and rule references.
- Conform to current practices.

Chapter 7 does provide for waivers in various situations. Waiver of any Department rule may be requested under the Department’s general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on April 22, 2009, as **ARC 7730B**. The Department received no comments on the Notice of Intended Action.

The Department has made the following changes to the definition of “aggrieved person” in rule 441—7.1(17A) as published in the Notice of Intended Action:

- In numbered paragraph “1,” deleted the word “diversion” and changed the phrase “emergency assistance” to “emergency or disaster assistance.” The Department has eliminated the diversion program. Numbered paragraph “1,” introductory paragraph, now reads as follows:

“1. For financial assistance (including the family investment program, refugee cash assistance, child care assistance, emergency or disaster assistance, family or community self-sufficiency grants, family investment program hardship exemptions, and state supplementary assistance dependent person, in-home health related care, and residential care facility benefits), a person:”

- Deleted proposed paragraph “11” on the Iowa Disaster Aid Individual Assistance Grant Program and renumbered proposed new paragraphs “12” and “13” accordingly. Since these rules were written, the Department has begun several new disaster assistance programs, so the proposed change was deemed too narrow.

The Council on Human Services adopted these amendments on July 8, 2009.

These amendments are intended to implement Iowa Code sections 17A.10 through 17A.20.

These amendments shall become effective on September 2, 2009.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 7] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7730B**, IAB 4/22/09.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 8004B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 239B.4(6), the Department of Human Services amends Chapter 41, "Granting Assistance," Iowa Administrative Code.

This amendment requires families approved for assistance under the Family Investment Program (FIP) to assign to the Department of Human Services their rights to any child support that is due during the period that the family receives FIP assistance. The family is entitled to receive any child support due for a period when the family did not receive FIP assistance. This change is required by the Federal Deficit Reduction Act of 2005 and by 2008 Iowa Acts, chapter 1019.

Previously, the family assigned to the Department rights to any child support that the family received during the period that the family received FIP assistance, even if the support was due for a past period when the family did not receive assistance. The Department kept all support received, up to the amount of the FIP assistance issued. With the implementation of this amendment, past-due support that is collected by the Department's Child Support Recovery Unit will be released to the family.

Past-due support that is released to FIP participants will be considered as income when the Department determines continuing FIP eligibility and benefits. Past-due support that is received as a one-time payment will be considered as a nonrecurring lump sum. If the lump sum plus other countable income received in the same month exceeds the standard of need amount for the household size, a period of ineligibility for FIP assistance will be imposed. If the past-due support is received on a regular, recurring basis, i.e., in regular monthly payments, it will be counted as unearned income in the month received.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on May 20, 2009, as **ARC 7776B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

This amendment does not provide for waivers in specified situations because the amendment benefits FIP participants by making past-due support collected available to them.

The Council on Human Services adopted this amendment on July 8, 2009.

This amendment is intended to implement Iowa Code section 239B.6 as amended by 2008 Iowa Acts, chapter 1019, section 1.

This amendment shall become effective on October 1, 2009.

The following amendment is adopted.

Amend subrule 41.22(7) as follows:

41.22(7) Assignment of support payments. Each applicant for or recipient of assistance shall assign to the department any rights to support from any other person that the applicant or recipient may have. ~~These~~ The assignment of support payments shall include rights to support in the applicant's or recipient's own behalf or in behalf of any other family member for whom the applicant or recipient is applying or receiving assistance and which have accrued at the time the assignment is executed.

a. The assignment of support payments shall include rights to all support payments that accrue during the period of assistance but shall not exceed the total amount of assistance received.

b. An assignment is effective the same date all eligibility information is entered into the department's computer system and is effective for the entire period for which assistance is paid.

[Filed 7/9/09, effective 10/1/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 8005B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 239B.4(6), the Department of Human Services amends Chapter 45, "Payment," Iowa Administrative Code.

This amendment allows the Department to issue assistance under the Family Investment Program (FIP) either by electronic access card, or by direct deposit to the client's own bank account, or by warrant. Assistance payments will be issued by electronic access card unless the client requests direct deposit or the Department determines that it is not practicable to issue payment by electronic access card. The Department will use the same electronic access card to issue FIP and Refugee Cash Assistance benefits as Iowa Workforce Development (IWD) uses to issue unemployment insurance benefits.

Issuing assistance by electronic access card will reduce overhead costs in distributing benefits and will also have advantages for clients, including:

- Providing assistance in a safer, timelier manner.
- Avoiding mail delays, losses, or theft of warrants.
- Greater convenience in accessing and handling funds.
- Avoiding check-cashing fees.
- Improved financial literacy skills as clients become more familiar with using financial institutions.

This amendment provides for waivers for clients who do not wish to use the electronic access card by offering the option of direct deposit to the client's own bank account.

The Council on Human Services adopted this amendment July 8, 2009.

The Department finds that the delay in implementation involved in providing notice and public participation is contrary to the public interest because this amendment will produce cost savings needed during this period of reduced budgets. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

This amendment is also published herein under Notice of Intended Action as **ARC 8006B** to allow for public comment.

This amendment is intended to implement Iowa Code chapter 239B.

This amendment shall become effective October 1, 2009.

The following amendment is adopted.

Rescind rule 441—45.21(239B) and adopt the following **new** rule in lieu thereof:

441—45.21(239B) Issuing payment. The department may issue assistance payments under the family investment program (FIP):

1. By electronic access card,
2. By direct deposit to the recipient's own account in a financial institution, or
3. By warrant.

45.21(1) *Electronic access card.* The department shall make payments available through an electronic access card issued to the payee except when:

- a. The recipient requests direct deposit; or
- b. The department determines it is not practicable to issue the payment by electronic access card.

45.21(2) *Direct deposit.* The department shall issue payments by direct deposit to the recipient's own account in a financial institution if the recipient completes Form 470-0261, Agreement for Automatic Deposit, to request direct deposit.

45.21(3) *Warrant.* The department shall issue payments by warrant when the recipient has not requested direct deposit and the department determines it is not practicable to issue payment by electronic access card. These circumstances include but are not limited to the following:

- a. A one-time payment is issued.
- b. The payee is a representative payee, conservator, or guardian who is not part of the FIP assistance unit.

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c. The payee is unable to provide a social security number or an individual taxpayer identification number.

[Filed Without Notice 7/9/09, effective 10/1/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 8007B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of 2009 Iowa Acts, House File 64, section 5, the Department of Human Services amends Chapter 58, "Emergency Assistance," Iowa Administrative Code.

These amendments adopt a new division intended to implement the Iowa Unmet Needs Disaster Grant Program (IUNDGP). This program provides state assistance to address unmet disaster-related expenses that cannot be met by other financial assistance. The program provides for reimbursement for repair or replacement of personal property, home repair, mental health services, food assistance, child care, and temporary housing to households whose income is less than 300 percent of the federal poverty guidelines. The amount of assistance available to a household is capped at \$2,500.

The program is administered by the Department of Human Services in coordination with the Recovery Iowa Office and local Long-Term Recovery Committees established in affected areas. The Long-Term Recovery Committees receive applications from affected households, certify the households' residence and unmet disaster-related expenses, and determine eligibility for assistance. Department staff issue payments and process any appeals.

These amendments were previously Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7603B**. Notice of Intended Action on these amendments was published on the same date as **ARC 7604B** to solicit comments. The Department received no comments on the Notice of Intended Action.

However, 2009 Iowa Acts, Senate File 478, section 176, amended 2009 Iowa Acts, House File 64, section 4(6), to eliminate the 3 percent reimbursement to Long-Term Recovery Committees for administrative expenses. As a result, the Department has made the following changes to these amendments:

- Added "SF478" to the parenthetical implementation statute of rule 441—58.56(83GA, HF64).
- Rescinded and reserved subrule 58.56(2) pertaining to administrative fee payments.
- Removed the reference to administrative fee payments from paragraph 58.56(4)"a."
- Added the phrase "and of the household's appeal rights under 441—Chapter 7" to subparagraph 58.57(2)"b"(3) for clarification.
- Added a citation to the new legislation to the implementation sentence for Division IV.

These amendments do not provide for waivers in specified situations, since the changes benefit recipients in the programs affected or are set by statute. However, requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A, 217).

The Council on Human Services adopted these amendments on July 8, 2009.

These amendments are intended to implement 2009 Iowa Acts, House File 64, section 4, as amended by 2009 Iowa Acts, Senate File 478, section 176.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments shall become effective September 2, 2009, at which time the Adopted and Filed Emergency amendments are rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [58.51 to 58.58] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7604B** and Adopted and Filed Emergency as **ARC 7603B**, IAB 3/11/09.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 8009B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services adopts new Chapter 106, "Safety Standards for Children's Centers," Iowa Administrative Code.

This amendment establishes safety and facility standards for children's centers. Iowa Code chapter 237B requires the Department to establish broad facility standards for the protection of children. Chapter 106 covers definitions; application of the standards; provision of basic needs; protection from mistreatment, physical abuse, sexual abuse, and neglect; record checks; seclusion and restraints; health; safety; emergencies; and buildings.

Iowa Code chapter 237B prohibits adoption of program standards or other requirements involving program development or oversight of the programs provided to the children served by a children's center and does not delegate regulatory or enforcement authority to the Department or any other state agency. Thus, these rules do not establish a certification or licensure process or provide for enforcement.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on May 20, 2009, as **ARC 7769B**. The Department received two comments on the Notice of Intended Action. In response to these comments and to legislation enacted in 2009 Iowa Acts, House File 811, the Department has made the following changes to the rules as published under Notice of Intended Action:

- Added new paragraph "f" to subrule 106.5(5) to read as follows: "The likelihood that the person will commit the crime or founded abuse again." This provision matches the foster group care criteria for evaluating background checks that reveal abuse or crimes. Ensuring that children's center standards are substantially equivalent to group care standards is a mandate of 2009 Iowa Acts, House File 811.

- Added new paragraph "d" to subrule 106.8(4) to read as follows: "A children's center shall have proof of current insurance that covers all vehicles and drivers used to transport children."

This amendment does not provide for waivers in specified situations because the rules do not require compliance and the Department has no enforcement authority.

The Council on Human Services adopted this amendment on July 8, 2009.

This amendment is intended to implement Iowa Code chapter 237B as amended by 2009 Iowa Acts, House File 811, section 131.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment shall become effective on September 2, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 106] is being omitted. Except for the changes noted above, these rules are identical to those published under Notice as **ARC 7769B**, IAB 5/20/09.

[Filed 7/9/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 8010B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 237.3 and 234.6, the Department of Human Services amends Chapter 112, "Licensing and Regulation of Child Foster Care Facilities," Chapter 113, "Licensing and Regulation of Foster Family Homes," Chapter 117, "Foster Parent Training," Chapter 156, "Payments for Foster Care and Foster Parent Training," Chapter 200, "Adoption Services," and Chapter 202, "Foster Care Services," Iowa Administrative Code.

These amendments update provisions for foster family home licensing and training and for foster care and adoption services to:

- Reflect the Department's current contracting arrangements and procedures.
- Incorporate changes to comply with federal law and regulations and support the Department's position for federal Child and Family Service Reviews.
- Incorporate changes suggested by Department staff and stakeholders.
- Insert numbering to comply with current standards for administrative rules.

The amendments to Chapter 112:

- Clarify application provisions for both foster family and group care licenses.
- Extend the time limit for a decision on an initial foster family home license application from 120 days to 140 days if the applicant must complete the 30-hour preservice training course. The Department's experience is that current requirements for training and for national criminal record checks often cannot be completed within 120 days of the application date.

- Provide that the Department shall not act on a family's reapplication for licensing if the family's license has been denied or revoked within the last 12 months.

- Add refusal of the foster family to engage as a resource to the foster child's birth parents as grounds for denial of a renewal application.

- Clarify that mandatory child abuse reporter training must be approved by the Iowa Department of Public Health.

- Clarify that a foster family's training documentation shall be submitted to the Department's statewide contractor for the recruitment and retention of resource (foster and adoptive) families.

- Update organizational terminology.

The amendments to Chapter 113:

- Rescind definitions of unused terms and add new definitions.
- Add an overview of the steps in the licensing process, including a list of forms and documentation that the applicant family must submit.

- Allow waiver of any licensing standard that can be waived without a negative impact on the safety or well-being of the foster child. Public Law 110-351, the Fostering Connections to Success and Increasing Adoptions Act, requires this waiver provision. (The Department does not have the authority to waive standards set in state or federal law.)

- Add more physical requirements for bedrooms used by foster children and for family sleeping arrangements.

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- Prohibit smoking in the foster family home or vehicle when foster children are present, based on a recommendation from the Department's Child Death Review Team.
- Require foster parent applicants to make a visual inspection for lead-paint hazards and apply interim controls to mitigate any potential hazard identified as required by 2008 Iowa Acts, chapter 1187, section 35.
- Add a minimum temperature requirement for bedrooms and prohibit use of kerosene heaters or gas-fired space heaters in the foster family home.
- Waive the water-testing requirement after a family has made alternative arrangements for safe water for three consecutive years.
- Require each floor where foster children would sleep to have a working smoke detector and carbon monoxide detector as well as a window exit that meets specified dimensions.
- Add safety requirements related to combustion hazards, safety plans, medications and poisonous substances, weapons and firearms, transporting and supervising foster children, and pets or outdoor animals with which a foster child may come into contact.
- Move foster parent training standards to Chapter 117, except for a summary list of requirements.
- Require the foster family to actively ensure that the foster child stays connected to the child's kin, culture, and community as required in the child's case permanency plan.
- Require that records about the foster child be provided to the Department or to the child's parent or guardian when the child leaves the placement.
- Allow the licensing worker discretion to request an updated health report from the foster family.
- Set a minimum age requirement of 21 and make minor changes to the requirements for the personal characteristics of the foster parents.
- Clarify the scope of assessment and the timing for the required unannounced visit, which is now made by the recruitment and retention contractor. Deficiencies found will be referred to the Department's licensing worker for joint planning with the foster family on improvement.
- Clarify the requirements on working with the foster child's school and consulting with the child's parents about participation in the child's culture and religion.
- Clarify the requirements on training and discipline of foster children and provide that if the child's treatment plan includes the use of restraints, the foster parents shall receive training in the safe and appropriate use of restraints.
- Add requirements for alternative care during a foster parent's emergency absence and reporting absences and other changes of circumstances that could affect the health, safety or welfare of a foster child in the family's care.

The amendments to Chapter 117:

- Incorporate the training requirements previously included in Chapter 113.
- Require approval of the area social work administrator or designee for a preservice training session to an individual family instead of a group.
- Clarify that the Department's recruitment and retention contractor is responsible for providing orientation and managing preservice training.
- Clarify requirements for approval and crediting of in-service training, including designating a training cycle that is offset from the licensing period, so that license renewal will not be delayed when the foster parent needs to complete the annual training requirement.
- Require training in medication management, CPR, first aid, and child abuse reporting during the first year of licensing. The Child Death Review Team has recommended that training in first aid and CPR be mandatory.
- Require completion of the course "Caring for Children With HIV" before placement of an HIV-infected child with the family.
- Incorporate the rules on training stipends and trainer fees that were previously in Chapter 156.

The amendments to Chapter 156:

- Change the chapter title to reflect the removal of foster parent training provisions.
- Update definitions to remove obsolete references and terminology.
- Provide for recovery of overpayments made to a foster family.

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- Require a foster family that provides child care to be registered pursuant to Chapter 110 and prohibit the family from displacing the foster child to another child care facility.

- Clarify provisions for payment in a preadoptive placement.
- Update language on the contracts required for provider payment.

The amendments to Chapter 200:

- Amend and add definitions and update form references.
- Clarify the role of the recruitment and retention contractor in doing adoptive home studies, preparing families for adoption, and providing support to adoptive families.
- Clarify the role of the Department adoption worker in preplacement and postplacement services.
- Rescind rules on the methods of service provision, fees for services, and international adoptions. Since the Department will accept applications for adoption only for special needs children, fees do not apply. International adoptions are handled through private child-placing agencies.

The amendments to Chapter 202:

- Update the definition of “foster care” to match the definition in Chapter 156.
- Add new definitions of “family safety, risk, and permanency service,” “foster family adoption,” “resource family,” and “social history.”
- Require a genogram of the child’s family as part of the assessment of the need for foster care placement.
- Add requirements on record checks for relatives who may accept placement of the child.
- Prohibit placement of a child who has asthma or other respiratory disease in a foster family home where any member of the household smokes.
- Add requirements for furnishing information to the foster care provider which were previously included in Chapter 113.
- Require monthly visits by the caseworker to the child’s parents.
- Clarify the provision of services to children in foster family placement.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7712B**. The Department received comments on the Notice of Intended Action from 39 people. In response to these comments, the Department has made the following changes to the amendments as published under Notice of Intended Action:

- Revised subrule 113.3(1) to delete the proposed requirements for submission of marriage certificates and divorce decrees (published as paragraphs “f” and “g”) and to reletter the final paragraph.
- Revised subparagraph 113.3(4)“b”(3) to remove the reference to verification of marriages and divorces.
- Revised paragraph 113.5(3)“a” to add criteria for approving an exception to policy when a bedroom currently used by a foster child does not have an operable window.
- Revised paragraph 113.5(3)“b” to reinstate the minimum bedroom area of 40 square feet per child and to allow the service area manager or designee to approve a waiver of the minimum size for placement of a specific child or children.
- Corrected the form number in subrule 113.5(7).
- Changed the reference in paragraph 113.7(7)“a” from “recreational vehicles” to “motorized vehicles” to clarify the intent of the rule.
- Reworded subrule 113.7(8) to clarify that veterinary certificates for animals are required only to the extent that vaccination is required by local ordinances.
- Removed the reference to the “supervisory agency” in subrules 113.9(1), 113.10(2), 113.17(2), and 113.8(3) and in paragraph 113.19(1)“a,” since the Department no longer contracts for supervision.
- Deleted the proposed sentence in subparagraph 117.7(2)“b”(6) allowing repetition of an Internet training course every five years.
- Revised subparagraph 117.7(2)“c”(5) to allow one hour of training credit for each program hour of Internet training.
- Revised the wording of subparagraph 117.7(3)“a”(3) to clarify the transition period to the new training cycles.

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- Adjusted the dates in subparagraph 117.7(3)“a”(3), paragraphs 117.8(1)“c” and 117.8(2)“b,” and subrule 117.8(3) to reflect an October 1, 2009, implementation date.
- Revised paragraph 156.8(1)“a” to clarify that, if needed, children may receive one replacement clothing allowance during each calendar year that they are in foster care.
- Deleted the proposed sentence in subparagraph 156.8(8)“b”(2) prohibiting foster families from displacing a foster child to another child care facility to benefit their child care businesses.
- Further amended subrule 156.10(2) to eliminate responsibilities of a supervising private agency, since the Department no longer purchases supervision.
- Did not adopt the revisions to the definition of “Foster family adoption” in rule 441—200.1(600) or the proposed definition of “Foster family adoption” in rule 441—202.1(234). The existing definition in rule 441—200.1(600) is adequate.
- Added language to subparagraph 200.4(3)“b”(2) to clarify that race is considered in adoption of Indian children under the provisions of the Indian Child Welfare Act.
- Revised subparagraph 200.4(3)“b”(4) to provide that foster parents shall be considered for adoptive placement when the child has been in their care for six months or longer, instead of one year.
- Revised subparagraph 202.3(3)“a”(3) to remove the requirement that continued care must have taken place inside Iowa and to add the requirement that the voluntary placement must be in foster family or supervised apartment living in Iowa, in compliance with Iowa Code section 234.35(3).
- Removed the language about placement outside Iowa from paragraph 202.3(3)“a.”
- Added new subparagraph (12) to paragraph 202.6(1)“a” to require that when an Indian child is placed in foster care, the foster care provider shall be informed of the name and contact information of the child’s tribe and tribal social services agency.

No changes were made in response to comments about the amount and cost of training required, whether new safety standards were justified, and how much foster parents should be required to work with children’s birth families.

Other than the licensing waivers mentioned above, 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).

The Council on Human Services adopted these amendments on July 8, 2009.

These amendments are intended to implement Iowa Code chapters 234, 237, and 600.

These amendments shall become effective on October 1, 2009.

The following amendments are adopted.

ITEM 1. Amend rule 441—112.1(237) as follows:

441—112.1(237) Applicability. This chapter relates to licensing procedures for all child foster care facilities authorized by Iowa Code chapter 237. Rules relating to specific types of facilities are located in 441—Chapter 113, “Licensing and Regulation of Foster Family ~~Care~~ Homes,” 441—Chapter 114, “Licensing and Regulation of All Group Living Foster Care Facilities for Children,” 441—Chapter 115, “Licensing and Regulation of Comprehensive Residential Facilities for Children,” and 441—Chapter 116, “Licensing and Regulation of Residential Facilities for Mentally Retarded Children.”

This rule is intended to implement Iowa Code chapter 237.

ITEM 2. Amend rule 441—112.3(237) as follows:

441—112.3(237) Application for license.

112.3(1) Right to apply. Any adult individual or agency has the right to ~~make application~~ apply for a license.

a. Foster family care. A person wishing to apply to be a foster parent shall contact the department’s recruitment and retention contractor at 1-800-243-0756 to request an application packet. This procedure also applies to:

(1) Persons wishing to care for children placed through a any public or private agency ~~shall make application through that agency.~~

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~~b. (2) Persons wishing to care for children~~ A relative who is caring for a child directly placed by the child's parents, guardians, or ~~other relatives shall make application to the department of human services~~ another relative and who wishes to be licensed as a foster parent.

b. Group care. A person wishing to apply for a group care license shall contact the department:

(1) Through the "Child Welfare" link on the department's Web site, www.dhs.iowa.gov; or

(2) By mail to the DHS Division of Child and Family Services, Attn: Group Care Licensing, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

112.3(2) Decision to operate a facility.

a. When an applicant has reached a decision to operate a ~~facility for child foster care~~ family home, the applicant shall complete Form 470-0689, Foster Family Home License Application. ~~or~~

b. When an applicant has reached a decision to operate a group facility, the applicant shall complete Form 470-0723, Application for License or Certificate of Approval. ~~Requests for renewal shall be made on the same form.~~

112.3(3) to 112.3(5) No change.

112.3(6) Applications for renewal.

a. The department or its agent shall send the licensee an application for renewal 90 days before the license expires. Applications for license renewal shall be made on the form specified in subrule 112.3(2).

b. Applications for renewal shall be made ~~to the department~~ at least 30 but no more than 90 days before the license expires. Applications for renewal of a group care license shall be submitted to the address in subparagraph 112.3(1)"b"(2). Applications for renewal of a foster family home license shall be submitted to the recruitment and retention contractor.

c. The department shall approve or deny an application for license renewal through the same process as that used for the original application.

112.3(7) Notification.

a. Foster family homes.

(1) The department shall notify an applicant of the approval or denial of an initial license within 140 days of the date that the applicant begins the preservice training required in 441—subrule 113.8(1). When preservice training is waived, the department shall notify the applicant of approval or denial within 120 days of the date that the training waiver is granted.

(2) The department shall notify a licensee of the approval or denial of license renewal within 90 days of reapplication.

b. Group facilities. ~~Facilities shall be notified~~ The department shall notify a group facility of approval or denial of a license within 90 days of application or reapplication.

This rule is intended to implement Iowa Code section 237.5.

ITEM 3. Amend subrule 112.5(2) as follows:

112.5(2) Reapplications will shall be denied:

a. For the same reasons as original applications.

b. For the same reasons as listed in the grounds for revocation.

c. When the foster family applicant's license has been denied or revoked within the 12 months before the date of reapplication. Denial for this reason does not require a licensing study.

d. If the foster family refuses to engage as a resource to a foster child's birth parents when engagement can be done in a way that does not put the foster family or the foster child at risk of harm.

ITEM 4. Strike "commissioner" wherever it appears in subrules **112.9(2)** and **112.9(3)** and insert "director" in lieu thereof.

ITEM 5. Amend subrule 112.10(1), catchwords, as follows:

112.10(1) Mandatory ~~reports~~ reporters.

ITEM 6. Amend paragraph **112.10(3)"b"** as follows:

b. If the foster care provider is a licensed foster parent, the foster parent shall be responsible for obtaining the required two-hour training in child abuse identification and reporting as part of a continuing education program required under Iowa Code section 232.69 and chapter 258A 272C, ~~or from any of~~

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~~the following: and approved by the department of human services public health, the department of education, an area education agency, a school district, the Iowa law enforcement academy, or a similar public agency.~~

ITEM 7. Amend paragraph **112.10(5)“b”** as follows:

b. If the foster care provider is a licensed foster parent, the foster parent shall be responsible for securing documentation of the training content, amount, and provider, and shall forward the documentation to the department’s ~~district office~~ recruitment and retention contractor, which will provide a copy to the department licensing worker for the service area where the family resides for inclusion in the licensing file.

ITEM 8. Rescind the definition of “Relative” in rule **441—113.2(237)**.

ITEM 9. Adopt the following **new** definitions of “Corporal punishment,” “Department,” “Reasonable force,” “Recruitment and retention contractor,” “Service area manager” and “Social work administrator” in rule **441—113.2(237)**:

“*Corporal punishment*” means the intentional physical punishment of a foster child.

“*Department*” means the Iowa department of human services.

“*Reasonable force*” means that force, and no more, which a reasonable person in like circumstances would judge to be necessary to prevent an injury or loss.

“*Recruitment and retention contractor*” means the entity that contracts with the department statewide to recruit foster and adoptive parents, complete home studies, and perform activities to support and encourage retention of foster and adoptive parents, or any of its subcontractors.

“*Service area manager*” means the department employee responsible for managing department offices within a department service area.

“*Social work administrator*” means the department employee responsible for supervising the social work staff within a department service area and for implementing service policies and procedures of the department.

ITEM 10. Rescind rule 441—113.3(237) and adopt the following **new** rule in lieu thereof:

441—113.3(237) Licensing procedure.

113.3(1) Application. Applications for an initial license to operate a foster family home shall be submitted and processed as directed in rule 441—112.3(237). In addition to the application form, the applicant shall submit the following:

a. Form 595-1396, DHS Criminal History Record Check, for each person living in the home who is 14 years of age or older, as required by rule 441—113.13(237).

b. Form 470-0720, Physician’s Report for Foster and Adoptive Parents, to satisfy the requirements of rule 441—113.11(237).

c. Form 470-3226, HIV General Agreement, to indicate choices about caring for children who have or are at risk for HIV infection.

d. Form 470-0693, Foster Care Private Water Supply Survey, if applicable.

e. A drawing of the floor plan of the family’s home.

f. If licensed to drive, a copy of the driver’s license and motor vehicle insurance.

113.3(2) Orientation. Applicants shall attend an orientation provided by the recruitment and retention contractor as described in rule 441—117.2(237).

113.3(3) Record checks. Before beginning preservice training, applicants shall pass at least the local record check procedures as specified in rule 441—113.13(237).

113.3(4) Home study. The worker for the recruitment and retention contractor shall complete a family home study.

a. Process. Information for the home study is gathered primarily through the required preservice training as described in rule 441—117.1(237). In addition:

(1) The worker shall hold at least two face-to-face interviews with the applicant.

(2) The worker shall hold at least one face-to-face interview with each member of the household.

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(3) At least one of the interviews shall take place at the applicant's home. A physical inspection of the home is required to verify compliance with the standards in this chapter.

(4) Reference checks shall be conducted as described at rule 441—113.14(237).

b. Family assessment topics. The assessment of the prospective foster family shall evaluate the family's ability to parent a special needs child. The assessment shall include the following:

(1) The applicant's motivation for foster care and whether the family has biological, adopted, or foster children.

(2) The attitude of the family and the extended family toward accepting a foster child.

(3) The applicant's emotional stability; marital relationship and history, including verification of marriages and divorces; family relationships; and compatibility.

(4) The applicant's ability to cope with problems, stress, frustrations, crisis, separation, and loss.

(5) Medical, mental, and emotional conditions that may affect the applicant's ability to parent a child; treatment history; current status of treatment; and the evaluation of the treatment.

(6) The applicant's willingness to accept a child who has medical problems (such as HIV), mental retardation, or emotional or behavioral problems.

(7) The applicant's ability to provide for a child's physical, medical, and emotional needs and respect the child's ethnic and religious identity.

(8) The safety of foster children in relation to any animals that live on the applicant's property.

(9) The adjustment of any children in the home, including their attitudes toward foster care and adoption, relationships with others, and school performance.

(10) An assessment of the applicant's disciplinary techniques and practices.

(11) The applicant's financial information and ability to provide for a child.

(12) The applicant's attitude toward the foster child's birth parents and siblings.

(13) The applicant's commitment to and capacity to maintain a foster child's significant relationships and work with the child's parents when the permanency goal is reunification.

(14) Any history of substance use or substance abuse by family members or members of the household, including treatment history and current status of treatment.

(15) Any history of abuse by family members or members of the household, including treatment history, current status of treatment, and how this issue would affect the applicant's ability to be a foster parent.

(16) Any criminal convictions of family members or adults in the household and the evaluation of the criminal record.

c. Written report. The recruitment and retention contractor shall prepare a written report of the family assessment using Form 470-4029, PS-MAPP Family Profile Summary, and RC-0025, Home Study Summary and Recommendation Outline. The summary shall include a recommendation for the number, age, sex, characteristics, and special needs of a child or children the family can best parent, and any other pertinent information in making the licensing recommendation. The home study shall be maintained in the foster family record.

113.3(5) Decision. The department worker shall use the home study to approve or deny a prospective family as an appropriate placement for a child or children. The department worker shall notify the family of the licensing decision using Form 470-0709, Notice of Action: Foster Family Home.

a. Upon approval, the department shall issue the applicant a license as described at rule 441—112.4(237) to care for the number of foster children allowed under subrule 113.4(1).

b. If the department worker does not approve the home study, the notice shall state the reasons for that decision, as listed in rule 441—112.5(237). A license denial may be appealed as described at rule 441—112.8(237).

This rule is intended to implement Iowa Code section 237.5.

ITEM 11. Amend rule 441—113.4(237), introductory paragraph, as follows:

441—113.4(237) Provisions pertaining to the license. On a case-by-case basis, the service area manager or area social work administrator may waive any standard in this chapter unless:

1. The requirement is set in state or federal law; or

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2. The waiver could have a negative impact on the safety and well-being of a child placed in the foster family home.

ITEM 12. Amend rule 441—113.5(237) as follows:

441—113.5(237) Physical standards.

113.5(1) No change.

113.5(2) Grounds.

a. No change.

b. The foster child shall be protected against ~~such hazards as~~ including, but not limited to, traffic, pools, railroads, waste material, and contaminated water.

113.5(3) ~~Sleeping rooms~~ Bedrooms for foster children.

a. ~~Sleeping rooms~~ Bedrooms shall either have been constructed for the purpose of providing sleeping accommodation or remodeled for sleeping to provide proper heat and ventilation. Bedroom additions to a home shall meet building code requirements.

(1) All bedrooms used by foster children must have:

1. Permanent walls;

2. A door that closes;

3. A working window that opens from the inside; and

4. A closet, wardrobe, armoire, or dresser.

(2) If a currently licensed home has a bedroom with no window, foster children cannot use the room for a bedroom. If a bedroom currently occupied by a foster child does not have an operable window, an exception to policy may be requested for that specific child under the following conditions:

1. The recruitment and retention contractor has evaluated the situation and has determined there is no other option for sleeping arrangements for the child;

2. The recruitment and retention contractor has determined there is no reasonable way to make the window operable; and

3. The child would have to be moved to another placement if the exception were not granted.

b. ~~For multiple occupancy the~~ The minimum bedroom area per child shall be 40 square feet. However, the service area manager or designee may approve a smaller room size when approval is in the best interest of specific children placed or to be placed in the home. Such approvals shall:

(1) Be in writing;

(2) Contain the names and birth dates of the children for whom issued; and

(3) Be reviewed at each license renewal.

c. No change.

113.5(4) All rooms aboveground.

a. No change.

b. The ceiling height for rooms aboveground shall be ~~seven feet or more~~ adequate for the child.

113.5(5) Rooms belowground.

a. No change.

b. ~~Sleeping rooms~~ Bedrooms for foster children located belowground shall:

(1) Have access to at least one direct exit to the outside on that level and one inside stairway exit on that level, and

(2) ~~conform~~ Conform to standards listed in 113.5(3) and 113.7(1)~~“a.”~~.

113.5(6) Physical care standards for foster children.

a. Grouping children in ~~sleeping rooms~~ bedrooms shall take into consideration the age and sex of children.

(1) Children over ~~six~~ 6 years of age shall not share a ~~room~~ bedroom with a child of the opposite sex.

(2) Foster children over the age of 2 shall not share a bedroom with any person over the age of 18 in the home unless approved by the social work administrator or designee.

(3) Foster children shall not share a bed with any other child.

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b. Foster parents shall have a designated bedroom. Children ~~two~~ 2 years of age or older shall be provided bedroom space other than in the foster parents' bedroom. Foster children under the age of 2 may share a bedroom with the foster parent.

c. to h. No change.

i. Children under the age of 1 year shall be placed on their backs when sleeping unless otherwise authorized in writing by a physician.

j. Smoking shall be prohibited in the foster home or any vehicle when the foster child is present.

113.5(7) Household pets ~~Lead-based paint~~. Household ~~pets which have access to the outdoors shall be inoculated for rabies.~~ If the applicant lives in a home built before 1960, the applicant shall submit Form 470-4819, Lead Paint Assessment, certifying that the applicant:

a. Has conducted a visual assessment for lead hazards that exist in the form of peeling or chipping paint; and

b. Has applied interim controls using safe work methods if the presence of peeling or chipping paint is found, unless an inspector certified pursuant to department of public health rules at 641—Chapter 70 has determined that the paint is not lead-based. “Interim controls” are measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, such as repairing deteriorated lead-based paint, specialized cleaning, maintenance, painting, and temporary containment.

113.5(8) No change.

113.5(9) Toilet facilities.

a. No change.

b. All toilet facilities, ~~including privies,~~ shall be maintained in a clean and working condition.

113.5(10) Heating plant.

a. The heating plant shall have a capacity to maintain a temperature of approximately 65 degrees Fahrenheit;

(1) ~~at~~ At a point 24 inches from the floor during the day in severe weather, and

(2) In the bedrooms with the door closed.

b. ~~Gas-fired space heaters, other stoves, fireplaces~~ Fireplaces and water heaters shall be vented to the outside atmosphere. Kerosene heaters and gas-fired space heaters shall not be used to heat any space in the home.

113.5(11) No change.

This rule is intended to implement Iowa Code section 237.3.

ITEM 13. Amend paragraph **113.6(4)“e”** as follows:

e. When the water sample is not approved, no license shall be issued until the foster parents provide a written statement that foster children will be provided potable water, where it will be obtained, and how it will be transported and stored.

(1) The statement shall be provided on Form 470-0699, Provisions for Alternate Water Supply.

(2) Annual testing of the water may be waived after three consecutive years when the family has made ongoing alternative arrangements for the use of safe, potable water.

ITEM 14. Amend rule 441—113.7(237) as follows:

441—113.7(237) ~~Fire safety~~ Safety.

113.7(1) Fire protection for bedrooms. Any floor of a house, including the basement, used for the sleeping of foster children shall be equipped with ~~at least one of~~ the following:

a. A working smoke detector approved by the Underwriters Laboratory.

b. A window exit ~~providing the window exit that~~ meets all of the following criteria:

(1) The window opens from the inside and is large enough to allow the foster child to pass easily through it. The window shall have an opening height of at least 24 inches, a width of at least 20 inches, and a finished sill height of not more than 44 inches above the floor.

(2) Provisions are made to ensure that the foster child can easily reach, open, and climb through the window.

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(3) Provisions are made to ensure that the foster child can safely reach the ground from the window. ~~This may include the need for secure steps or stairs.~~

(4) The foster child is aware of the window exit and how to ~~utilize~~ use it.

~~c. A path of exit to the outside from the sleeping room which does not require the passage through more than one additional room, excluding hallways, stairs, and entryways~~ Hallways that allow unrestricted access to an exit.

d. A working carbon monoxide detector.

113.7(2) ~~Combustible materials~~ Combustion hazards.

a. Combustible materials shall be kept away from furnaces, stoves, ~~or~~ space heaters, and water heaters.

b. Explosives and flammable substances shall be stored securely and be inaccessible to a child.

c. The home shall have at least one operable 2A-10BC-rated or ABC-rated fire extinguisher.

113.7(3) Safety plan. The family shall have a safety plan to be used in case of fire, tornado, ~~or~~ blizzard, flood, other natural or manmade disasters, accidents, medical issues, and other life-threatening situations for children in out-of-home placements.

a. Safety plans for fire and tornadoes shall be documented and reviewed with foster children at the time of placement and practiced with the foster children throughout the year.

b. In the case of a disaster requiring evacuation of the home, the foster parents shall notify the department of the address and telephone number of the parents' temporary residence within 48 hours.

113.7(4) Medications and poisonous substances. All prescription medications and poisonous substances shall be kept in a locked storage container out of the reach of children.

a. All prescription medication shall be administered as prescribed and documented in a prescription medication log.

b. All over-the-counter medications shall be administered according to label directions or as directed by a physician.

113.7(5) Weapons. All weapons, firearms, and ammunition shall be inaccessible to a child of any age.

a. Weapons and firearms shall be maintained in a locked place, such as a gun case.

b. Ammunition shall be maintained in a locked place separate from the firearms.

c. Any motor vehicles used to transport foster children shall not contain a loaded gun, and any ammunition in the vehicle shall be kept in a separate, locked container.

d. Foster parents who have a permit to carry a firearm shall sign Form 470-4657, Firearms Safety Plan.

113.7(6) Transporting foster children.

a. Foster parents shall have a valid Iowa driver's license and adequate motor vehicle insurance when the foster parents transport foster children in a motor vehicle.

b. Foster parents shall ensure that appropriate child safety restraints, as required by Iowa law, are used for all foster children when the foster parents transport the children in a motor vehicle.

c. Any motor vehicles used to transport foster children shall be smoke-free when foster children are being transported.

113.7(7) Supervision. The foster parents shall provide reasonable supervision of foster children to ensure their safety.

a. Foster parents shall monitor foster children while the children are using hazardous items. All dangerous objects or equipment, including but not limited to trampolines, motorized vehicles, and power tools, shall be inaccessible to a child unless:

(1) There is reasonable supervision by the foster parent, and

(2) Permission has been obtained from the parent or guardian for the foster child to use the equipment or vehicle.

b. Foster parents shall monitor foster children while they are using the Internet.

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113.7(8) Household pets. Household pets and any outdoor animals or pets accessible to foster children shall have a current veterinary health certificate verifying that the animal has had routine vaccinations that are required by local ordinance.

This rule is intended to implement Iowa Code section 237.3.

ITEM 15. Rescind rule 441—113.8(237) and adopt the following **new** rule in lieu thereof:

441—113.8(237) Foster parent training.

113.8(1) Preservice training. All foster parent applicants shall complete the following training before licensure and the placement of a child in foster care in their home:

- a. Orientation pursuant to rule 441—117.2(237); and
- b. Preservice training pursuant to rule 441—117.1(237).

113.8(2) In-service training. All licensed foster parents shall complete six hours of in-service training annually as required by rule 441—117.7(237).

a. All foster parents shall complete training in medication management, cardiopulmonary resuscitation, and first aid in their first year of licensure as required by rule 441—117.8(237).

b. All licensed foster parents shall complete training on child abuse identification and reporting in their first year of licensure and every five years thereafter as required by rule 441—112.10(232) and 441—subrule 117.8(4).

This rule is intended to implement Iowa Code section 237.5A.

ITEM 16. Amend rule 441—113.9(237) as follows:

441—113.9(237) Policy for involvement ~~Involvement of biological or adoptive parents~~ kin.

113.9(1) ~~Acceptance~~ Support by foster parents. Foster parents shall ~~accept~~ support the involvement of biological or adoptive parents and other relatives of the foster child unless this involvement is evaluated and documented by the department ~~or supervising agency~~ to be detrimental to the child's well-being.

113.9(2) No change.

113.9(3) Cultural connections. Throughout the provision of care, the foster family shall actively ensure that the foster child stays connected to the child's kin, culture, and community as required in the child's case permanency plan.

This rule is intended to implement Iowa Code section 237.3.

ITEM 17. Rescind and reserve subrule **113.10(1)**.

ITEM 18. Amend subrule 113.10(2) as follows:

113.10(2) ~~Additional Foster child information.~~ The following Foster parents shall maintain a separate folder of information shall be maintained on each foster child placed in the foster family home. This folder shall be provided to the department or the child's parent or guardian when the child leaves the placement. The folder shall contain:

- a. Names and addresses of all doctors, mental health professionals, and dentists who have treated the child and the type of treatment received while in the foster home.
- b. School reports including report cards and pictures.
- c. Date of discharge the child left the placement.
- d. Name, and address, and telephone number of the person to whom the child is discharged.

ITEM 19. Rescind subrule 113.10(3) and adopt the following **new** subrule in lieu thereof:

113.10(3) Confidentiality. Foster parents shall maintain confidentiality regarding a child in placement except as required to comply with rules on mandatory reporting of child abuse and with the child's case permanency plan. Foster parents shall not post pictures or information concerning a foster child on any Internet Web site.

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ITEM 20. Amend rule 441—113.11(237) as follows:

441—113.11(237) Health of foster family.

113.11(1) ~~Prior to initial licensure~~ Health report required. The foster parents shall furnish the licensing agency with a health report on the family completed no more than six months ~~prior to~~ before the application for licensure. The report shall include information on all family members. An updated report shall be provided upon request of the department licensing worker or the recruitment and retention contractor.

113.11(2) *Contents of report.* This report shall include a statement from the health practitioner that there are no physical or mental health problems which would be a hazard to foster children placed in the home; and a statement that the foster parents' health would not prevent needed care from being ~~furnished~~ provided to the foster child.

113.11(3) *Capability for caring for the child.* If there is evidence that the foster parent is unable to provide necessary care for the child, the department licensing worker, the recruitment and retention contractor, or the physician may require additional medical and mental health reports.

This rule is intended to implement Iowa Code section 237.7.

ITEM 21. Amend rule 441—113.12(237) as follows:

441—113.12(237) Characteristics of foster parents.

113.12(1) *Age.*

- a. Foster parents shall be at least ~~18~~ 21 years of age.
- b. No change.

113.12(2) to 113.12(4) No change.

113.12(5) *Personal characteristics.* The foster parents shall:

- a. to c. No change.
- d. Be able to accept and deal with acting out behavior with realistic expectations and good judgment.
- e. ~~Treat~~ Include foster children in a manner similar to natural or adoptive children in the home as far as participation in normal family life is concerned.
- f. No change.
- g. Be able to ~~separate from~~ support the case permanency plan for the foster child and not hamper return be willing to the natural home cooperate with visits, transportation, or other activities that support the child's connection to and reunification with the child's family.
- h. No change.

113.12(6) *Determination of characteristics.* The areas discussed in 113.12(4) and 113.12(5) shall be explored through observation of the family and interviews with family members and documented in a foster home study; ~~using the PS-MAPP family profile format as described in subrule 113.3(4). The home study shall be maintained in the foster family record.~~ Any additional areas that the family or worker identifies as a possibility for creating problems shall also be documented in the foster family record.

This rule is intended to implement Iowa Code section 237.3.

ITEM 22. Amend subrule 113.14(1) as follows:

113.14(1) At least three additional unsolicited references shall be checked for all foster family home applicants in addition to ~~the~~ a minimum of three references provided by the applicant.

ITEM 23. Amend rule 441—113.15(237) as follows:

441—113.15(237) Unannounced visits.

113.15(1) The department's recruitment and retention contractor shall make unannounced ~~visit shall occur~~ visits during periods of the day when the child and foster parents would normally be at home and awake, unless there has been a specific complaint about the family and care of the child.

113.15(2) The unannounced visit ~~may~~ shall include, but is not limited to, assessment of the following areas:

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- a. ~~Cleanliness of the home~~ Home environment.
- b. ~~Cleanliness and appropriateness of the child's clothing~~ Who was present at the time of the visit.
- c. Interaction between the foster child and foster family and their children.
- d. and e. No change.
- f. Any previously or currently cited deficiencies, corrective action plans and progress.
- g. Any previous or current concerns from department workers.
- h. Discussion of placements during the licensing year and, if none, the reason why.
- i. Progress on completing training in the foster parents' training plan.
- j. Awareness of the foster parents' license capacity and compliance.
- k. Recommended action.

~~113.15(3) Impressions of the unannounced visit shall be shared with foster parents.~~ An unannounced visit to the foster home:

- a. Shall be completed annually;
- b. Shall not be waived; and
- c. Shall not occur in conjunction with license renewal.

~~113.15(4) A written report summarizing~~ The findings from the unannounced visit shall be summarized on Form 470-4512, Unannounced Visit Report.

a. The report shall be sent to the department licensing worker and the foster parents within two weeks after the visit.

b. A copy of the report shall be retained in the foster parents' record.

113.15(5) Actions after the unannounced visit.

a. When deficiencies are cited that do not appear likely to cause immediate physical or mental harm to the child, an additional visit may be scheduled. The department licensing worker and the recruitment and retention contractor shall discuss the deficiencies with the foster parents and make suggestions for improving the deficiencies.

b. When the reported deficiencies raise questions of concern as to the quality of care provided, the ~~licensing worker~~ recruitment and retention contractor shall:

(1) ~~report~~ Report deficiencies to the department licensing worker and to the placement worker, for each foster child currently placed in the home;

(2) ~~suggesting~~ Hold a meeting with the department licensing worker and the foster parents to discuss deficiencies and suggestions for improving the deficiencies; and following the discussion obtaining complete a written commitments from the foster parents corrective action plan as to how the foster parents intend to correct address the deficiencies.

c. When the reported deficiencies appear likely to cause immediate physical or mental harm to the child, the service area manager ~~immediately shall~~ or designee shall immediately:

(1) and (2) No change.

113.15(6) When the foster parents refuse to make a written commitment to improve the deficiencies, the department licensing worker shall ~~do~~ conduct a complete review of the foster home to determine if the license should be revoked according to rule 441—112.6(237).

This rule is intended to implement Iowa Code section 237.7.

ITEM 24. Amend subrules 113.16(3), 113.16(4) and 113.16(6) as follows:

113.16(3) Educational opportunity. Every foster child shall be given the opportunity to complete high school or vocational training in accordance with the child's ~~aptitude~~ case permanency plan. The foster parent shall be an advocate for the foster child by working with the foster child's school.

113.16(4) Religious training Religion and culture. Each child shall be given an opportunity, ~~for religious training~~ in consultation with the child's parents, to participate in the child's culture and religion. ~~Whenever practicable, the child shall be placed with foster parents of the child's own religious faith, or in accordance with the wishes of the biological or adoptive parents.~~ Children shall not be required to participate in religious training or observances contrary to the wishes of the biological, or adoptive family, or the religious beliefs of the child.

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113.16(6) Work assignments. Work assignments shall be in keeping with the ~~total healthy~~ child's age and development of the child.

a. Exploitation of the child is prohibited. No child shall be permitted to do any hazardous tasks or to engage in any work which is in violation of the child labor laws of the state.

b. Each child shall have the opportunity to learn to assume some responsibility for self and for household duties in accordance with the child's age, health and ability. However, assigned tasks shall not deprive the child of school, sleep, play or study periods.

ITEM 25. Amend subrule 113.17(2) as follows:

113.17(2) Medical and dental supervision. Each child shall be under regular medical and dental supervision. Foster parents shall keep the supervising agency worker informed of any health problems. In case of sickness or accident, immediate medical care shall be secured for the child in accordance with the supervising agency's worker's directions given at the time of placement.

ITEM 26. Amend rule 441—113.18(237) as follows:

441—113.18(237) Training and discipline of foster children.

113.18(1) Foster parents' methods of training and discipline. The evaluation of the foster parent shall include a discussion and written report of the foster parents' methods of training and discipline. Discipline shall be designed to help the child develop self-control, self-esteem, and respect for the rights of others.

113.18(2) Restrictions on training and discipline. Child training and discipline shall be handled with kindness and understanding.

a. A child shall not be locked in a room, closet, box, or other device.

b. No child shall be deprived of food as punishment.

c. No child shall be subjected to verbal abuse, threats or derogatory remarks about the child or the child's family.

d. Use of corporal punishment is prohibited.

e. Restraints shall not be used as a form of discipline.

(1) Reasonable physical force may be used to restrain a child only in order to prevent injury to the child, injury to others, the destruction of property, or extremely disruptive behavior.

(2) The foster parent shall receive training on the safe and appropriate use of restraints which has been approved as a part of the treatment plan by a licensed practitioner of the healing arts who is working with the child.

113.18(3) Reports of mistreatment. Reports of mistreatment coming to the attention of the supervising agency worker shall be investigated promptly and referred to the proper authorities when necessary.

This rule is intended to implement Iowa Code sections 234.40 and 237.3.

ITEM 27. Amend subrule 113.19(1) as follows:

113.19(1) Supervision and arrangements for emergency care.

a. Foster parents shall provide supervision of foster children and children in preadoptive placement as dictated by the individual child's specific needs ~~and in agreement with the supervising agency.~~

b. In case of emergency requiring the foster parents' temporary absence from the home, arrangements shall be made with other licensed foster parents or with designated, responsible persons for the care of the children during the period of absence. The child's placement worker shall be notified of all emergency absences of the foster parents.

ITEM 28. Amend rule 441—113.20(237) as follows:

441—113.20(237) Changes in foster family home. Foster parents shall notify the department and the recruitment and retention contractor within 30 seven working days of ~~any change in the number of persons living in the home or of a move to a new home.~~

1. Any change in the number of persons living in the home (except for foster children);

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2. A move to a new home; or
3. Any circumstances in the home that could negatively affect the health, safety or welfare of a child in the family's care.

This rule is intended to implement Iowa Code section 237.3.

ITEM 29. Amend **441—Chapter 117** as follows:

CHAPTER 117
FOSTER PARENT TRAINING

PREAMBLE

These rules describe required foster parent orientation, preservice training and ~~preplacement orientation~~ in-service training. Their purpose is to ensure that the training and orientation is are effective in preparing foster parents for their role.

These rules also describe the standards for training and orientation and the procedure to be approved as a training provider.

441—117.1(237) Required preservice training. Foster parent preservice training shall be offered by the department or by a licensed child-placing agency through a training program that has been approved by the department pursuant to rule 441—117.5(237).

~~117.1(1) Providers of preservice~~ Preservice training requirement. ~~The required foster parent preservice training program shall be offered by the department or by a licensed child-placing agency with a training program that has been approved by the department.~~ Each individual foster parent applicant shall complete the entire “Partnering for Safety and Permanence: Model Approach to Partnership in Parenting” (PS-MAPP) curriculum developed by the Child Welfare Institute.

- a. Applicants shall complete PS-MAPP training before receiving a license for the first time.
- b. Applicants shall retake PS-MAPP if they do not complete the curriculum within 24 months after initially commencing it.
- c. The department may waive the PS-MAPP training requirement in whole or in part when the department finds that:

- (1) The applicant has completed relevant training or has a combination of relevant training and experience that is an acceptable equivalent to all or a portion of the required preservice training; or
- (2) There is good cause for the waiver based upon the circumstances of the child and the applicant.

~~117.1(2) Preservice training program approval requirements:~~

a. Content. The program shall be designed to assist prospective foster parents in developing the understanding the philosophy and goals of foster care and the skills required of a foster parent and abilities that are essential to promote children's safety, permanence, and well-being. The program shall address the following topics:

- (1) to (11) No change.

~~The curriculum developed by the Child Welfare Institute “Partnering for Safety and Permanence: Model Approach to Partnership in Parenting” (PS MAPP) shall be considered as meeting this requirement.~~

b. Length. The entire PS-MAPP program shall total at least 30 hours of contact between leaders and participants. ~~The department and each licensed child-placing agency offering the mandatory 30 hours of PS-MAPP training~~ department's recruitment and retention contractor shall devise a procedure for parents applicants to make up any portions of training which are missed.

c. No change.

d. Group method. The program shall be provided in groups that consist of six or more persons. The training shall be offered to a foster family individually only when the foster family is unable to

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attend group training for reasons such as serious medical conditions, as approved by the social work administrator or designee.

e. and *f.* No change.

g. Training records. A record of the ~~foster parents~~ applicants who begin and complete the training and of the training program evaluations shall be submitted to the ~~department office for the location in which the training was provided~~ recruitment and retention contractor at the end of each 30-hour PS-MAPP session.

117.1(3) *Universal precautions.* Before licensure, each individual foster parent shall complete one hour of training related to the use and practice of universal precautions. Training shall be completed through the approved individual self-study course, "Universal Precautions in Foster and Adoptive Resource Family Homes."

441—117.2(237) Required ~~preplacement~~ orientation. All foster parent applicants shall attend orientation before attending PS-MAPP training and before a foster child is placed in their home. Orientation shall not count toward the required 30 hours of preservice training.

117.2(1) *Method of provision.* The ~~recruitment and retention contractor~~ may provide orientation ~~may be provided:~~

a. ~~in~~ In an individual meeting ~~of the worker~~ with one set of ~~foster parents~~ parent applicants; or

b. ~~in~~ In a group setting.

117.2(2) *Provider.* Orientation shall be provided by the ~~department or licensed child placing agency~~ recruitment and retention contractor completing the family's licensing study. ~~The agency intending to place children in foster care in the home shall review the orientation with the foster parent prior to placement.~~

117.2(3) *Content.* Orientation shall be designed to ~~acquaint~~ provide the foster parent applicant with information on the policies and procedures of the foster care ~~program~~, and adoption programs and shall include the following:

a. and *b.* No change.

c. ~~Reimbursement~~ Foster family reimbursement information and adoption subsidy information if applicable.

d. and *e.* No change.

441—117.3(237) Application materials for in-service training. Applications for approval of an in-service training program shall be submitted on Form 470-2541, Foster Parent Training Application, ~~with the following materials:~~ and must be approved before the delivery of the training. Applications submitted after a training is completed shall not be approved.

117.3(1) ~~A detailed program description, including objectives, agenda, content, participant materials and time frames or a statement that the Child Welfare Institute "Partnering for Safety and Permanence: Model Approach to Partnership in Parenting" (PS MAPP), as described in paragraph 117.1(2) "a," will be the preservice program taught. Except for cardiopulmonary resuscitation and first-aid training, foster parent in-service training shall meet the requirements in rule 441—117.7(237).~~

117.3(2) Applications shall be submitted with the following materials:

a. A detailed training program description relative to a foster parent, including objectives, program agenda, content, participant materials, and time frames.

b. Names of program instructors and their qualifications to provide the training.

~~117.3(3) Rescinded IAB 8/9/89, effective 10/1/89.~~

~~117.3(4) Rescinded IAB 8/9/89, effective 10/1/89.~~

~~117.3(5) A sample of the evaluation tool to be used (for preservice training only).~~

441—117.4(237) Application process for in-service training.

117.4(1) No change.

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117.4(2) Individual training. Applications for approval for individual training, college credit, written materials, ~~or movies~~ DVDs or videotapes shall be submitted to the department office for the service area in which the foster family resides.

441—117.5(237) Application decisions. The department shall notify the applicant of its decision regarding the application for approval of in-service training within 30 days of receipt of the training materials described in rule 441—117.3(237). This notification shall include the reason for not giving approval if approval is denied.

117.5(1) Approval. Foster parent training programs which meet the criteria in rule 441—117.1(237) or in rule 441—117.7(237), and which are submitted pursuant to rules 441—117.3(237) and 441—117.4(237) shall be approved by the department. In-service training completed before the program has received department approval shall not count toward the required six credit hours of in-service training. In-service training approvals are valid for one year.

117.5(2) to 117.5(4) No change.

441—117.6(237) Application conference available. If an applicant or provider of training objects in writing within seven days after the notification of the department's decision to deny ~~or revoke~~ approval, the ~~service area manager~~ social work administrator shall review the decision to determine if the original decision shall stand. The decision of the ~~service area manager~~ social work administrator is final and is not subject to ~~an~~ appeal.

441—117.7(237) Required in-service training. Training is required to assist foster parents in confidently and effectively addressing the needs of children placed in foster care. The Foster Parent Training Plan, Form 470-3341, shall be used to address in-service training needs. The training plan shall be developed with the department or retention and recruitment contractor and the foster parent at annual licensing renewal.

117.7(1) Providers of in-service training. Foster parent in-service training may be provided by the department, a licensed child-placing or child-caring agency, or an agency, institution, or association with expertise in ~~any of the training content areas in subrule 117.7(2), paragraph "a."~~ Agencies, institutions, or associations wishing to have a foster parent in-service training program or workshop approved shall submit application materials pursuant to rules 441—117.3(237) and 441—117.4(237).

117.7(2) In-service training program approval requirements.

a. Content. The program shall relate to the foster parent's role in providing foster care and the skills needed by a foster parent. Training shall ~~address one or more of the following topics:~~ be specific to developing each foster parent's skills for addressing the needs of foster children.

~~Adolescence.~~

~~Adoption issues.~~

~~Cardiopulmonary resuscitation (CPR) or first aid.~~

~~Child abuse dynamics and effects.~~

~~Child abuse identification and reporting.~~

~~Child development.~~

~~Communication.~~

~~Confidentiality.~~

~~Conflict resolution in the family.~~

~~Crisis intervention.~~

~~Discipline and behavior management.~~

~~Educational needs of all children in foster care and working with the educational system.~~

~~Emotional and mental health needs of children and working with the mental health system.~~

~~Family dynamics.~~

~~Health needs of children in foster care and working with the medical system.~~

~~Identification, utilization and role of support systems.~~

~~Impact of physical abuse, neglect and sexual abuse.~~

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~~Independent living skill training.~~
~~Juvenile court process.~~
~~Lifebooks.~~
~~Medical management for children.~~
~~Mental retardation and developmental disabilities in childhood.~~
~~Parenting.~~
~~Participation in juvenile court hearings.~~
~~Participation in foster care reviews.~~
~~Passive restraint of children.~~
~~Permanency planning.~~
~~Physical disabilities in children.~~
~~Physical therapy with children.~~
~~Record keeping for foster care.~~
~~Role of guardian ad litem and court appointed special advocate (CASA).~~
~~Self care skill training with children.~~
~~Separation and attachment.~~
~~Sexuality of children.~~
~~Sign language.~~
~~Stress and foster parenting.~~
~~Substance abuse in children.~~
~~Suicide prevention with children.~~
~~Teamwork and team approach to foster care case planning.~~
~~Understanding, supporting, and working with the child's birth family.~~
~~Use of community resources for children and families.~~
~~Other topics related to foster parenting or the needs of a child in placement.~~

b. Method. The training shall be provided through one or more of the following methods:

(1) to (3) No change.

(4) ~~Movies~~ DVDs or videotapes.

(5) Internet training classes offered through the Iowa Foster and Adoptive Parents Association (IFAPA).

(6) Internet training classes offered through www.fosterparents.com, except for cardiopulmonary resuscitation and first-aid trainings, which are not approved.

c. Credit hours. Credit hours for approved training shall be as follows:

(1) and (2) No change.

(3) ~~Movies~~ DVDs or videotapes shall receive one credit hour for each two program hours.

(4) No change.

(5) ~~Self Instructional Pieces shall receive one credit hour per piece.~~ Internet training classes shall receive one credit hour for each program hour. A maximum of three hours of training credit per year may be earned through the Web site www.fosterparents.com.

d. Approved training. The following training programs shall be considered as meeting the in-service training requirements:

(1) to (3) No change.

(4) ~~Self Instructional Piece Series (SIPS) published by American Foster Care Resources, Inc.~~

117.7(3) Foster parent training requirements. Each individual foster parent shall complete six credit hours of department-approved in-service training annually. Failure to meet the requirement for in-service training hours will result in denial of the license renewal.

a. Training cycle. "Annually" means within the annual training cycle as described in this paragraph.

(1) Initial license. For a newly licensed foster parent, the initial training cycle shall be the 10-month period ending 2 months before the license expires. EXAMPLE: The initial training cycle for a new license effective June 1 is June 1 through March 31.

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(2) Renewal license. For a license renewal, the annual training cycle shall be the 12-month period beginning 2 months before the expiration of the previous license and ending 2 months before the expiration of the subsequent license. EXAMPLE: Subsequent training cycles for a license effective June 1 will be April 1 through March 31.

(3) Transition period. For foster parents whose licenses are renewed between October 1, 2009, and September 1, 2010, the transition to the new training cycle shall take place through a 10-month training cycle that begins at license renewal.

b. Content. The choice of in-service training shall be based upon an assessment of the foster parent's training needs made by the foster parent and the recruitment and retention contractor in collaboration with the department licensing worker.

(1) Each foster parent must complete the specific training required in rule 441—117.8(237).

(2) At least three credit hours of the annual training shall be group training.

(3) Except for the classes for mandatory reporters, cardiopulmonary resuscitation, and first aid, training credit will not be allowed for any in-service training class that is repeated.

c. Documentation. Each individual foster parent shall submit Form 470-2540, Foster Parent Training Report, to the recruitment and retention contractor within 30 days after completion of each in-service training.

441—117.8(237) ~~Advisory committee~~ Specific in-service training required. Rescinded IAB 12/11/02, effective 2/1/03.

117.8(1) Medication management. Within the initial training cycle, each individual foster parent shall complete one hour of training related to the use and practice of medication management.

a. Training shall be completed through the approved individual self-study course, "Medication Management."

b. One hour of in-service training credit shall be allowed for completion of this self-study course. This course cannot be repeated for in-service training credit.

c. Foster parents who are already licensed on October 1, 2009, shall complete this training by October 1, 2010.

117.8(2) Cardiopulmonary resuscitation (CPR). All foster parents shall be certified in CPR every three years and shall maintain a certificate indicating the date of training and expiration.

a. The training shall be provided by:

(1) A nationally recognized training organization, such as the American Red Cross, the American Heart Association, the National Safety Council, or Emergency Medical Planning (Medic First Aid), or

(2) An equivalent certified trainer and curriculum approved by the department.

b. Newly licensed foster parents shall complete the training before the end of their initial training cycle. Foster parents who are already licensed on October 1, 2009, shall complete this training by October 1, 2010.

117.8(3) First aid. All foster parents shall be certified in first aid every three years and shall maintain a certificate indicating the date of training and expiration. Newly licensed foster parents shall complete the training before the end of their initial training cycle. Foster parents who are already licensed on October 1, 2009, shall complete this training by October 1, 2010.

117.8(4) Child abuse reporting. Each foster parent shall complete approved training relating to the identification of child abuse and requirements and procedures for the reporting of child abuse pursuant to Iowa Code section 232.68.

a. Training cycle. Newly licensed foster parents shall complete mandatory reporter training before the end of their initial training cycle. The training shall be repeated every five years thereafter.

b. Training provider. The foster parent shall be responsible for obtaining the required two-hour mandatory reporter training in child abuse identification and reporting as approved by the Iowa department of public health. A list of approved training opportunities is available at: [http://www.idph.state.ia.us/bh/abuse ed review.asp](http://www.idph.state.ia.us/bh/abuse%20review.asp).

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c. Documentation. The foster parent shall secure documentation of the training content, amount, and provider and shall forward the documentation to the recruitment and retention contractor, who will provide the documentation to the department for inclusion in the foster parent's licensing file.

117.8(5) Caring for children with HIV. Before placement of an HIV-infected child occurs, the foster parents shall complete the course "Caring for Children With HIV" or an approved alternative course that contains information on the unique aspects of pediatric HIV disease, transmission and infection control, the spectrum of HIV disease, confidentiality, death and bereavement, and self-care for the caregiver.

441—117.9(237) Foster parent training expenses. No expense stipend is provided for orientation or preservice training.

117.9(1) Training stipend. Each family that is issued an initial or renewal foster home license shall receive a \$100 stipend to be used for the family's annual in-service training. The department's recruitment and retention contractor shall issue one stipend per license on or after the date that the license is issued. Foster families who elect not to receive the \$100 stipend shall notify the department.

117.9(2) Trainer fees. Foster parents and social workers who serve as trainers for approved preservice training programs shall each be paid a contract fee per class hour appropriate to community standards based upon the education and experience of each trainer. These rates shall be negotiated between the recruitment and retention contractor and the trainer.

These rules are intended to implement Iowa Code section 237.5A.

ITEM 30. Amend **441—Chapter 156**, title, as follows:

PAYMENTS FOR FOSTER CARE AND FOSTER PARENT TRAINING

ITEM 31. Rescind the definitions of "Basic family foster care," "Basic maintenance payment," "Difficulty of care maintenance payment," "Mentally retarded," "Personal allowance," "Required school fees" and "Substance abuse treatment supervisor" in rule **441—156.1(234)**.

ITEM 32. Amend rule **441—156.1(234)**, definitions of "Cost of foster care," "Foster care," "Foster family care," "Mental health professional," "Mental retardation professional" and "Special needs child," as follows:

"*Cost of foster care*" means the maintenance and supervision costs of foster family care, the maintenance costs and child welfare service costs of group care, and the maintenance and service costs of supervised apartment living and shelter care. The cost for foster family care supervision and for supervised apartment living services, ~~when provided directly by the department caseworker rather than purchased from a provider,~~ shall be \$250 per month. When using this average monthly charge results in unearned income or parental liability being collected in excess of the cost of foster care, the excess funds shall be placed in the child's escrow account. The cost for ~~foster family supervision and supervised apartment living services purchased from a private provider~~ shall be the actual costs paid by the department.

"*Foster care*" means substitute care furnished on a 24-hour-a-day basis to an eligible child, in a licensed or approved facility, by a person or agency other than the child's parent or guardian, but does not include care provided in a family home through an informal arrangement for a period of ~~less than~~ 20 days or less. Child foster care shall include but is not limited to the provision of food, lodging, training, education, supervision and health care.

"*Foster family care*" means foster care provided ~~in a single family living unit~~ by a foster family licensed by the department according to 441—Chapter 113 or licensed or approved by the placing state in which it is located. The care includes the provision of food, lodging, clothing, transportation, recreation, and training that is appropriate for the child's age and mental and physical capacity.

"*Mental health professional*" means ~~the same as defined in rule 441—24.61(225C,230A).~~ a person who meets all of the following conditions:

1. Holds at least a master's degree in a mental health field including, but not limited to, psychology, counseling and guidance, psychiatric nursing and social work; or is a doctor of medicine or osteopathic medicine; and

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2. Holds a current Iowa license when required by the Iowa professional licensure laws (such as a psychiatrist, a psychologist, a marital and family therapist, a mental health counselor, an advanced registered nurse practitioner, a psychiatric nurse, or a social worker); and

3. Has at least two years of postdegree experience supervised by a mental health professional in assessing mental health problems, mental illness, and service needs and in providing mental health services.

“Mental retardation professional” means the same as defined in the department of inspections and appeals subrule 481—57.1(15) a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and has one year of experience working with persons with mental retardation.

“Special needs child” means a child with ~~one or more of the following conditions:~~ needs for emotional care, behavioral care, or physical and personal care which require additional skill, knowledge, or responsibility on the part of the foster parents, as measured by Form 470-4401, Foster Child Behavioral Assessment. See subrule 156.6(4).

~~1. —The child has been diagnosed by a physician to have a disability which substantially limits one or more major life activities; and requires professional treatment, assistance in self-care, or the purchase of special adaptive equipment.~~

~~2. —The child has been determined by a qualified mental retardation professional to have mental retardation.~~

~~3. —The child has been diagnosed by a qualified mental health professional to have a psychiatric condition which impairs the child’s mental, intellectual, or social functioning.~~

~~4. —The child has been diagnosed by a qualified mental health professional to have a behavioral or emotional disorder characterized by situationally inappropriate behavior, which deviates substantially from behavior appropriate to the child’s age or which significantly interferes with the child’s intellectual, social, or personal adjustment.~~

~~5. —The child has been diagnosed by a qualified medical professional, mental health professional, or substance abuse treatment supervisor as having a substance abuse problem.~~

~~6. —The child is an unaccompanied refugee minor.~~

~~7. —The child has been adjudicated delinquent.~~

~~8. —The child has been diagnosed as HIV-infected or has had an HIV-positive test result by a qualified medical professional.~~

ITEM 33. Adopt the following **new** definition of “Family foster care supervision” in rule **441—156.1(234)**:

“Family foster care supervision” means the support, assistance, and oversight provided by department caseworkers to children in family foster care and directed toward achievement of the child’s permanency plan goals.

ITEM 34. Amend subrule 156.6(5) as follows:

156.6(5) Payment method. All foster family maintenance payments ~~to foster families supervised by the department or a licensed private child caring agency~~ shall be made directly to the foster family ~~by the department~~.

ITEM 35. Adopt the following **new** subrule 156.6(6):

156.6(6) Return of overpayments. When a foster family has received payments in excess of those allowed under this chapter, the department caseworker shall ask the foster family to return the overpayment. If the foster family is returning the overpayment to the department, the caseworker will note the monthly amount the foster family agrees to pay in the family’s case file. The amount returned shall not be less than \$50 per month.

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ITEM 36. Amend rule 441—156.8(234), catchwords, as follows:

441—156.8(234) ~~Special needs~~ Additional payments.

ITEM 37. Amend paragraph **156.8(1)“a”** as follows:

a. ~~A second~~ Once during each calendar year that the child remains in foster care, the department worker may authorize another clothing allowance, not to exceed \$200 for family foster care and \$100 for all other levels, ~~may be approved, not more than once within a calendar year, by the worker when a:~~

(1) The child in foster care needs clothing to replace lost clothing or because of unusual growth or weight change, and

(2) ~~the~~ The child does not have escrow funds to cover the cost.

ITEM 38. Amend subrules 156.8(6) to 156.8(8) as follows:

156.8(6) School fees. Payment for required school fees of a child in foster family care or supervised apartment living ~~exceeding that exceed~~ \$5 may be authorized by the department worker in an amount not to exceed \$50 per calendar year if the child does not have sufficient escrow funds to cover the cost. Required school fees shall include:

a. Fees required for participation in school or extracurricular activities; and

b. Fees related to enrolling a child in preschool when a mental health professional or a mental retardation professional has recommended school attendance.

156.8(7) Respite care. The service area manager or designee may authorize respite for a child in family foster care for up to 24 days per calendar year per placement. Respite shall be provided by a licensed foster family. The payment rate to the respite foster family shall be the rate authorized under rule 441—156.6(234) to meet the needs of the child, ~~with the exception of paragraphs 156.6(4)“b” and “e.”~~

a. ~~Rescinded IAB 11/8/06, effective 11/1/06.~~

b. ~~Rescinded IAB 11/8/06, effective 11/1/06.~~

c. ~~Rescinded IAB 11/8/06, effective 11/1/06.~~

156.8(8) Tangible goods, child care, and ancillary services. To the extent that a foster child's escrow funds are not available, the service area manager or designee may authorize reimbursement to foster parents for the following:

a. No change.

b. Child care services when the foster parents are working, the child is not in school, and the provision of child care is identified in the child's case permanency plan.

(1) Child care services shall be provided by a licensed foster parent or a licensed or registered child care provider when available.

(2) When foster parents elect to become child care providers, they shall be registered pursuant to 441—Chapter 110.

c. to f. No change.

ITEM 39. Amend subrule 156.10(2) as follows:

156.10(2) Foster family care.

a. Family visits. Reserve bed payment shall be made for days a foster child is absent from the foster family home for family visits when the absence is in accord with the following:

(1) and (2) No change.

(3) ~~In cases supervised by a private agency, the agency shall notify the worker of each visit and its planned length prior to the visit.~~

(4) (3) Payment shall be canceled and payments returned if the foster family refuses to accept the child back.

(5) (4) If the department and the foster family agree that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.

(6) (5) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.

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~~(7)~~ (6) Payment shall not exceed 14 consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 30 consecutive days.

~~(8)~~ ~~In cases supervised by a private agency, the agency shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.~~

b. *Hospitalization.* Reserve bed payment shall be made for days a foster child is absent from the foster family home for hospitalization when the absence is in accord with the following:

~~(1)~~ ~~In cases supervised by a private agency, the agency shall notify the worker at least 48 hours in advance of a planned hospitalization and within 24 hours after an unplanned hospitalization.~~

~~(2)~~ (1) The intent of the department and the foster family shall be for the child to return to the foster family home after the hospitalization.

~~(3)~~ (2) Payment shall be canceled and payments returned if the foster family refuses to accept the child back.

~~(4)~~ (3) If the department and the foster family agree that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.

~~(5)~~ (4) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.

~~(6)~~ (5) Payment shall not exceed 14 consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 30 consecutive days.

~~(7)~~ ~~In cases supervised by a private agency, the agency shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.~~

c. *Runaways.* Reserve bed payment shall be made for days a foster child is absent from the foster family home after the child has run away when the absence is in accord with the following:

(1) ~~In cases supervised directly by the department, the~~ The foster family shall notify the worker within 24 hours after the child runs away. ~~In cases supervised by a private agency, the agency shall notify the worker within 24 hours after the child runs away.~~

(2) to (6) No change.

~~(7)~~ ~~In cases supervised by a private agency, the agency shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.~~

d. *Preplacement visits.* Reserve bed payment shall be made when a foster child is making a planned preplacement visit to another foster care placement or an adoptive placement when the absence is in accord with the following:

(1) and (2) No change.

~~(3)~~ ~~Staff from the foster family home shall be available to provide support to the child and provider during the visit.~~

~~(4)~~ (3) Payment shall be canceled and payment returned if the foster family home refuses to accept the child back.

~~(5)~~ (4) Payment shall not exceed two consecutive days.

~~(6)~~ ~~If services are purchased, the provider shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.~~

ITEM 40. Amend rule 441—156.17(234) as follows:

441—156.17(234) Adoptive Preadoptive homes. Payment for a foster care for a child placed in an adoptive a preadoptive home will only be made when the placement is made in anticipation of a subsidized adoption. The payment shall be limited to the amount anticipated for subsidy, and shall terminate when the adoption decree is granted negotiated pursuant to rule 441—201.5(600) and shall not exceed the foster care maintenance amount paid in family foster care.

This rule is intended to implement Iowa Code section 234.38.

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ITEM 41. Rescind and reserve rule **441—156.18(237)**.

ITEM 42. Amend subrule 156.20(2) as follows:

156.20(2) Provider eligibility for payment. ~~Except for payments for foster parents or youth in supervised apartment living, payment shall be limited to providers with a purchase of service contract in force.~~

a. Providers of shelter care services and supervised apartment living services shall have a purchase of service contract under 441—Chapter 150 in force.

b. Providers of group care services shall have a purchase of rehabilitative treatment and supportive foster group care services contract under 441—Chapter 152 in force.

ITEM 43. Rescind the definition of “Easy-to-place child” in rule **441—200.1(600)**.

ITEM 44. Amend rule **441—200.1(600)**, definitions of “Postadoption services” and “Preadoptive family,” as follows:

“*Postadoption services*” includes those services that an adoptive family may access after the adoption is finalized. ~~These services may be obtained through community resources, the department, or support groups,~~ to assist the family in coping with and resolving problems within the family.

“*Preadoptive family*” means an approved adoptive family with a child placed in the home for adoption whose adoption has not been finalized.

ITEM 45. Adopt the following new definitions in rule **441—200.1(600)**:

“*Family safety, risk, and permanency service*” means a service provided under 441—Chapter 172 that uses strategies and interventions designed to achieve safety and permanency for a child with an open department child welfare case, regardless of the setting in which the child resides.

“*Recruitment and retention contractor*” means the entity that contracts with the department statewide to recruit foster and adoptive parents, complete home studies, and perform activities to support and encourage retention of foster and adoptive parents, or any of its subcontractors.

“*Relative within the fourth degree of consanguinity*” means an adult who is related to a child as follows:

1. The child’s parent, brother, or sister (first degree);
2. The child’s grandparent, aunt, uncle, niece, nephew, or first cousin (second degree);
3. The child’s great grandparent, great aunt, great uncle, great niece, great nephew, first cousin once removed, or second cousin (third degree); or
4. The child’s great-great grandparent, great-grand aunt, great-grand uncle, great-grand niece, great-grand nephew, first cousin twice removed, second cousin once removed, or third cousin (fourth degree).

ITEM 46. Amend subrule 200.2(3) as follows:

200.2(3) Forms. ~~Forms 470-3615, Background Report Part 1, and 470-3698, Background Report Part 2, A child study shall be completed for all children who are adopted under Iowa Code chapter 600 using the outline RC-0027, Social History Format.~~ All forms used to execute a release of custody shall comply with the requirements of Iowa Code chapters 600 and 600A.

ITEM 47. Amend subrule 200.2(4), introductory paragraph, as follows:

200.2(4) Affidavit and documentation. The person providing the counseling shall complete Form 470-3164 or 470-3164(S), Counseling Affidavit, certifying that the counselor has provided the biological parent with the requested counseling or that the biological parent has refused counseling. ~~Form 470-3164~~ The Counseling Affidavit and documentation that the person providing the counseling is qualified to provide the requested counseling shall be attached to the release of custody. Documentation shall include one of the following:

ITEM 48. Amend rule 441—200.3(600) as follows:

441—200.3(600) Application. Persons wishing to apply to adopt a child through the department shall use Form ~~470-0771~~ 470-0743 or 470-0743(S), Application for Adoption. An application for adoption shall only be accepted for children who are under the guardianship of the department.

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200.3(1) Limitations. ~~No applications shall be accepted or approved in any department office for the adoption of an easy-to-place child. The department and its recruitment and retention contractor shall accept only applications for adoption of a special needs child. Those applicants~~ Applications for adoption of a child without special needs shall be referred to private child-placing agencies. Exceptions to this rule may be made for:

- a. relatives ~~Relatives~~ of a child under the guardianship of the department; or
- b. foster ~~Foster~~ parents ~~applying to adopt a child with whom the child has a significant relationship.~~
- ~~a. — Foster parents. Foster parents shall be given consideration for selection as the adoptive family for a child in the foster parent's care who is legally available for adoption if the child has been in the foster parent's care for one year or longer, or the child has a significant relationship with the family.~~
- ~~b. — Relatives. — A relative who is within the fourth degree of consanguinity shall be given consideration for selection as the adoptive placement for a child who is legally available for adoption if the child has a significant relationship with the relative, or the child is aged 14 or over and elects adoption by the relative.~~

200.3(2) Procedures. An application for a special needs child shall be accepted by any department office or by the department's recruitment and retention contractor. If a family assessment and home study cannot be begun by a department worker within 90 days, a referral shall be made to purchase a home study from a provider with whom the department has a purchase of service contract within available funding. Prior to completion of ~~Before a home study is completed,~~ applicants shall:

- a. complete ~~Complete~~ Form 470-0771, Foster Care and Adoption Home Study Packet, 470-0743 or 470-0743(S), Application for Adoption, and
- b. ensure ~~Ensure~~ that Form 470-0720, Physician's Report for Foster and Adoptive Parents, is completed by ~~their~~ the applicant's family physician.

ITEM 49. Amend rule 441—200.4(600) as follows:

441—200.4(600) Components of adoption ~~Adoption services.~~ Adoption services are as follows shall include: adoptive home study, preparation of child, selection of family, preparation of family, preplacement visits, placement services, and postplacement services.

200.4(1) Adoptive home study. ~~This component includes~~ The recruitment and retention contractor shall prepare an adoptive home study through the following activities:

- a. to d. No change.
- e. Procedure for foster parent adoptions. When a licensed foster parent applies for approval as an adoptive home, home study activities that have been completed within the previous year as part of a licensing study pursuant to 441—Chapter 113 need not be repeated.

200.4(2) Preparation of child. ~~This component includes~~ The department adoption worker shall conduct specific activities designed to enable a child to make the transition to an adoptive placement or refer the child to the family safety, risk, and permanency services contractor or other professionals. The activities shall include, but are not limited to:

- a. to e. No change.
- 200.4(3) Selection of family.** ~~This component includes the activities necessary to select the~~ The family which that can best meet the needs of the adoptive child- shall be selected as follows:

a. Prior to ~~Before~~ preplacement visits occur, ~~a staffing of the child conference shall be held to select an approved family. A minimum of two social workers and a supervisor shall be included in the staffing conference.~~ The child's special needs, characteristics, and anticipated behaviors shall be reviewed in the staffing conference to determine a family that can best meet the needs of the child. Approved families shall also be reviewed in an effort to match the specific family's parenting strengths with a particular child's needs.

- b. The following selection criteria shall be observed:
 - ~~1~~ (1) Preference shall be given to placing children from the same birth family together. If placement together is not possible, or is not in the best interest of the children, the reasons shall be identified and documented in each child's case record. Efforts shall be made to ensure continuous contact between siblings when the siblings are not placed together.

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~~b. (2)~~ Race, color, or national origin may not be routinely considered in placement selections except when an Indian child is being placed pursuant to Iowa Code section 232.7 or Iowa Code chapter 232B. Placement decisions shall be made consistent with the best interests and special needs of the child.

~~e. (3)~~ A child who is sexually active and at risk of or is HIV positive shall not be placed in a family where other children reside due to the risk of transmission. A relative who is within the fourth degree of consanguinity shall be given consideration for selection as the adoptive family for a child who is legally available for adoption if the child has a significant relationship with the relative or the child is aged 14 or older and elects adoption by the relative.

(4) Foster parents shall be given consideration for selection as the adoptive family for a child in the foster parents' care who is legally available for adoption if the child has been in the foster parents' care for six months or longer or the child has a significant relationship with the family.

200.4(4) *Preparation of family.* ~~This component includes~~ The recruitment and retention contractor and the department adoption worker shall conduct activities designed to assist the adoptive family in expanding its knowledge and understanding of the child or children. This component ~~These activities~~ should enhance the family's readiness to accept the child or children into their family and encourage their commitment. A referral may be made for family safety, risk, and permanency services if needed. The activities shall include, but are not limited to:

a. to h. No change.

200.4(5) *Preplacement visits.* ~~This component includes activities necessary to~~ The department worker shall plan, conduct and assess the transitional visits between the adoptive family and the child or children ~~prior to~~ before the adoptive placement of the child in the home.

200.4(6) No change.

200.4(7) *Postplacement services.* ~~Postplacement~~ An adoptive family is eligible for postplacement services include supervision, support, crisis intervention and required reports. Postplacement supervision is provided from the time a child is placed with ~~an adoptive~~ the family until finalization of the adoption occurs. The department adoption worker shall supervise the placement, provide ongoing support to the child and family, perform crisis intervention, and complete required reports. Assistance with behavioral interventions to strengthen the placement and prevent disruption may be provided through family safety, risk, and permanency services.

a. No change.

b. ~~A~~ At a minimum, of three the department adoption worker shall make monthly adoptive home visits ~~are required or, until the adoption is final.~~ if If the family is experiencing problems, the worker shall make as many visits as are necessary to assess and support the placement.

~~Home visits shall be completed at a minimum as follows: one no later than 30 days after placement, one no later than 90 days after placement, and a final visit before requesting a consent to adopt. Supervisory reports based on observations shall be completed after the home visits using Form 470-0773, Supervisory Report.~~

c. ~~A~~ The department adoption worker shall prepare a written report based on the postplacement visits with recommendations regarding the finalization of the adoption shall be submitted and submit the report to the court prior to before the hearing to consider granting a decree of adoption.

200.4(8) *Postadoption services.* The department's recruitment and retention contractor shall provide postadoption services to families that are eligible for the department's adoption subsidy program in accordance with the contract. The goal of these services is to prevent adoption dissolution. The family may obtain additional support through community resources or support groups.

ITEM 50. Rescind and reserve rules **441—200.6(600)**, **441—200.7(600)** and **441—200.9(600)**.

ITEM 51. Amend rule 441—200.10(600) as follows:

441—200.10(600) Requests for home studies.

200.10(1) *Court-ordered.* ~~Court-ordered home studies for adoption or custody of a child or children under the authority of the department shall be completed by department workers~~ the department's

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~~recruitment and retention contractor. When a department worker completes the court ordered home study, a fee shall be assessed the family based on subrule 200.7(2).~~

200.10(2) Interstate compact. Requests for an adoptive home study through the interstate compact process shall be completed by ~~a department worker and the family assessed a fee based on the department's current fee schedule~~ the department's recruitment and retention contractor. No fee shall be charged the family if they are a relative of the child within the fourth degree of consanguinity, or the family is the child's foster family.

200.10(3) Referrals. Families wishing to adopt an easy to place child shall be referred to a child placing agency or a certified adoption investigator for completion of the home study. Payment of a fee for completion of the home study shall be the family's responsibility.

ITEM 52. Amend rule 441—200.15(600) as follows:

441—200.15(600) Requests for information for purposes other than research or treatment. Requests for information from department adoption records for purposes other than research or treatment shall be made to the Department of Human Services, Division of ~~Behavioral, Developmental, Child and Protective Family Services~~, Adoption Program, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

200.15(1) The department shall not release identifying information from sealed adoption records. Adult adoptees, adoptive parents, birth parents, siblings or descendants of an adopted person, or legal representatives of any of the above shall be provided:

- a. ~~an~~ An adoption packet containing a sample affidavit for filing with the court,
- b. ~~directions~~ Directions for filing the affidavit,
- c. a ~~A~~ list of county clerks of court, and
- d. ~~the~~ The address of the bureau of vital statistics ~~which retains, and~~
- e. Instructions on how to obtain the name of the Iowa county where their the adoption was finalized in Iowa, if necessary.

200.15(2) An adopted person who was a resident of the Annie Wittenmeyer Home (Iowa Soldier's and Sailor's Home) may receive nonidentifying information from Annie Wittenmeyer records if the information is available.

ITEM 53. Amend **441—Chapter 202**, title, as follows:

FOSTER CARE PLACEMENT AND SERVICES

ITEM 54. Amend rule **441—202.1(234)**, definition of "Foster care," as follows:

"Foster care" shall mean substitute care furnished on a 24-hour-a-day basis to an eligible child, in a licensed ~~foster care facility~~ or approved ~~shelter care facility~~; by a person or agency other than the child's parent or guardian; but does not include care provided in a family home through an informal arrangement for a period of ~~less than 30~~ 20 days or less. Child foster care shall include but is not limited to the provision of food, lodging, training, education, supervision, and health care.

ITEM 55. Adopt the following new definitions in rule **441—202.1(234)**:

"Family safety, risk, and permanency service" means a service provided under 441—Chapter 172 that uses strategies and interventions designed to achieve safety and permanency for a child with an open department child welfare case, regardless of the setting in which the child resides.

"Resource family" means an individual person or married couple who is licensed to provide foster family care or approved for adoption.

"Social history" or "child study" means a written description of the child that includes strengths and needs; medical, mental, social, educational, placement and court history; and the child's relationships with the birth family and significant others.

ITEM 56. Amend subrules 202.2(2) and 202.2(3) as follows:

202.2(2) The need for foster care placement and social and other related services, including, but not limited to, medical, psychiatric, psychological, and educational services, shall be determined by an assessment of the child and family to determine their needs and the appropriateness of services.

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. Assessments shall include:

- (1) ~~the~~ The educational, physical, psychological, social, family living, and recreational needs of the child, ~~and~~
- (2) ~~the~~ The family's ability to meet those needs, ~~and~~
- (3) A family genogram to determine relatives and other suitable support persons who have a kinship bond with the child.

b. The assessment is a continual process to identify needed changes in service or placement for the child.

202.2(3) With the exception of emergency care, a social history shall be completed on each child ~~prior to~~ before a department recommendation for foster care placement, using the outline RC-0027, Social History Format.

a. For voluntary emergency placements, a social history shall be completed before a decision is made to extend the placement beyond 30 days.

b. For court-ordered emergency placements, a social history shall be completed before the disposition hearing.

ITEM 57. Amend subrule 202.3(3) as follows:

202.3(3) Voluntary placement of a child aged 18 or older may be granted for six months at a time, a.

The department shall enter into the agreement only when the child:

- (1) ~~meets~~ Meets the definition of "child" in ~~rule 441—202.1(234)~~ Iowa Code section 234.1,
- (2) ~~was~~ Was in foster care or a state institution immediately before reaching the age of 18,
- (3) ~~has~~ Has continued in foster care or a state institution since reaching the age of 18, ~~and~~
- (4) ~~has~~ Has demonstrated a willingness to participate in case planning and to fulfill responsibilities as defined in the case permanency plan, and
- (5) Will be placed in foster family care or supervised apartment living in Iowa.

b. Payment shall be limited pursuant to 441—paragraph 156.20(1) "b."

~~a. c.~~ When the voluntary placement is of a child who is aged 18 or older and who has a court-ordered guardian, the Voluntary Foster Care Placement Agreement, Form 470-0715, shall be completed and signed by the guardian and the ~~county~~ local office where the guardian resides. Voluntary Foster Care Placement Agreements shall not be used to place children outside Iowa and shall not be signed with guardians who reside outside Iowa. Voluntary Foster Care Placement Agreements shall terminate if the child's guardian moves outside Iowa after the placement.

~~b. d.~~ When the voluntary placement is of a child who is aged 18 or older and who does not have a court-appointed guardian, the Voluntary Foster Care Placement Agreement, Form 470-0715, shall be completed and signed by the child and the ~~county~~ local office where the child resides.

~~e. e.~~ An exception to the requirement for continuous placement may be made for a youth who leaves foster care at age 18 and voluntarily returns to supervised apartment living foster care before the youth's twentieth birthday in order to complete high school or obtain a general equivalency diploma (GED).

ITEM 58. Amend subrules 202.4(3) to 202.4(6) as follows:

202.4(3) ~~Staff~~ The department shall first consider placing the child in a relative's home unless ~~to do so would interfere with the permanency plan for the child,~~ no relatives are available or willing to accept placement, or ~~to do so~~ such placement would be detrimental to the child's physical, emotional or mental well-being.

a. If a relative or a suitable person who has a kinship bond with the child will accept placement of the child:

- (1) The person shall sign Form 595-1489, Non-Law Enforcement Record Check Request, and
- (2) The department shall complete record checks as listed in 441—subrule 113.13(1) to evaluate if the person's home is appropriate for the child before making the placement.

b. Efforts to place the child in a relative's home and reasons for using a nonrelative placement shall be documented in the child's case permanency plan.

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202.4(4) If the child cannot be placed with a relative or a suitable person who has a kinship bond with the child, foster family care shall be used for a child unless the child has problems requiring which require specialized service which services that cannot be provided in a family setting. Reasons for using a more restrictive placement shall be documented in the child's case permanency plan.

202.4(5) A foster family shall be selected on the basis of compatibility with the child, taking into consideration:

- a. No change.
- b. The child's individual problems, medical needs, and plans for future care. The department shall not place a child with asthma or other respiratory health issues in a foster home where any member of the household smokes.
- c. to f. No change.

202.4(6) A foster group care facility shall be selected on the basis of its ability to meet the needs of the child, promote the child's growth and development, and ensure physical, intellectual and emotional progress during the stay in the facility. The department shall place a child only in a licensed or approved facility which has a current ~~purchase of service~~ contract with the department pursuant to 441—Chapter 152.

ITEM 59. Amend subrule 202.5(1) as follows:

202.5(1) Except for ~~emergency foster care~~ placements made in less than 24 hours, a child placed in a facility shall have a preplacement visit involving:

- a. ~~the~~ The child,
- b. ~~the~~ The foster parents or agency staff, if the child is placed in a public or private agency, and
- c. ~~the~~ The department service worker, and
- d. ~~The child's parents shall be included in the preplacement visit,~~ unless their presence would be disruptive to the child's placement.

ITEM 60. Amend subrules 202.6(1) and 202.6(2) as follows:

202.6(1) At the time of placement, the department worker shall provide the facility with specific furnish to the foster care provider any available information regarding the child including,

- a. The information provided shall include:
 - (1) The child's full name and date of birth;
 - (2) The names, work addresses, and telephone numbers of the placement worker and the worker's supervisor, including a home telephone, cell phone, or on-call number;
 - (3) The names, addresses, and telephone numbers of the child's physician and dentist;
 - (4) The names, addresses, and telephone numbers of significant relatives of the child, including parents, grandparents, brothers and sisters, aunts and uncles, and any other significant persons (for an adopted child, the adoptive parents and adoptive relatives);
 - (5) ~~the~~ The case permanency plan;
 - (6) ~~the~~ The results of a physical examination, including immunization history;
 - (7) ~~the~~ The child's medical needs including allergies, physical limitations, dental and medical recommendations, and special needs of HIV;
 - (8) ~~behavioral~~ Behavioral patterns including safety-related information, ~~and;~~
 - (9) ~~educational~~ Educational arrangements including, but not limited to, the school the child attends, special education needs, and school contacts;
 - (10) ~~the~~ The placement contract or agreement including the date of acceptance for care; and
 - (11) ~~medical~~ Medical authorizations, service authorizations, and other releases as needed; ~~and~~
 - (12) If the child is an Indian, the identification of the child's tribe and tribal social service agency including telephone number and contact person.

~~a. b.~~ Before releasing specific information about HIV, the department shall use Form 470-3225, Authorization to Release HIV-Related Information, to obtain a release from the child or the child's parent or guardian, or a court order permitting the release of the information.

(1) and (2) No change.

~~b. c.~~ Safety-related information shall be withheld only if:

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(1) and (2) No change.

202.6(2) For each foster care placement in a foster family home supervised directly by department staff, Form 470-0716 or 470-0716(S), Foster Family Placement Contract, shall be completed by the ~~provider foster family and department representatives~~ the placement worker and supervisor. A new foster family placement contract shall be completed when the rate of payment or special provisions change.

ITEM 61. Amend subrule 202.8(1) as follows:

202.8(1) The department shall make an out-of-state foster family care placement only with the approval of the service area manager or designee. Approval shall be granted only when the placement will not interfere with the goals of the child's case permanency plan and when one of the following conditions exists:

a. to d. No change.

ITEM 62. Adopt the following new subrules 202.11(5) and 202.11(6):

202.11(5) Throughout the provision of care, the foster care provider shall actively ensure that the child stays connected to the child's kin, culture, and community as documented in the child's case permanency plan.

202.11(6) When the child has reached the age of majority under state law, the department shall provide a free copy of the child's health and education records to the child when the child leaves foster care.

ITEM 63. Amend subrules 202.12(1) and 202.12(4) as follows:

202.12(1) ~~Social Child welfare services and treatment services~~ shall be made available to the parents throughout the period of placement for the purpose of reuniting the family in an agreed-upon time frame. Family safety, risk, and permanency services may be provided to:

a. Promote identification and enhancement of family strengths and protective capacities;

b. Address the factors that resulted in the child's being removed from the family home; and

c. Strengthen family connections to community resources and informal supports.

202.12(4) Personal contact shall be made regularly with the parents and the progress towards goal attainment reviewed and documented in the case record. The frequency of the personal contact shall be at least monthly and shall be specified in the child's case permanency plan.

ITEM 64. Amend subrule 202.13(3) as follows:

202.13(3) If a foster family objects in writing within seven days from the date that the ~~information~~ department furnishes notice of plans to remove the child is mailed, the service area manager or designee shall grant a conference to the foster family to determine ~~that~~ whether the removal is in the child's best interest.

a. This conference shall not be construed to be a contested case under the Iowa administrative procedure Act, Iowa Code chapter 17A.

b. The conference shall be provided before the child is removed except in instances listed in 202.13(1) "a" to "c." The service area manager or designee shall review the propriety of the removal and explain the decision to the foster family.

c. The service area manager or designee, on finding that the removal is not in the child's best interests, may overrule the removal decision unless a court order or parental decision prevents the department from doing so.

[Filed 7/9/09, effective 10/1/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 8023B**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry hereby amends Chapter 181, "Continuing Education for Optometrists," Iowa Administrative Code.

This amendment updates continuing education requirements for optometry licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 6, 2009, as **ARC 7762B**. A public hearing was held on May 27, 2009, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comment was received.

The amendment was adopted by the Iowa Board of Optometry on July 9, 2009.

This amendment will become effective on September 2, 2009.

This amendment is intended to implement Iowa Code chapters 21, 147, 154 and 272C.

The following amendment is adopted.

Amend subparagraph **181.3(2)"c"(1)** as follows:

(1) Current certification in CPR offered in person by the American Heart Association, ~~or~~ the American Red Cross or an equivalent organization. At least two hours per biennium is required but credit will be granted for four hours; and

[Filed 7/10/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7981B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 135.11 and 136A.8, the Department of Public Health hereby amends Chapter 4, "Center for Congenital and Inherited Disorders," Iowa Administrative Code.

These amendments provide for an increase in the neonatal metabolic screening fee; require birthing providers to retain documentation of neonatal metabolic screening waivers and provide notification to the Department; and rename the Expanded Maternal Serum Alpha-Fetoprotein Screening Program to reflect the broader scope of testing available. Finally, technical amendments for the purpose of clarifying program acronyms are included.

Notice of Intended Action was published in the May 20, 2009, Iowa Administrative Bulletin as **ARC 7791B**. One comment was received on these amendments and, as a result of that comment, new paragraph "e" has been added to subrule 4.7(1) in Item 16. New paragraph 4.7(1)"e" reads as follows:

"e. A reportable congenital or inherited disorder occurring in a miscarriage or pregnancy may be included in the IRCID."

Two additional changes have been made to the amendments as published under Notice. In Item 5, subrule 4.3(2), paragraph "b," the phrase "in the mother's medical record" has been changed to "in the infant's medical record." Paragraph 4.3(2)"b" now reads as follows:

"b. Waiver. Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record. The birthing hospital, birth center, or attending health care provider shall notify the central laboratory of the waiver within six days of the refusal."

The final change has been made in Item 16, subrule 4.7(5), paragraph "b"; the acronym IMPSP has replaced the words "maternal prenatal screening program."

These amendments were approved by the State Board of Health on July 8, 2009.

These amendments will become effective on September 2, 2009.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

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 [4.2 to 4.4, 4.6, 4.7] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7791B**, IAB 5/20/09.

[Filed 7/8/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 7982B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.37, the Iowa Department of Public Health hereby rescinds Chapter 22, "Practice of Tattooing," Iowa Administrative Code, and adopts new Chapter 22 with the same title.

The rules describe the requirements for tattoo artists and establishments in Iowa. The rules also include the procedures and fees for the practice of tattooing.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 28, 2009, as **ARC 7530B**.

The Department held a comment period through February 18, 2009. The Department also conducted a public hearing on February 18, 2009, via the ICN at 16 different locations. During the time of the comment period and public hearing, the Department received 615 comments. Comments pertained to consistency of the rules throughout the chapter and to the use of hand dryers, fees, inclusion of body piercing, vagueness of the rules, a request for clarification on the adverse actions and the appeal process rule, a request for help from law enforcement and the Department regarding illegal tattooing, educational requirements for the high school diploma/GED and bloodborne pathogens course, the apprenticeship program, home-based businesses, a request by shop owners that tattoo artist permits be mailed to the place of employment, the lack of knowledge/training of health inspectors, the grandfather clause for new requirements, the definition of "tattoo establishment," and the requirements for electric razors, sink placement, storage units for waste, self-closing doors, mobile units, barrier films, and sterilizers and sterilization of items.

As a result of the comments received on the rules, internal review, and a review by the Assistant Attorney General assigned to the Department of Public Health, the Department has made the following changes to the Noticed rules:

- In 641—22.2(135), definition of "permanent color technology," added the word "dermis" and, in the same rule, definition of "tattoo establishment," added the words "portion of the building designated by the owner."
- In 22.3(6), added the sentences "Beginning January 1, 2010, all new tattoo establishments must be in a building that is zoned commercial. A waiver shall be granted to any tattoo establishment which is in a residential dwelling and which has been granted a permit prior to January 1, 2010."
- In 22.4(2), added the words "or hand dryer."
- In 22.5(3), revised the language to read "not for single-patron use, and not disposable."
- In 22.5(6), added the sentences "All instruments to be sterilized shall be placed in closed pouches and the instruments must be sterilized on site. The pouches must be dated effective for 30 days, after which the instruments must be reesterilized and the pouches redated."
- In 22.5(7), deleted the sentence "If all equipment and instruments used are disposable, a sterilizer is not required."
- In 22.5(8)"d," added "receiving the" before the words "test result."

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- In 22.5(11), added the sentence “If electric razors are used to remove unwanted hair of the patron, the clippers shall be cleaned with a brush and fungicidal/tuberculocidal disinfectant spray.”
- In 22.6(3), added the words “or hand dryer.”
- In 22.6(5), added the sentences “All items with which the gloved hands of the tattoo artist would normally come into contact during the tattooing procedure shall have appropriate barrier films covering them. These items include, but are not limited to, machine heads, clip controls, spray bottles, seat adjustment controls, power control dials or buttons, and work lamps.”
- In 22.6(11), added the sentence “An acceptable surface disinfectant shall be sprayed over the work area after the tattoo is finished during the clean-up procedures, before the area is set up for the next procedure.”
- Moved the establishment permit requirements from 641—22.7(135) to 641—22.8(135).
- In renumbered 22.8(4), reduced the fee to \$100 and added the words “by check or money order.”
- Moved the tattoo artist permit requirements from 641—22.8(135) to 641—22.9(135).
- In renumbered 22.9(1), reduced the fee to \$75 and added the words “by check or money order.”
- In renumbered 22.9(4), revised the note to read “Tattoo artists granted a permit prior to January 1, 2010, will not be required to obtain a high school diploma or GED.”
- In renumbered 22.9(5), added the words “or equivalent nationally recognized.”
- In renumbered 22.9(8), added the sentence “Permits shall be posted in a conspicuous place in the tattoo establishment.”
- Moved the permit issuance and renewal rule from 641—22.9(135) to 641—22.7(135).
- Moved the temporary establishment permit requirements from 641—22.13(135) to 641—22.10(135).
- In renumbered 22.10(1), added the words “by check or money order.”
- In renumbered 22.10(3)“a,” added the words “or hand dryers” and “potable.”
- In renumbered 22.10(5), added the sentence “No animals, except service animals of clients, shall be allowed in the temporary establishment at any time.”
- In renumbered 22.10(7), added the sentence “Permits shall be posted in a conspicuous place in the temporary establishment.”
- Moved the mobile unit permit requirements from 641—22.14(135) to 641—22.11(135).
- In renumbered 22.11(2)“b,” deleted the words “self-closing and.”
- In renumbered 22.11(2)“e,” introductory paragraph, deleted the words “equipment washing sink and a separate and.”
- In renumbered 22.11(2)“f,” changed the percentage from “50” to “15.”
- In renumbered 22.11(2)“g,” introductory paragraph, added the words “the special event or within.”
- In renumbered 22.11(2)“g”(2), added the words “or hand dryer.”
- In renumbered 22.11(2)“j,” revised the sentence to read “Permits shall be posted in a conspicuous place in the mobile unit.”
- Added new 641—22.12(135), Agreements.
- In renumbered 641—22.14(135), added the words “or an equivalent nationally recognized organization.”
- Added new 641—22.16(135), Enforcement.
- Moved the adverse actions and appeal process provisions from 641—22.15(135) to new 641—22.17(135).
- In renumbered 22.17(1), introductory paragraph, added the words “may order a tattoo artist to cease engaging in the practice of tattooing.”

These rules were adopted by the State Board of Health on July 8, 2009.

These rules are intended to implement Iowa Code section 135.37.

These rules will become effective on January 1, 2010.

The following amendment is adopted.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Rescind 641—Chapter 22 and adopt the following **new** chapter in lieu thereof:

CHAPTER 22
PRACTICE OF TATTOOING

641—22.1(135) Purpose. The purpose of this chapter is to stipulate the permit and operational requirements for tattoo artists and tattoo establishments.

641—22.2(135) Definitions. For the purpose of these rules, the following definitions shall apply:

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

“*Director*” means the director of the Iowa department of public health.

“*Inspection agency*” means the department or a city, county or district board of health that has executed an agreement with the department pursuant to the authority of a city, county or district board of health to inspect tattoo establishments and enforce these rules. The authority of a city, county or district board of health is limited to the geographic area defined in the agreement executed with the department. Within the defined geographic area, the city, county or district board of health is the “local inspection agency.”

“*Minor*” means a person who is under the age of 18 years.

“*Permanent color technology*” means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into the dermis portion of the skin so as to form indelible marks for cosmetic purposes.

“*Residential dwelling*” is a place or structure intended to be occupied as a residence.

“*Tattoo artist*” means any person, including a permanent color technologist, engaged in the practice of tattooing within the state of Iowa.

“*Tattoo establishment*” means the building, portion of the building designated by the owner, or mobile unit where tattooing is practiced.

“*Tattooing*” means to puncture the skin of a person with a needle and insert indelible permanent colors through the puncture to leave permanent marks or designs.

“*Tattoo mobile unit*” means a mobile establishment or unit which is self-propelled or otherwise movable from place to place, is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal, and operates at a fixed location where a permitted artist performs tattooing procedures for no more than 14 days in conjunction with a single event.

“*Temporary establishment permit*” means a permit issued by the department to perform tattoo procedures at a temporary event.

“*Temporary event*” means any place or premises operating at a fixed location where a tattoo artist performs tattooing procedures for no more than seven days consecutively in conjunction with a single event or celebration.

641—22.3(135) General provisions.

22.3(1) Tattoo artists and tattoo establishments that fail to meet the requirements of Iowa Code section 135.37 or these rules shall be guilty of a serious misdemeanor.

22.3(2) No person shall tattoo a minor. Violators shall be guilty of a serious misdemeanor.

22.3(3) No tattoo artist shall engage in the practice of tattooing without first obtaining a tattoo artist permit from the department.

22.3(4) Tattoo artists and tattoo establishments that are in compliance with Iowa Code section 135.37 and these rules are not relieved from the requirements of any other applicable state laws or local ordinances.

22.3(5) Tattooing shall be practiced only in facilities that have received a tattoo establishment permit from the department.

22.3(6) Tattooing shall not be practiced in a residential dwelling, inclusive of an attached garage, pursuant to local zoning codes. Beginning January 1, 2010, all new tattoo establishments must be in a

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building that is zoned commercial. A waiver shall be granted to any tattoo establishment which is in a residential dwelling and which has been granted a permit prior to January 1, 2010.

22.3(7) Tattoo establishments shall be inspected annually.

641—22.4(135) Sanitation and infection control.

22.4(1) Tables, chairs, and other general-use equipment shall be constructed of impervious or smooth and easily cleanable material.

22.4(2) A sink for hand washing supplied with potable hot and cold running water shall be available in the tattooing area. Hand-washing facilities shall be supplied with liquid soap and single-use paper towels or hand dryer.

22.4(3) Toilet facilities must be available for employee use and patron use.

22.4(4) The tattoo establishment shall have an area of not less than 300 square feet and shall be adequately lighted and ventilated.

22.4(5) Floors in the immediate area where the tattoo procedure is to be performed shall be finished with an impervious, smooth, washable surface.

22.4(6) The entire premises and all facilities used in connection therewith shall be maintained in a clean, sanitary, vermin-free condition and in good repair.

22.4(7) All refuse shall be stored in rigid containers with plastic liners which are emptied at least once each business day.

22.4(8) Closed cabinets shall be used for the exclusive storage of instruments, dyes, pigments, stencils, tattoo machines, and other equipment.

22.4(9) The following prohibitions apply to tattoo establishments:

- a. Smoking shall not be allowed pursuant to Iowa Code chapter 142D.
- b. Consumption of food or drink shall not be allowed in any area where the actual tattoo procedure is being performed.
- c. The owner or tattoo artist must not use, consume or serve intoxicating beverages or controlled substances on the establishment's premises during the hours the establishment is open to the public or while any procedure is being performed.
- d. The owner or tattoo artist must not allow any other person to use, consume, or serve intoxicating beverages or controlled substances on the establishment's premises during the hours the establishment is open to the public or while any procedure is being performed.
- e. The owner or tattoo artist shall not in any manner possess or distribute or allow any other person to possess or distribute intoxicating beverages or controlled substances on the establishment's premises during the hours the establishment is open to the public or while any procedure is being performed.

22.4(10) No animals, except service dogs for visually or hearing-impaired persons, shall be permitted in a tattoo establishment. Aquariums shall be allowed in waiting rooms and nonprocedural areas.

641—22.5(135) Equipment. All equipment shall be maintained in a clean and sanitary condition.

22.5(1) Cups to hold ink or dye shall be for single-patron use.

22.5(2) Any dye or ink in which needles were dipped shall not be used on another person.

22.5(3) All tubes and needle bars used for the tattoo procedure which are not sterile, not for single-patron use, and not disposable shall be physically cleaned with a detergent according to manufacturers' recommendations and then steam-sterilized or dry-heat sterilized before use on another patron.

22.5(4) Steam sterilization shall be at 250 degrees Fahrenheit (121 degrees Celsius) for 15 minutes at a minimum pressure of 15 pounds per square inch.

22.5(5) Dry-heat sterilization shall be at 350 degrees Fahrenheit (170 degrees Celsius) for one hour.

22.5(6) All instruments to be sterilized shall be placed in closed pouches and the instruments must be sterilized on site. The pouches must be dated effective for 30 days, after which the instruments must be resterilized and the pouches redated.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

22.5(7) Sterilizers shall be monitored monthly for spores of *Bacillus subtilis*, and records of results shall be maintained for three years.

22.5(8) Each tattoo establishment shall maintain written procedures to follow in the event of positive spore tests.

a. In the event of a positive spore test, materials processed in that sterilizer, dating from the sterilization cycle having the positive biological indicator to the next cycle showing satisfactory biologic indicator challenge results, must be considered nonsterile and must be reprocessed before being used.

b. A sterilizer that has received a positive spore test must be immediately removed from service.

c. Prior to putting a sterilizer that has received a positive spore test back into service, the owner must ensure that there is evidence of one negative spore test.

d. The owner must notify the inspection agency of a positive spore test within 24 hours of receiving the test result.

22.5(9) Each tattoo establishment shall be equipped with a container designated for disposal of used needles and other sharps. A written plan for disposal shall be maintained in the establishment and be made available upon request by the inspection agency.

22.5(10) Any bottles of solution shall be labeled as to contents and used according to manufacturers' directions.

22.5(11) Razors for removal of unwanted hair shall be for single-patron use and shall be disposable. If electric razors are used to remove unwanted hair of the patron, the clippers shall be cleaned with a brush and fungicidal/tuberculocidal disinfectant spray.

22.5(12) Topical ointments shall be for single-patron use.

641—22.6(135) Procedures.

22.6(1) Each tattoo establishment shall establish a written standard operating procedure (SOP), which shall include the process for setup and tear down of tattoo procedures. The SOP shall focus on procedures of hygiene and cross-contamination control.

22.6(2) For privacy purposes and at the patron's request, there shall be in place or readily available a panel or other barrier of sufficient height and width to effectively separate the patron from any unwanted observers or waiting patrons. Panels or other barriers shall be nontransparent and may be fixed or movable, rigid or flexible.

22.6(3) Tattoo artists shall scrub their hands thoroughly before beginning the tattoo procedure. Tattoo artists shall dry their hands with individual single-use towels or hand dryer.

22.6(4) Tattoo artists shall wear clean garments when performing tattoo procedures. Tattoo artists shall wear gloves during the tattoo procedure. Gloves shall be changed after each tattoo. Tattoo artists shall wash their hands before and after each tattoo procedure.

22.6(5) All items with which the gloved hands of the tattoo artist would normally come into contact during the tattooing procedure shall have appropriate barrier films covering them. These items include, but are not limited to, machine heads, clip cords, spray bottles, seat adjustment controls, power control dials or buttons, and work lamps.

22.6(6) The skin area to be tattooed shall first be cleansed with soap and water. Single-use towels or sponges (gauze) shall be used during the cleansing procedure.

22.6(7) Before placing the tattoo design on the patron's skin, the tattoo artist shall prepare the skin with 70 percent ethyl or isopropyl alcohol solution or an equally effective antiseptic or antimicrobial.

22.6(8) Tattooing shall not be performed on any area where there is evidence of skin infection.

22.6(9) After the tattooing is completed, an adequate dressing shall be applied to the tattoo area.

22.6(10) Persons tattooed shall be provided with printed instructions regarding tattoo care during the healing process and shall be instructed to consult a physician if signs and symptoms of an infection develop.

22.6(11) After the tattoo is finished, an acceptable surface disinfectant shall be sprayed over the work area during the clean-up procedures before the area is set up for the next tattoo procedure.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

641—22.7(135) Permit issuance and renewal.

22.7(1) Applications may be obtained from the department's Web site at <http://www.idph.state.ia.us/eh/tattoo.asp> or are available upon request from the Iowa Department of Public Health, Division of Environmental Health, Tattoo Permit Program, Lucas State Office Building, Des Moines, Iowa 50319-0075.

22.7(2) The department will act within 60 days upon receiving a completed application. If an applicant satisfies permit requirements, satisfies the requirements of this chapter, and complies with inspection requirements, the department will issue a permit.

22.7(3) If the applicant has been convicted of a felony or misdemeanor, the department shall review evidence including but not limited to the following:

- a. Official court record, which includes charges and disposition;
- b. Copies of arrest records;
- c. A letter from the applicant explaining the nature of the conviction;
- d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug- or alcohol-related offense and if treatment was obtained or required; and
- e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

22.7(4) All permits expire on December 31 of each year, regardless of date of issuance. Permits shall be renewed annually upon acceptance of a renewal application provided by the department and receipt of the renewal fee. Applicants who submit applications for renewal received after December 31 will be required to pay an additional \$25 for each month delinquent.

22.7(5) The department shall send a renewal notice by regular mail to each permit holder at the address on record at least 60 days prior to the expiration of the permit.

22.7(6) The permit holder is responsible for renewing the permit prior to its expiration. Failure of the permit holder to receive the notice does not relieve the permit holder of the responsibility for renewing the permit.

641—22.8(135) Establishment permit requirements.

22.8(1) No tattoo establishment shall be operated in the state without having a permit to operate issued by the department.

22.8(2) Each person acquiring or establishing a tattoo establishment shall apply for a permit prior to beginning operation.

22.8(3) A permit to operate shall be issued to a new establishment when the department or its representative has successfully completed an on-site inspection. Permits shall be posted in a conspicuous place in the tattoo establishment.

22.8(4) An annual, nonrefundable application fee of \$100, payable by check or money order to the Iowa Department of Public Health, shall be remitted with the initial or renewal tattoo establishment permit application.

22.8(5) Tattoo establishment permits are nontransferable.

22.8(6) Change in ownership. Within 30 days of a change in ownership of a tattoo establishment, the new owner shall submit an application and fee for a new permit.

22.8(7) Change in location. Within 30 days of a change of location of a tattoo establishment, the owner shall submit a new application and a nonrefundable fee of \$25 for a new permit.

641—22.9(135) Tattoo artist permit requirements.

22.9(1) An annual, nonrefundable application fee of \$75, payable by check or money order to the Iowa Department of Public Health, shall be remitted with the initial or renewal tattoo artist permit application.

22.9(2) Tattoo artist permits are nontransferable.

22.9(3) An applicant for a tattoo artist permit shall be at least 18 years of age and must submit a photocopy of a birth certificate or other equivalent document to show proof of attaining the age of 18 years.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

22.9(4) Applicants must have a high school diploma or general educational development certificate (GED). (NOTE: Tattoo artists granted a permit prior to January 1, 2010, will not be required to obtain a high school diploma or GED.)

22.9(5) Upon initial application and permit renewal application, tattoo artists must complete and be current in the following American Red Cross or equivalent nationally recognized certifications:

- a. Bloodborne pathogens; and
- b. Standard first aid.

22.9(6) Applicants must submit proof of successful completion of the certification programs listed in subrules 22.9(4) and 22.9(5).

22.9(7) Each permit issued shall be in effect solely for the artist named thereon and shall remain with the artist upon change of employment.

22.9(8) Permits shall be posted in a conspicuous place in the tattoo establishment.

641—22.10(135) Temporary establishment permit requirements.

22.10(1) A person who wishes to obtain a temporary establishment permit must submit a nonrefundable application fee of \$50, payable by check or money order to the Iowa Department of Public Health, and submit a floor plan(s) of the facility at least 30 days prior to the event. The request shall specify the following:

- a. The purpose for which the permit is requested;
- b. The period of time during which the permit is needed (not to exceed 7 calendar days per event, without reapplication);
- c. The fulfillment of tattoo artist requirements as specified in 641—22.9(135); and
- d. The location for which the temporary permit will be used.

22.10(2) The temporary event must be contained in a completely enclosed, nonmobile facility such as inside a permanent building.

22.10(3) The temporary establishment shall comply with the following:

- a. Conveniently located hand-washing facilities with liquid soap, single-use towels or hand dryers and potable hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes shall be provided. Tuberculocidal, single-use hand wipes to augment the hand-washing requirements of this paragraph must be available in each booth.
- b. A minimum of 80 square feet of floor space shall be provided for each booth.
- c. There shall be at least 100 foot-candles of light at the level where the tattoo procedure is being performed.
- d. Facilities to properly sterilize instruments and evidence of a spore test performed on sterilization equipment 30 days or less prior to the date of the event must be provided; or only single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed.
- e. Tattoo artists must properly clean and sanitize the area used for tattoo procedures.
- f. Floors of the facility shall be smooth and impervious or be covered with an impermeable barrier.

22.10(4) The facility where the temporary establishment permit is needed must be inspected by the designated inspection agency and issued a permit prior to the performance of any tattoo procedures. A \$50 inspection fee for each booth shall be made payable to the inspection agency.

22.10(5) No animals, except service animals of clients, shall be allowed in the temporary establishment at any time.

22.10(6) Temporary establishment permits issued under the provisions of these rules may be suspended by the department for failure of the holder to comply with the requirements of these rules.

22.10(7) Permits shall be posted in a conspicuous place in the temporary establishment.

641—22.11(135) Mobile unit permit requirements.

22.11(1) Mobile unit permits shall be in compliance with all of the following requirements:

- a. No mobile unit shall be operated in the state without having a permit to operate issued by the department.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

b. Each person acquiring or establishing a mobile unit shall apply for a permit prior to beginning operation.

c. A permit to operate shall be issued to a new mobile unit when the department or its representative has successfully completed an on-site inspection. Permits shall be posted in a conspicuous place in the mobile unit.

d. An annual, nonrefundable application fee of \$100, payable by check or money order to the Iowa Department of Public Health, shall be remitted with the initial or renewal mobile unit permit application.

e. Tattoo mobile unit permits are nontransferable.

f. Change in ownership. Within 30 days of a change in ownership of a mobile unit, the new owner shall submit an application and fee for a new permit.

g. Change in location. Within 30 days of a change of location of a mobile unit, the owner shall submit a new application and a nonrefundable fee of \$25 for a new permit.

22.11(2) Tattoo mobile units and tattoo artists working from a mobile unit shall also comply with all of the following requirements.

a. Mobile units are permitted for use only at special events lasting 14 calendar days or less. Permits must be obtained at least 14 days prior to the event, and no tattoo procedures shall be performed before a permit is issued. Permit holders are responsible for compliance with all other local regulations including but not limited to zoning and business license requirements.

b. The mobile unit shall be maintained in a clean and sanitary condition at all times. Doors shall be tight-fitting. Openable windows shall have tight-fitting screens.

c. Mobile units must have approved sterilization equipment available, in accordance with all requirements of 641—22.5(135).

d. Mobile units shall be used only for the purpose of performing tattoo procedures. No habitation or food preparation is permitted inside the vehicle unless the tattoo work station is separated by walls, floor to ceiling, from culinary or domicile areas.

e. Mobile units shall be equipped with a hand sink for use of the tattoo artist for hand washing and preparing the client for the tattoo procedures.

(1) The hand sink shall be supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels in dispensers or hand dryer.

(2) An adequate supply of potable water shall be maintained for the mobile unit at all times during operation.

(3) The source of the water and storage of the tank(s) shall also be identified.

(4) Tuberculocidal, single-use hand wipes to augment the hand-washing requirements of this subrule must be available.

f. All liquid wastes shall be stored in an adequate storage tank with a capacity at least 15 percent greater than the capacity of the on-board potable water supply. Liquid wastes shall be disposed of at a publicly owned treatment works site approved by the department of natural resources (IDNR).

g. Restroom facilities must be available at the special event or within the mobile unit.

(1) A hand sink must be available inside the restroom cubicle.

(2) The hand sink shall be supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels in dispensers or hand dryer.

(3) Restroom doors must be self-closing, and adequate ventilation must be available.

h. All tattoo artists working in a mobile unit must have a permit and must comply with the permit requirements of these rules.

i. No animals, except service animals of clients, shall be allowed in the mobile unit at any time.

j. Permits shall be posted in a conspicuous place in the mobile unit.

641—22.12(135) Agreements. The department may enter into agreements with the local boards of health to provide inspections and enforcement. An inspection agency shall:

1. Ensure that its inspectors will meet the educational requirements of 641—22.14(135).

2. Provide inspections of all tattoo establishments within the contracted area.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

641—22.13(135) Inspection requirements.

22.13(1) The inspection agency shall bill the owner of a tattoo establishment \$250 upon completion of an inspection. Inspection fees are due upon receipt of a notice of payment due.

22.13(2) Tattoo establishments shall be inspected annually.

22.13(3) When the tattoo establishment is located within the jurisdiction of a local inspection agency, the local inspection agency may establish fees needed to defray the costs of inspection and enforcement under this chapter. Inspection fees billed by a local inspection agency shall be paid to the local inspection agency or its designee.

22.13(4) When an inspection agency determines that a special inspection is required, such as a follow-up inspection or an inspection generated by complaints, the inspection agency may charge a special inspection fee which shall be based on the actual cost of providing the inspection.

22.13(5) Unpaid inspection fees will be considered delinquent 30 days after the date of the bill. A late fee of \$30 will be assessed to the establishment owner after a 30-day notice. If inspection fees remain unpaid after 60 days, an order to cease and desist operations will be issued by the department.

22.13(6) Failure to permit an inspection is grounds for denial of an initial tattoo establishment permit or for issuance of an order requiring suspension of a tattoo establishment's existing operations.

22.13(7) If an imminent health hazard exists, the inspection agency or the department may, pursuant to Iowa Code section 17A.18A, order the establishment to cease operation immediately. Operation shall not be resumed until authorized by the inspection agency or the department.

22.13(8) Material safety data sheets (MSDS) for the chemicals used at the tattoo establishment shall be maintained at the establishment in a location known and readily accessible to the establishment staff and shall be made available upon request of the inspection agency.

22.13(9) An establishment inspected under this chapter shall post the most recent routine inspection report, along with any current complaint or reinspection reports, in a location at the establishment that is readily visible to the public.

641—22.14(135) Tattoo inspector qualifications. Each person designated as a tattoo inspector shall have successfully completed a bloodborne pathogen certification course from the American Red Cross or an equivalent nationally recognized organization. A copy of current certification shall be maintained by the local inspection agency.

641—22.15(135) Client records. A tattoo establishment shall keep a record of all persons who have had tattoo procedures performed.

22.15(1) Records shall include the client name, date of birth, photocopy of identification, date of the procedure, name of the tattoo artist who performed the procedure(s), and signature of client.

22.15(2) Records shall be retained in a confidential manner for a minimum of three years and shall be available to the department and the inspection agency upon request.

641—22.16(135) Enforcement.

22.16(1) The department may inspect tattoo establishments regulated by these rules and enforce these rules. A city, county or district board of health may inspect tattoo establishments regulated by these rules and enforce these rules in accordance with agreements executed pursuant to 641—22.12(135).

22.16(2) The inspection agency shall take the following steps when enforcement of these rules is necessary.

a. Owner notification. As soon as possible after the violations are noted, the inspection agency shall provide written notification to the owner of the establishment that:

- (1) Cites each section of the Iowa Code or rule of the Iowa Administrative Code violated.
- (2) Specifies the manner in which the owner or operator failed to comply.
- (3) Specifies the steps required for correcting the violation.
- (4) Requests a corrective action plan, including a time schedule for completion of the plan.
- (5) Sets a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the owner of the establishment must respond.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

b. Corrective action plan review. The inspection agency shall review the corrective action plan and approve it or require that it be modified.

c. Failure to comply. If the owner of a tattoo establishment or mobile unit fails to comply with conditions of the written notice, the inspection agency may take enforcement action in accordance with Iowa Code chapter 135 or in accordance with local ordinances.

641—22.17(135) Adverse actions and the appeal process.

22.17(1) The department may deny an application for a permit, may order that a tattoo establishment not be operated, may order a tattoo artist to cease engaging in the practice of tattooing, or may refer the case to the office of the county attorney or attorney general for possible criminal penalties when the department finds that an establishment is not operated in accordance with these rules or that a permitted person or a person who is not permitted has committed any of the following acts:

- a.* Any material misstatement in the application or in any supplementary statement.
- b.* Any material misstatement in the renewal application or in any supplementary statement received upon renewal.
- c.* Failure to pay the required renewal fee or late fee.
- d.* Failure to submit a complete, legible, and accurate renewal application form before the end of the renewal period.
- e.* Any condition revealed by an inspection of the applicant, the application, or supplementary statement received upon renewal.
- f.* Falsification of approval records, qualifications, or other information or documentation related to permitting approval.
- g.* Any violation or failure to observe any of the applicable terms or provisions of permitting, public health law, or any other applicable rule, ordinance, regulation, code or order.
- h.* Failure to correct any violation of department rules that was found during an inspection or any violation found on an initial inspection which, as determined by the department, jeopardizes the safety of the public.
- i.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts which may constitute unethical conduct include, but are not limited to:
 - (1) Verbally or physically abusing a patron.
 - (2) Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patron.
 - (3) Betrayal of a professional confidence.
 - (4) Engaging in a professional conflict of interest.
 - (5) Falsification of records.
- j.* Engaging in any conduct that subverts or attempts to subvert a department investigation.
- k.* Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.
- l.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- m.* Knowingly aiding, assisting or advising a person to unlawfully practice tattooing.
- n.* Representing oneself as a tattoo artist when one's permit has been denied, suspended or revoked, or when one's permit is lapsed or has been placed on inactive status.
- o.* Permitting the use of a permit by a nonpermitted person for any purpose.
- p.* Mental or physical inability reasonably related to and adversely affecting the tattoo artist's ability to practice in a safe and competent manner.
- q.* Being adjudged mentally incompetent by a court of competent jurisdiction.
- r.* Sexually harassing a patron. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- s.* Habitual intoxication or addiction to drugs.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- (1) The inability of a tattoo artist to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.
- (2) The excessive use of drugs which may impair a tattoo artist's ability to practice with reasonable skill or safety.
- (3) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.
 - t. Fraud in representation as to skill, ability, or certification.
 - u. Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the provision of tattooing, including but not limited to a crime involving dishonesty, fraud, theft, embezzlement, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.
 - v. Having certification or permit to practice tattooing suspended or revoked, or having other disciplinary action taken by a licensing, certifying, or permitting authority of this state or another state, territory or country. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.
 - w. Acceptance of any fee by fraud or misrepresentation.
 - x. Failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.
 - y. Failure to respond within 30 days of receipt, unless otherwise specified, of communication from the department which was sent by registered or certified mail.

22.17(2) Notice of issuance of a denial or order to cease operations shall be served by certified mail, return receipt requested, or by personal service.

22.17(3) Upon receipt of the order, the aggrieved party may request an appeal. The appeal shall be made in writing to the department within 20 days from the date of the aggrieved party's receipt of the department's order. The appeal shall be addressed to Iowa Department of Public Health, Division of Environmental Health, Tattoo Permit Program, Lucas State Office Building, Des Moines, Iowa 50319-0075. If such a request is made within the 20-day time period, the order shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the order upon satisfaction that the reason for the order has been or will be removed. After the hearing, or upon default of the aggrieved party, the administrative law judge shall affirm, modify or set aside the order. If no request for appeal is received within the 20-day time period, the department's order shall become the department's final agency action.

22.17(4) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

22.17(5) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

22.17(6) When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 22.17(7).

22.17(7) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

22.17(8) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings thereon.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

22.17(9) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

22.17(10) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of the action pursuant to Iowa Code chapter 17A.

22.17(11) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The copy shall be directed to Iowa Department of Public Health, Division of Environmental Health, Tattoo Permit Program, Lucas State Office Building, Des Moines, Iowa 50319-0075.

22.17(12) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

These rules are intended to implement Iowa Code section 135.37.

[Filed 7/8/09, effective 1/1/10]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 7983B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health amends Chapter 39, "Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials," and Chapter 41, "Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials," Iowa Administrative Code.

Items 1 and 13 amend rules to reflect current federal regulations. The remaining items are amended to meet Nuclear Regulatory Commission compatibility requirements.

Notice of Intended Action was published in the May 20, 2009, Iowa Administrative Bulletin as **ARC 7792B**. Comments were received from one person on these amendments. It was determined that the comments were not pertinent to these amendments. The comments may be addressed in future amendments to these rules. The adopted amendments are identical to the ones published under Notice.

These amendments were adopted by the State Board of Health on July 8, 2009.

These amendments will become effective on September 2, 2009.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

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

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 39, 41] is being omitted. These amendments are identical to those published under Notice as **ARC 7792B**, IAB 5/20/09.

[Filed 7/8/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 7984B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 73, "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)," Iowa Administrative Code.

The purpose of the amendment is to be consistent with federal changes to the requirements of the WIC food package that become effective October 1, 2009, and that will affect 74,500 Iowa WIC participants. The amendment also reserves the Department's right to limit the number of foods for the WIC-approved food list based on accessibility, availability, retail value of product, USDA recommendations, increased number of WIC participants, and change in appropriation of funds.

The original Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7669B**. The Department was unable to hold the public hearing scheduled for April 28, 2009, due to an issue with the scheduling of the ICN. An Amended Notice of Intended Action was published in the May 20, 2009, Iowa Administrative Bulletin as **ARC 7798B**. Comments were received from the Iowa Dairy Foods Association, Inc. regarding the exclusion of 2% milk from the WIC program including that the intent to exclude 2% milk was not clear. Changes were made in the Amended Notice of Intended Action to clearly state that 2% milk is to be excluded. The rationale for this exclusion was sent to the commenter.

The adopted amendment is identical to that published under Amended Notice of Intended Action as **ARC 7798B**.

This amendment was adopted by the State Board of Health on July 8, 2009.

This amendment will become effective on September 2, 2009.

This amendment is intended to implement Iowa Code section 135.11.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [73.9(3)] is being omitted. This amendment is identical to that published under Amended Notice as **ARC 7798B**, IAB 5/20/09.

[Filed 7/8/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 7985B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby adopts new Chapter 83, "Early Childhood Iowa Council," Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The Early Childhood Iowa Council was established by the General Assembly to serve as the lead entity for Iowa's early childhood system building efforts. The ECI Council will serve as the advisory body for the development and implementation of a comprehensive early care, health and education system. These rules set forth membership and operating procedures for the Council and describe how the Department will coordinate efforts among stakeholders.

Notice of Intended Action was published in the May 20, 2009, Iowa Administrative Bulletin as **ARC 7794B**. No comments were received on these rules. The adopted rules are identical to those published under Notice.

These rules were approved by the State Board of Health on July 8, 2009.

These rules will become effective on September 2, 2009.

These rules are intended to implement Iowa Code sections 135.173 and 135.174.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 83] is being omitted. These rules are identical to those published under Notice as **ARC 7794B**, IAB 5/20/09.

[Filed 7/8/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 7972B**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 16, "Prelicense Education and Continuing Education," Iowa Administrative Code.

The adopted amendment to subrule 16.4(4) increases the number of continuing education hours that may be taken through distance education.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 7638B** on March 25, 2009. No public comment was received on this amendment. This amendment is identical to that published under Notice.

This amendment was adopted by the Commission on June 18, 2009.

This amendment is intended to implement Iowa Code sections 543B.9 and 543B.18.

This amendment shall become effective September 2, 2009.

The following amendment is adopted.

Amend subrule 16.4(4) as follows:

16.4(4) A maximum of ~~18~~ 24 hours of continuing education may be taken by ~~correspondence/home study~~ distance education each three-year renewal period.

[Filed 6/29/09, effective 9/2/09]

[Published 7/29/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 8021B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code chapter 17A and section 421.14, the Department of Revenue hereby adopts amendments to Chapter 18, "Taxable and Exempt Sales Determined by Method of

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Transaction or Usage,” and Chapter 212, “Elements Included In and Excluded From a Taxable Sale and Sales Price,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXI, No. 25, p. 2665, on June 3, 2009, as **ARC 7832B**.

Item 1 amends rule 701—18.20(422,423) by adopting new subrule 18.20(7). The amendment provides definitions used in the taxation of communication service, telecommunications service, ancillary service and other similar communication service and expands and clarifies provisions governing these services. The amendment is required for compliance with the Streamlined Sales and Use Tax Agreement.

Item 2 amends Chapter 212 by adding new rule 701—212.8(423). This new rule deals with payments made by a third party, such as a reimbursement to a retailer from a manufacturer for a manufacturer’s coupon.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective September 2, 2009, after filing with the Administrative Rules Coordinator and publication in the Iowa Administration Bulletin.

These amendments are intended to implement Iowa Code chapters 422 and 423.

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 [18.20(7), 212.8] is being omitted. These amendments are identical to those published under Notice as **ARC 7832B**, IAB 6/3/09.

[Filed 7/10/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]

ARC 7976B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 17A.7, 476.1, 476.6, 476.8, and 476.20, the Utilities Board (Board) gives notice that on July 1, 2009, the Board issued an order in Docket No. RMU-08-7, In re: Electric Load Service Limiters, “Order Adopting Rules.” The Board is adopting amendments to 199 IAC 20.1(476B) and 20.4(476B). The amendments impact the use of electric load service limiters for residential customers.

The adopted changes to the service limiter rules reflect advances in meter technology. The use of a service limiter or service limiting meter function is an alternative to disconnection available to customers who have exhausted all payment agreements for which they are eligible under the Board’s rules and would otherwise be subject to disconnection of electric service. Service limiters have been allowed in Iowa for a number of years and the amendments take into account new technology and clarify when limiters can be used so that limiters are used as an alternative to disconnection, rather than a collection tool.

The Notice of Intended Action in Docket No. RMU-08-7 was published in IAB Vol. XXXI, No. 13 (12/17/2008) p. 1449, as **ARC 7409B**. The Notice of Intended Action was published after the Board conducted an inquiry concerning the use of electric load service limiters.

On January 8, 2008, the Board initiated an inquiry into the use of electric load service limiters after rejecting a tariff and denying a waiver request filed by Consumers Energy Cooperative (Consumers Energy) in Docket Nos. WRU-07-28-945 and TF-07-156. The tariff was rejected and the waiver denied by Board order issued on December 26, 2007, in part because objectors raised issues that needed to be addressed in a broader forum. Among the issues the Board wanted to examine were the scope of technology available, the range of applications, and legal and practical issues surrounding the use of electric load service limiters. The last time the Board looked at this issue (1999-2000), it appeared no

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utilities were using limiters. Today, only a few municipals or cooperatives use them. The state's two investor-owned electric utilities, Interstate Power and Light Company (IPL) and MidAmerican Energy Company (MidAmerican), currently do not use service limiters. The scope of the inquiry was limited to use of service limiters for residential customers; the Board's rules regarding limiters only apply to residential customers.

Technology regarding service limiters has changed since the Board last examined its service limiter rules. When the Board adopted its current rules, a collar had to be placed on the meter to limit service, leading to the requirement that once the past-due bill was paid, the collar had to be removed by the next working day. Today, many new meters have service limiting technology built in and there is no collar to install or remove; the service limiting function can be activated or disabled by the utility from a remote location. The old collars were reset by manually pushing a button; the new ones often can be reset manually, remotely, or automatically after a specified time period.

Several groups filed written comments in the inquiry, and a workshop was held on May 14, 2008. Participants included the Consumer Advocate Division of the Department of Justice (Consumer Advocate), the Iowa Department of Human Rights, Iowa Legal Aid, IPL, the Iowa Association of Municipal Utilities, MidAmerican, the Iowa Association of Electric Cooperatives (IAEC), and Consumers Energy. Perhaps the biggest difference between those in favor of limiters and those opposed to their use is whether a service limiter, when it is tripped because the usage limit is exceeded, results in a disconnection. If one concludes that when the service limit is exceeded and the power flow stops there is a disconnection, then all the winter moratorium rules apply, the use of service limiters is severely curtailed, and enforcement is difficult.

Another view is that service limiters can be used in limited circumstances as an alternative to disconnection with no violation of the winter moratorium. The adopted amendments provide that when a customer has defaulted on all payment agreements for which the customer is eligible under the Board's rules and could therefore be subject to disconnection, the utility may offer the customer a service limiter in conjunction with a subsequent payment agreement as an alternative to disconnection. The loss of service that occurs when the service limit is exceeded is not a disconnection because the amendments provide that service must be capable of being restored within a short period of time.

The winter moratorium rules and temperature rules would still apply. For example, a low-income home energy assistance program (LIHEAP)-eligible customer who has agreed to a service limiter could not be disconnected during the winter moratorium, although the service limiter could be utilized if the requirements in the adopted rules were satisfied. However, the adopted amendments provide that the service limiter could not be placed on the customer's meter without the customer's consent. The LIHEAP-eligible customer could decline the use of a limiter, continue receiving regular service during the moratorium, and be disconnected after April 1 if past-due bills remained.

The inquiry participants did not reach a consensus on any changes to the existing electric load service limiter rules. The adopted amendments allow for use of service limiters but expand and clarify existing safeguards. The amendments are designed to allow for the use of service limiters as an alternative to disconnection, not as a collection tool for accounts that are not already subject to disconnection. The amendments prohibit use of a service limiter until there has been a default on all payment agreements that a customer is entitled to under the Board's rules; this is a change from the Noticed amendments, which allowed for use of a limiter after default on the first payment agreement. If the customer agrees to use of a limiter and a subsequent payment agreement, then under the amendments the customer can avoid disconnection.

The minimum usage set by the amendments, 3,600 watts, is designed to allow most residential customers to heat their homes and run a couple of appliances at the same time, but it will not allow full normal usage. A utility can set a higher limit as long as it uses nondiscriminatory standards for determining when it will do so. For electric heating customers, the limit must be high enough to heat the home. The amendments also clarify current disconnection practice, which is that disconnection can be after a 24-hour notice if the disconnection is for failure to comply with the terms of a payment agreement.

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The amendments require that the service limiting function must be capable of being manually reset by the customer or reset automatically within 15 minutes of an interruption. There is also an option for remote reset (in which case a 24-hour telephone number must be provided), but either manual or automatic reset must be available at the meter. The amendments provide that there are to be no disconnect, reconnect, or other charges associated with the use of limiters and the utility is required to provide the customer with information on how the limiter works and what appliances (or combination thereof) can typically be operated to stay within the usage limits. To reflect new technology, the amendments do not require the limiter to be removed if the past-due bill is paid, but the service limiting function of the meter must be disabled no later than the next working day after the account balance is paid.

An oral presentation was held on February 5, 2009, and parties were allowed the opportunity to file additional written comments. In addition to comments from those who participated in the inquiry, comments were also received from the Iowa Community Action Association and the American Association of Retired Persons (AARP). The IAEC supported the amendments and asked that a service limiter be allowed in conjunction with a second payment agreement. The other groups generally argued against the use of limiters or wanted more restrictions on their use. Examples of the restrictions suggested by various commenters are: no limiters if any member of the household is under the age of 6 or over the age of 65; no limiters if any member of the household is disabled or has an income equal to or less than 50 percent of the state median income; service could not be tripped by a limiter between 8 p.m. and 7 a.m.; and no use of limiters during the winter moratorium. Restrictions such as those suggested would have likely meant that service limiters would never be used, and therefore, the suggested changes will not be adopted.

Consumer Advocate proposed two changes. One would provide that a service limiter cannot be used until a customer has defaulted on all payment plans the customer is entitled to under the rules. The Board is adopting this clarification, which is consistent with the intent of the amendments.

Consumer Advocate also advocated a higher minimum usage, which the Board did not adopt. The minimum usage set by the rules, 3,600 watts, is designed to allow customers to heat their homes and run a couple of appliances at the same time, but clearly it will not provide the full level of service available to other customers. A utility can set a higher limit as long as it uses nondiscriminatory standards for doing so. For electric heating customers, the limit must be high enough to heat the home.

There is one other change from the Noticed amendments. The Noticed amendments required that the limiter be capable of being reset manually (with the option of also being reset automatically or remotely). After the oral presentation, it was clear that at least some of the new meters with automatic reset capability cannot be manually reset (or manually reset only with great difficulty). Therefore, the adopted amendments provide that a meter must be capable of either a manual reset or an automatic reset within 15 minutes of an interruption. This encompasses both the old and new technology.

The adopted amendments are substantially similar to those published under Notice of Intended Action in this docket. Any changes are for clarification or in response to the oral and written comments and, therefore, no additional notice prior to adopting these amendments is required.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board's general waiver provision in 199 IAC 1.3(17A,474,476,78GA,HF2206) is applicable to these amendments.

These amendments will become effective on September 2, 2009.

These amendments are intended to implement Iowa Code sections 476.1, 476.6, 476.8, and 476.20.

The following amendments are adopted.

ITEM 1. Amend subrule **20.1(3)**, definition of "Service limiter," as follows:

"*Service limiter*" or "*service limitation device*" means a ~~circuit breaker~~ device that limits a residential customer's power consumption to ~~15 amps at 120 volts~~ 3,600 watts (or some higher level of usage approved by the board) and that ~~either~~ resets itself automatically, or can be reset manually by the customer, and may also be reset remotely by the utility at all times.

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ITEM 2. Amend subparagraph **20.4(15)“d”(4)** as follows:

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(23), the following paragraph shall be appended to the end of the standard form for the summary of rights and ~~remedies responsibilities~~, as set forth in subparagraph 20.4(15)“d”(3):

Service limitation: We have adopted a limitation of service policy of service limitation before disconnection for customers who otherwise could be disconnected. ~~You may be qualified for service limitation rather than disconnection. To see if you qualify, contact our business office. Contact our business office for more information or to learn if you qualify.~~

ITEM 3. Amend paragraph **20.4(15)“f”** as follows:

f. A utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement, ~~except as provided in numbered paragraph 20.4(11)“e”(1)“4,” provided the utility complies with the provisions of paragraph 20.4(15)“d.”~~

ITEM 4. Rescind paragraph **20.4(15)“h.”**

ITEM 5. Rescind subrule 20.4(23) and adopt the following **new** subrule in lieu thereof:

20.4(23) Limitation of service. The utility shall have the option of adopting a policy for service limitation at a customer’s residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility’s tariff and shall contain the following conditions:

- a. A service limitation device shall not be activated without the customer’s agreement.
- b. A service limitation device shall not be activated unless the customer has defaulted on all payment agreements for which the customer qualifies under the board’s rules and the customer has agreed to a subsequent payment agreement.
- c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited if otherwise eligible, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this rule, “electric heating” shall mean heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.
- d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer, or the service limiter function must reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely by the utility. If the utility chooses to use the option of resetting the meter remotely, the utility shall provide a 24-hour toll-free number for the customer to notify the utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer. If the remote reset option is used, the meter must still be capable of being reset manually by the customer or the service limiter function must reset itself automatically within 15 minutes after the interruption.
- e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.
- f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.
- g. A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

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h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice pursuant to paragraph 20.4(15)“*f.*”

[Filed 7/1/09, effective 9/2/09]

[Published 7/29/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/29/09.

ARC 8013B

WORKERS’ COMPENSATION DIVISION[876]

Adopted and Filed

Pursuant to the authority of Iowa Code section 86.8, the Workers’ Compensation Commissioner hereby amends Chapter 4, “Contested Cases,” Iowa Administrative Code.

Item 1 provides that the agency may deliver notices, orders, rulings and decisions in contested case proceedings by E-mail. Items 2 to 4 specify that the agency filing fee is \$100 for filing certain original notice and petitions in contested case proceedings.

Notice of Intended Action to solicit public comment on these amendments was published in the Iowa Administrative Bulletin on June 3, 2009, as **ARC 7819B**. In addition, these amendments were simultaneously Adopted and Filed Emergency as **ARC 7818B**.

Written comments were solicited until June 23, 2009, and no comments were received. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

These amendments will become effective September 2, 2009, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code sections 17A.12 and 85.3 and 2009 Iowa Acts, Senate File 469, section 15, as amended by 2009 Iowa Acts, Senate File 478, section 194.

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 [4.7, 4.8(2)“a,” “b” and “e”] is being omitted. These amendments are identical to those published under Notice as **ARC 7819B** and Adopted and Filed Emergency as **ARC 7818B**, IAB 6/3/09.

[Filed 7/10/09, effective 9/2/09]

[Published 7/29/09]

[For replacement pages for IAC, see IAC Supplement 7/29/09.]