



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 554 to 627 include **ARC 2180C** to **ARC 2192C** and **ARC 2194C** to **ARC 2203C**

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

Filed, Organization and operation of
Terrace Hill, 114.1 to 114.8 **ARC 2199C** 592

ALL AGENCIES

Agency identification numbers 552
Citation of administrative rules 547
Schedule for rule making 548

EDUCATION DEPARTMENT[281]

Notice, Accountability for student
achievement—selected districtwide
assessment, 12.8(1)“h” **ARC 2185C** 554
Notice, School health services—school
district and accredited nonpublic
school stock epinephrine auto-injector
voluntary supply, ch 14 **ARC 2183C** 555
Notice, Gap tuition assistance
program—eligibility and priority
for assistance, 25.21 **ARC 2182C** 558
Notice, Intensive summer literacy
program, 61.3 **ARC 2186C** 559
Notice, Categorical funding—statewide
voluntary preschool program, at-risk
formula weighting, returning dropout
and dropout prevention program,
management fund, physical plant and
equipment levy, 98.13, 98.17, 98.18,
98.21, 98.62(2), 98.64(2) **ARC 2184C** 561

EXECUTIVE DEPARTMENT

Executive order number 86 628

HOMELAND SECURITY AND EMERGENCY

MANAGEMENT DEPARTMENT[605]

Notice, Organization, amendments to
ch 1 **ARC 2187C** 566
Notice, Petitions for rule making,
amendments to ch 2 **ARC 2188C** 567
Notice, Declaratory orders, amendments
to ch 3 **ARC 2189C** 569
Notice, Agency procedure for rule
making, amendments to ch 4 **ARC 2190C** 572

INSPECTIONS AND APPEALS

DEPARTMENT[481]

Notice, Regulation of elder group homes,
assisted living programs, and adult day
services, amendments to chs 67, 69, 70
ARC 2200C 573

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Notice, Prompt payment of health
claims—removal of exemption for
long-term care insurance, 15.32,
15.83(1), 15.85 **ARC 2201C** 581
Notice, Corporate governance annual
disclosure, ch 111 **ARC 2181C** 583

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice, Relinquishment of license to
practice, 9.1, 9.19 **ARC 2203C** 586

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Filed, Compounding practices, amend
chs 3, 6, 7; rescind chs 13, 20; adopt
ch 20 **ARC 2194C** 594

PHARMACY BOARD[657] (Cont'd)

Filed, Reference library resources, 6.3, 7.3, 15.4, 16.5 ARC 2196C	600
Filed, Administration of influenza and pneumococcal vaccines, 7.8(14), 23.9(4) ARC 2197C	601
Filed, Designation of imitation controlled substances, rescind 10.41 ARC 2195C	602
PROFESSIONAL LICENSURE DIVISION[645]	
<small>PUBLIC HEALTH DEPARTMENT[641]"umbrella"</small>	
Filed, Chiropractors—continuing education, grounds for discipline, 44.3(2), 45.2(31) ARC 2202C	602
PUBLIC EMPLOYMENT RELATIONS BOARD[621]	
Notice, Negotiations and negotiability disputes, 6.1, 6.3 to 6.5 ARC 2191C	588
PUBLIC HEARINGS	
Summarized list	549

RACING AND GAMING COMMISSION[491]INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Filed, Iowa greyhound pari-mutuel racing fund, 7.15 ARC 2198C	603
---	-----

SOIL CONSERVATION DIVISION[27]AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Filed, Division name change; conservation cost-share management practices; general updates, amendments to chs 3 to 5, 10 to 12, 16, 20 to 22, 30, 40, 50, 60, 101, 102, 107 ARC 2192C	606
--	-----

USURY

Notice	590
--------------	-----

UTILITIES DIVISION[199]COMMERCE DEPARTMENT[181]"umbrella"

Filed, Telephone service regulations, amendments to ch 22 ARC 2180C	615
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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

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

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

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

Schedule for Rule Making 2015

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
10	Wednesday, October 21, 2015	November 11, 2015
11	Wednesday, November 4, 2015	November 25, 2015
12	Wednesday, November 18, 2015	December 9, 2015

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*****

CORRECTIONS DEPARTMENT[201]

Iowa state industries, 37.2(5), 37.3, 37.4, 37.7, 37.8(1), 37.9 IAB 9/30/15 ARC 2161C	Department Conference Room 510 E. 12th St. Des Moines, Iowa	October 20, 2015 11 a.m. to 1 p.m.
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EDUCATION DEPARTMENT[281]

Accountability for student achievement—selected districtwide assessment, 12.8(1) IAB 10/14/15 ARC 2185C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 1 to 2 p.m.
School health services—school district and accredited nonpublic school stock epinephrine auto-injector voluntary supply, ch 14 IAB 10/14/15 ARC 2183C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 10 to 11 a.m.
Gap tuition assistance program—eligibility and priority for assistance, 25.21 IAB 10/14/15 ARC 2182C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 9 to 10 a.m.
Intensive summer literacy program, 61.3 IAB 10/14/15 ARC 2186C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 2 to 3 p.m.
Categorical funding—statewide voluntary preschool program, at-risk formula weighting, returning dropout and dropout prevention program, management fund, physical plant and equipment levy, 98.13, 98.17, 98.18, 98.21, 98.62(2), 98.64(2) IAB 10/14/15 ARC 2184C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 11 a.m. to 12 noon

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Organization, amendments to ch 1 IAB 10/14/15 ARC 2187C	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 3, 2015 11 a.m.
Petitions for rule making, amendments to ch 2 IAB 10/14/15 ARC 2188C	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 3, 2015 11 a.m.
Declaratory orders, amendments to ch 3 IAB 10/14/15 ARC 2189C	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 3, 2015 11 a.m.
Agency procedure for rule making, amendments to ch 4 IAB 10/14/15 ARC 2190C	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 3, 2015 11 a.m.
Wireless NG911 implementation and operations plan, 10.2, 10.7(2), 10.8(5), 10.9(3) IAB 9/30/15 ARC 2154C	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	October 20, 2015 11 a.m.

HUMAN SERVICES DEPARTMENT[441]

Intellectual disability waiver services cost-savings initiative, 79.1(2), 83.66 IAB 9/30/15 ARC 2153C (See ARC 2097C , IAB 8/5/15)	<i>Eastern Service Area</i> First Floor Board Room 600 W. 4th St. Davenport, Iowa	October 21, 2015 2 to 3 p.m.
	<i>Northern Service Area</i> Conference Room 201 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	October 21, 2015 10 to 11 a.m.
	<i>Des Moines Service Area</i> Conference Rm. 3-3A, River Place 2309 Euclid Ave. Des Moines, Iowa	October 23, 2015 9:30 to 11:30 a.m.
	<i>Western Service Area</i> Public Library 400 Willow Ave. Council Bluffs, Iowa	October 22, 2015 2 to 3 p.m.
	<i>Cedar Rapids Service Area</i> Schwab Auditorium Public Library 1404 5th St. Coralville, Iowa	October 22, 2015 12:30 to 2:30 p.m.

INSURANCE DIVISION[191]

Limited licenses for motor vehicle rental companies and counter employees and for persons who sell portable electronics insurance, 10.51 to 10.60 IAB 9/30/15 ARC 2174C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	October 20, 2015 2 p.m.
Sales of cemetery merchandise, funeral merchandise and funeral services, amend ch 15; rescind chs 100 to 105; adopt ch 100 IAB 9/30/15 ARC 2173C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	October 21, 2015 10 a.m.
Prompt payment of health claims—removal of exemption for long-term care insurance, 15.32, 15.83(1), 15.85 IAB 10/14/15 ARC 2201C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	November 3, 2015 10 a.m.
Intrastate crowdfunding exemption, 50.90 IAB 9/30/15 ARC 2172C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	October 21, 2015 9 a.m.
Corporate governance annual disclosure, ch 111 IAB 10/14/15 ARC 2181C	Conference Rm. 4 North, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	November 4, 2015 10 a.m.

LABOR SERVICES DIVISION[875]

Elevator safety—alteration permits, 71.9(6) IAB 9/30/15 ARC 2163C	Capitol View Room 100 E. Grand Ave. Des Moines, Iowa	October 21, 2015 2:30 p.m. (If requested)
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MEDICINE BOARD[653]

Relinquishment of license to
practice, 9.1, 9.19
IAB 10/14/15 **ARC 2203C**

Board Office, Suite C
400 S.W. 8th St.
Des Moines, Iowa

November 10, 2015
11 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Vital records—fees, access,
searches and issuance of certified
copies, confidentiality, 95.1,
95.6, 95.7, 95.9, 95.11(1),
95.12(2)
IAB 9/30/15 **ARC 2155C**

To participate via conference call:
Dial 1-866-685-1580
At prompt, enter 9327091718

October 23, 2015
10 to 11 a.m.

Registration of deaths—electronic
statewide vital records system,
97.5, 97.8(4)
IAB 9/30/15 **ARC 2156C**

To participate via conference call:
Dial 1-866-685-1580
At prompt, enter 9327091718

October 23, 2015
10 to 11 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Wireless communications service
provider database, ch 87
IAB 9/30/15 **ARC 2170C**

First Floor Conference Room 125
Oran Pape Bldg.
215 E. 7th St.
Des Moines, Iowa

October 20, 2015
10 a.m.

The following list will be updated as changes occur.

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

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

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGING, DEPARTMENT ON[17]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality 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]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 EARLY CHILDHOOD IOWA STATE BOARD[249]
 ECONOMIC DEVELOPMENT AUTHORITY[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]
 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]
 Child Advocacy Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
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]
 Military Division[611]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
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]
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 2185C

EDUCATION DEPARTMENT[281]

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 256.7(21), the State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

On August 6, 2015, the State Board of Education directed the Iowa Department of Education to present proposed rules for Notice to incorporate the recommendations of the Assessment Task Force convened pursuant to Iowa Code section 256.7(21). This rule making complies with that directive. The task force’s report is available at the following url: <https://www.educateiowa.gov/documents/boards-committees-councils-and-task-forces/2015/01/2014-12-31-iowa-assessment-task-force>.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendment until November 3, 2015, at 4:30 p.m. Comments on the proposed amendment should be directed to Phil Wise, Administrative Rules Co-Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4835; e-mail phil.wise@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 3, 2015, from 1 to 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

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

This amendment is intended to implement Iowa Code section 256.7(21).

The following amendment is proposed.

Adopt the following **new** paragraph **12.8(1)“h”**:

h. Designation of “at least one districtwide assessment.”

(1) For purposes of Iowa Code section 256.7, at least one of the districtwide assessments used to measure student progress in core academic indicators in reading and math shall be the assessment developed by the Smarter Balanced Assessment Consortium (SBAC).

(2) The department shall select a vendor to administer SBAC through a request-for-proposal process.

(3) The assessment task force shall review SBAC administration and make a recommendation pursuant to Iowa Code section 256.7(21)“b”(3) on or before June 30, 2020.

ARC 2183C

EDUCATION DEPARTMENT[281]

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 256.7(5) and 2015 Iowa Acts, Senate File 462, the Department of Education hereby proposes to adopt new Chapter 14, “School Health Services,” Iowa Administrative Code.

The 86th General Assembly, in 2015 Iowa Acts, Senate File 462, established that school districts and accredited nonpublic schools may stock an epinephrine auto-injector supply and directed the Department of Education to adopt rules necessary for schools to voluntarily implement the Act. This new chapter includes rules for the implementation of 2015 Iowa Acts, Senate File 462.

Interested individuals may make written comments on the proposed rules until November 3, 2015, at 4:30 p.m. Comments on the proposed rules should be directed to Nicole Proesch, Legal Counsel, Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; or e-mail nicole.proesch@iowa.gov.

A public hearing will be held on November 3, 2015, from 10 to 11 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing mobility impairments, should contact and advise the Department of Education of specific needs by calling (515)281-5295.

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

These rules are intended to implement 2015 Iowa Acts, Senate File 462.

The following amendment is proposed.

Adopt the following **new** 281—Chapter 14:

CHAPTER 14
SCHOOL HEALTH SERVICES

281—14.1 and 14.2 Reserved.

281—14.3(256) School district and accredited nonpublic school stock epinephrine auto-injector voluntary supply.

14.3(1) Definitions. For the purpose of this rule, the following definitions apply:

“*Act*” means 2015 Iowa Acts, Senate File 462, which amends Iowa Code section 280.16 and creates Iowa Code section 280.16A.

“*Department*” means the department of education.

“*Epinephrine auto-injector*” means a disposable drug delivery device that has a spring-activated concealed needle and is designed for immediate self-administration or administration by another trained individual of a measured dose of epinephrine to a student or individual at risk of anaphylaxis.

“*Licensed health care professional*” means a person who has prescriptive authority and is licensed under Iowa Code chapter 148 to practice medicine and surgery, an advanced nurse practitioner licensed pursuant to Iowa Code chapter 152, or a physician assistant licensed to practice under the supervision of a physician as authorized in Iowa Code chapters 147 and 148C.

EDUCATION DEPARTMENT[281](cont'd)

“Medication administration course” means a course approved or provided by the department that includes safe storage of medication, handling of medication, general principles, procedural aspects, skills demonstration and documentation requirements of safe medication administration in schools.

“Medication error” means the failure to administer an epinephrine auto-injector to a student or individual by proper route, failure to administer the correct dosage, or failure to administer an epinephrine auto-injector according to generally accepted standards of practice.

“Medication incident” means accidental injection of an epinephrine auto-injector into a digit of the authorized personnel administering the medication.

“Personnel authorized to administer epinephrine” means a school employee who has successfully completed the medication administration course requirements and who completes an annual anaphylaxis training program approved by the department and conducted by the school nurse, including a return-skills demonstration on the use of an epinephrine auto-injector.

“School building” means each building within a school district or accredited nonpublic school.

“School nurse” means a registered nurse holding current licensure recognized by the Iowa board of nursing who practices in the school setting to promote and protect the health of the school population by using knowledge from the nursing, social, and public health sciences.

14.3(2) Applicability. This rule applies to and permits:

- a. A licensed health care professional to prescribe a stock epinephrine auto-injector in the name of a school district or accredited nonpublic school for use in accordance with the Act and this rule,
- b. A pharmacist to dispense epinephrine auto-injectors pursuant to a prescription issued in the name of a school district or accredited nonpublic school, and
- c. A school district or accredited nonpublic school to acquire and maintain a stock supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with the Act.

14.3(3) Prescription for stock epinephrine auto-injector. A school district or accredited nonpublic school may obtain a prescription for epinephrine auto-injectors from a licensed health care professional annually in the name of the school district or accredited nonpublic school for administration to a student or individual who may be experiencing an anaphylactic reaction. The school district or accredited nonpublic school shall maintain the supply of such auto-injectors in a secure, dark, temperature-controlled location in each building. If a school district or accredited nonpublic school obtains a prescription pursuant to the Act and these rules, the school district or accredited nonpublic school shall stock a minimum of one pediatric dose and one adult dose epinephrine auto-injector for each building. A school district or accredited nonpublic school may obtain a prescription for more than the minimum.

14.3(4) Authorized personnel and stock epinephrine auto-injector administration. A school nurse or personnel trained and authorized may provide or administer an epinephrine auto-injector from a school supply to a student or individual if the authorized personnel or school nurse reasonably and in good faith believes the student or individual is having an anaphylactic reaction.

a. The following persons, provided they have acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, failure to administer, or assistance in the administration of an epinephrine auto-injector:

- (1) Authorized personnel and the school nurse,
- (2) The school district or accredited nonpublic school employing the personnel or school nurse,
- (3) The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school, and
- (4) The prescriber of the epinephrine auto-injector.

b. Pursuant to Iowa Code section 280.23, authorized personnel will submit a signed statement to the school nurse stating that the authorized personnel agree to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction.

c. Emergency medical services (911) will be contacted immediately after a stock epinephrine auto-injector is administered to a student or individual, and the school nurse or authorized personnel will remain with the student or individual until emergency medical services arrive.

EDUCATION DEPARTMENT[281](cont'd)

d. The administration of an epinephrine auto-injector in accordance with this chapter is not the practice of medicine.

14.3(5) *Stock epinephrine auto-injector training.* School employees may obtain a signed certificate to become authorized personnel.

a. Training to obtain a signed certificate may be accomplished by:

(1) Successfully completing, every five years, the medication administration course provided by the department;

(2) Annually demonstrating to the school nurse a procedural return-skills check on medication administration;

(3) Annually completing an anaphylaxis training program approved by the department;

(4) Demonstrating to the school nurse a procedural return-skills check on the use of an epinephrine auto-injector using information from the training, authorized prescriber instructions regarding the administration of the stock epinephrine auto-injector, and as directed by the prescription epinephrine auto-injector's manufacturing label; and

(5) Providing to the school nurse a signed statement, pursuant to Iowa Code section 280.23, that the person agrees to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction.

b. Training required after a medication error or medication incident. Authorized personnel or the school nurse directly involved with a medication error or medication incident with the administration of stock epinephrine auto-injectors shall be required to follow the medication error or medication incident protocol adopted by the board of directors of the school district or authorities in charge of the school district or accredited nonpublic school. To retain authorization to administer stock epinephrine auto-injectors in the school setting, authorized personnel directly involved with a medication error or medication incident will be required to provide a procedural skills demonstration to the school nurse demonstrating competency in the administration of stock epinephrine auto-injectors.

14.3(6) *Procurement and maintenance of stock epinephrine auto-injector supply.* A school district or accredited nonpublic school may obtain a prescription to stock, possess, and maintain epinephrine auto-injectors.

a. Stock epinephrine auto-injectors shall be stored in a secure, easily accessible area for an emergency within the school building, or in addition to other locations as determined by the school district or accredited nonpublic school, that is dark and maintained at room temperature (between 59 to 86 degrees) or in accordance with the manufacturing label of the stock epinephrine auto-injector.

b. A school district or school will designate an employee to routinely check stock epinephrine auto-injectors and document in a log monthly throughout the calendar year for:

(1) The expiration date;

(2) Any visualized particles; or

(3) Color change.

c. The school district or school shall develop a protocol to replace as soon as reasonably possible any logged epinephrine auto-injector that is used, close to expiration, or discolored or has particles visible in the liquid.

14.3(7) *Disposal of used stock epinephrine auto-injectors.* The school district or school that administers epinephrine auto-injectors shall dispose of used cartridge injectors as infectious waste pursuant to the department's medication waste guidance.

14.3(8) *Reporting.* A school district or school that obtains a prescription for stock epinephrine auto-injectors shall report each medication incident with the administration of stock epinephrine, medication error with the administration of stock epinephrine, or the administration of a stock epinephrine auto-injector to the department within 48 hours, using the reporting format approved by the department.

14.3(9) *School district or accredited nonpublic school policy.* A school district or school may stock epinephrine auto-injectors. The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school that stocks epinephrine auto-injectors shall establish a policy

EDUCATION DEPARTMENT[281](cont'd)

and procedure for the administration of a stock epinephrine auto-injector, which shall comply with the minimum requirements of this rule.

14.3(10) Rule of construction. This rule shall not be construed to require school districts or accredited nonpublic schools to maintain a stock of epinephrine auto-injectors. An election not to maintain such a stock shall not be considered to be negligence.

281—14.4(256,280) Severability. If any provisions of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these rules which can be given effect, and to this end the provisions of these rules are declared to be severable.

These rules are intended to implement 2015 Iowa Acts, Senate File 462.

ARC 2182C

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 25, “Pathways for Academic Career and Employment Program; Gap Tuition Assistance Program,” Iowa Administrative Code.

The proposed amendments to Chapter 25 incorporate changes to the Gap Tuition Assistance Program included in 2015 Iowa Acts, House File 658. Changes as a result of 2015 Iowa Acts, House File 658, include modification of the criteria to determine financial need by decreasing the family income requirement from 12 to 6 months and the addition of two provisions which (1) prioritize the provision of assistance to individuals earning income between 150 percent and 250 percent of the federal poverty level and (2) bar individuals eligible from receiving assistance under the Gap Tuition Assistance Program if they are eligible for assistance under the federal Workforce Investment Act and Workforce Innovation and Opportunity Act unless all budgeted funds under these Acts have been fully expended.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments until November 3, 2015, at 4:30 p.m. Comments on the proposed amendments should be directed to Nicole Proesch, Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; e-mail nicole.proesch@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 3, 2015, from 9 to 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of specific needs by calling (515)281-5295.

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

These amendments are intended to implement 2015 Iowa Acts, House File 658.

The following amendments are proposed.

ITEM 1. Amend subparagraph **25.21(1)“a”(1)** as follows:

- (1) The applicant’s family income for the ~~12~~ six months prior to the date of application.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 2. Adopt the following **new** paragraphs **25.21(2)“g”** and **“h”**:

g. Applicants earning incomes between 150 percent and 250 percent, both percentages inclusive, of the federal poverty level as defined by the most recently revised poverty income guidelines published by the U.S. Department of Health and Human Services shall be given first priority for tuition assistance under this chapter. Persons earning incomes below 150 percent of the federal poverty level shall be given secondary priority for tuition assistance under this chapter.

h. An applicant who is eligible for financial assistance pursuant to the federal Workforce Investment Act of 1998, Pub. L. No. 105-220, or the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, shall be ineligible for tuition assistance under this chapter unless such funds budgeted for training assistance for adult, dislocated worker, or youth programs have been fully expended by a workforce region.

ARC 2186C

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 61, “Iowa Reading Research Center,” Iowa Administrative Code.

The Iowa Reading Research Center is charged to adopt program criteria and guidelines for the intensive summer literacy programs required by Iowa Code section 279.68. This amendment contains criteria and guidelines based on the work and recommendations of a multiple-member task team convened by the Center, which examined current practices in Iowa schools and evidence-based research on summer reading acceleration.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested persons may submit comments orally or in writing by November 3, 2015, at 4:30 p.m. Comments on the proposed amendment should be directed to Phil Wise, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4835; e-mail phil.wise@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 3, 2015, 2 to 3 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

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

This amendment is intended to implement Iowa Code sections 256.7(31) and 256.9(53)“c.”

The following amendment is proposed.

Amend rule 281—61.3(256) as follows:

281—61.3(256) Intensive summer literacy program. The center shall establish program criteria and guidelines for implementation of the program by school districts, under rules adopted by the state board of education.

61.3(1) Program criteria. ~~Reserved.~~ Each district’s intensive summer literacy program shall be implemented consistent with 281—Chapter 62 and shall meet the following program criteria.

EDUCATION DEPARTMENT[281](cont'd)

a. Criterion 1. Each district shall adopt instructional practices or programs that have demonstrated success and that include explicit and systematic instruction in foundational reading skills based on student need. To meet this criterion, each district must:

(1) Adopt an instructional program from the department's review of evidence-based early literacy interventions, or

(2) Adopt instructional practices or programs that have been empirically shown to increase student literacy achievement.

b. Criterion 2. Each district shall employ skilled, high-quality instructors or provide instructors with required training, or do both. To meet this criterion, a district must hire instructors whose qualifications and training meet the requirements of the evidence-based intervention chosen. In the absence of specifications from the intervention chosen, a district must hire instructors who, at a minimum, hold a current Iowa teaching license with an endorsement in elementary education or in reading (K-8) or as a reading specialist.

c. Criterion 3. Each district shall allow sufficient time for intensive reading instruction and student learning. To meet this criterion, a district must implement, at a minimum, the total number of hours of instructional time described by the evidenced-based intervention chosen. In the absence of specifications from the intervention chosen, a district must provide a minimum of 75 hours of intensive reading instruction.

d. Criterion 4. Each district shall provide intensive instruction in small classes and small groups. To meet this criterion, a district must employ the same instructional grouping formats described in the evidence-based intervention chosen. In the absence of specifications from the intervention chosen, a district must ensure that it delivers whole-class instruction in class sizes of 15 or fewer students and that it delivers targeted intervention based on student need in small groups of 5 or fewer students. A district may elect to provide class and group sizes smaller than specified in this criterion.

e. Criterion 5. Each district shall monitor and promote student attendance. To meet this criterion, each district must adhere to an attendance policy that requires 90 percent attendance by each student.

f. Criterion 6. Each district shall evaluate student outcomes and program implementation. Evaluation of student outcomes includes attendance data and student achievement data. On a weekly basis, each district shall use the department-approved literacy assessment used during the school year to evaluate student progress toward end-of-third-grade proficiency. Evaluation of program implementation shall align with the district's plan to address reading proficiency in its comprehensive school improvement plan, as required by rule 281—62.9(256,279). Program evaluation shall also include a measure of fidelity in implementing, at a minimum, the following requirements: instructor qualifications, amount of instructional time, group size, attendance data, and progress-monitoring data.

g. Criterion 7. Each district shall identify whether each student successfully completes the program. Each student who successfully completes the program is eligible for promotion to grade four. Each district shall provide to the parents or legal guardians of each student written notice about whether the student successfully completed the program. The notice shall include information about attendance, academic performance, additional or continuing areas of need and whether the child is eligible for promotion. Successful completion shall be defined as meeting either of the following standards:

(1) Consistent attainment of an end-of-third-grade proficiency standard pursuant to paragraph 61.3(1)“f,” or

(2) Attendance at no less than 90 percent of the program's sessions.

h. Criterion 8. Each program shall be under the leadership and supervision of at least one teacher, as described in paragraph 61.3(1)“b,” and at least one appropriately licensed administrator. The two roles may be filled by the same individual. Either the teacher or the administrator shall hold a reading (K-8) endorsement or a reading specialist endorsement. Leadership and supervision under this paragraph shall include monitoring the program for compliance with the program criteria in this subrule.

61.3(2) Guidelines for implementation by school districts. Reserved. The center shall periodically publish guidelines to assist school districts in applying the program criteria contained in subrule 61.3(1) and in improving the performance of intensive summer literacy programs. The center shall make such guidelines available on its Web site.

ARC 2184C**EDUCATION DEPARTMENT[281]****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 256.7(5), the Department of Education hereby gives Notice of Intended Action to amend Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

Chapter 98 outlines the financial management of categorical funding. The proposed amendments to Chapter 98 reflect legislative changes impacting the following: the statewide voluntary four-year-old preschool program, at-risk formula weighting, the returning dropout and dropout prevention program, the management fund, and the physical plant and equipment levy (PPEL) fund. A more detailed explanation of these amendments follows:

Item 1: 2015 Iowa Acts, House File 658, amends Iowa Code section 256C.4 to expand the permissive uses of the administrative funds from preschool foundation aid received by a school district. This amendment provides for these additional allowable uses.

Item 2: This amendment removes an incorrect reference to Chapter 41, which does not deal with special education weighting.

Items 3 and 4: 2015 Iowa Acts, House File 658, amends Iowa Code sections 257.10, 257.11, 257.38, 257.40 and 257.41 to allow greater flexibility and align allowable uses of funds for at-risk programs, alternative programs and alternative schools, and programs for potential or returning dropouts and also incorporates changes included in 2015 Iowa Acts, House File 445, regarding the use of these funds. The amendments in Items 3 and 4 are consistent with these changes to the Iowa Code.

Item 5: 2015 Iowa Acts, House File 515, amends Iowa Code section 298.4 by adding payment of the costs of mediation and arbitration to the allowable uses of the management fund. This amendment provides for this additional allowable use.

Item 6: 2015 Iowa Acts, House File 646, amends language in Iowa Code section 298.3 to allow payment for repair of transportation equipment from the physical plant and equipment levy if the cost of the repair exceeds \$2,500. This amendment reflects this change.

Interested individuals may make written comments on the proposed amendments until 4:30 p.m. on November 3, 2015. Comments on the proposed amendments should be directed to Phil Wise, Administrative Rules Co-Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146; telephone (515)281-4835; e-mail phil.wise@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 3, 2015, from 11 a.m. to 12 noon in the State Board Room, Second Floor, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Education and advise of specific needs by calling (515)281-5295.

An agencywide waiver provision is provided in 281—Chapter 4.

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

These amendments are intended to implement Iowa Code sections 256C.4, 257.10, 257.11, 257.38, 257.40 and 257.41 as amended by 2015 Iowa Acts, House File 658; section 298.3(1)“i” as amended by 2015 Iowa Acts, House File 646; and section 298.4 as amended by 2015 Iowa Acts, House File 515.

The following amendments are proposed.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend rule 281—98.13(256C,257) as follows:

281—98.13(256C,257) Statewide voluntary four-year-old preschool program. The statewide voluntary four-year-old preschool program is a program for a specific category of students. Funding for the program is for the purpose of providing a high-quality early learning environment for four-year-old children whose families choose to access such programs.

98.13(1) *Appropriate uses of categorical funding.* Because the program is specifically instructional, expenditures generally are limited to the functions of instruction, student support services and staff support services, but ~~include expenditures up to 5 percent of the allocation can be used for actual documented costs of program administration, up to 5 percent of the allocation~~ outreach activities, and rent for facilities not owned by the school district.

98.13(2) *Pass-through funding to community-based providers.* The school district shall pass through to a community-based provider for each eligible pupil enrolled in the district's approved local program not less than 95 percent of the per-pupil amount.

a. The community-based provider may use up to ~~5~~ 10 percent of the 95 percent portion for documented allowable administrative and operational costs of providing the district's approved local program. The costs of outreach activities, rent for facilities not owned by the school district, and transportation for children participating in the preschool program are also permissive costs allowed as part of the 10 percent under this paragraph.

b. and c. No change.

98.13(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the statewide voluntary four-year-old preschool program funding include, but are not limited to, indirect costs or use charges, capital expenditures other than equipment, facility acquisition not expressly allowed by the Iowa Code, construction, debt service, operational or maintenance costs or administrative costs that supplant or that exceed 5 percent, or any other expenditures not directly related to providing the statewide voluntary four-year-old preschool program or that supplant existing public funding for preschool programming.

ITEM 2. Amend rule 281—98.17(256B,257) as follows:

281—98.17(256B,257) Special education weighting. Special education weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of students. ~~Further information on the special education program is provided in 281—Chapter 41.~~

ITEM 3. Amend rule 281—98.18(257) as follows:

281—98.18(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program formula supplementary weighting. At-risk formula Formula supplementary weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an students identified group of as at-risk, potential or returning dropouts, and secondary students attending an alternative program or alternative school secondary students pursuant to Iowa Code section 257.11(4)“a.” 257.11(4)“a” as amended by 2015 Iowa Acts, House File 658, section 37.

98.18(1) *Appropriate uses of categorical funding.* Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain programs for at-risk pupils² programs pupils, which may include alternative school programs, and alternative schools for secondary students, and returning dropout and dropout prevention programs. Appropriate uses include, but are not limited to:

a. Salary and benefits for the teacher(s) and guidance counselor(s) of identified students participating in the at-risk or alternative school approved programs when the teacher (or counselor) is dedicated to working providing services directly and exclusively with to the identified students beyond the services provided by the school district to students who are not identified as at risk or as potential or returning dropouts. If the teacher (or counselor) is part-time at-risk serving the program and part-time regular classroom teacher (or counselor), then the portion of time that is related to ~~the at-risk program~~

EDUCATION DEPARTMENT[281](cont'd)

these programs may be charged to the program funding, but the portion of time that is related to the regular classroom shall not.

b. Professional development for all teachers and staff working with ~~at-risk identified students and programs involving intervention strategies~~ under an approved program or in an alternative school setting.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students ~~at-risk~~,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district's approved at-risk or returning dropout and dropout prevention program plan, and
- (4) Will remain with the K through 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

- (1) The child does not require special education.
- (2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.
- (3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.
- (4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

e. Up to 5 percent of the total amount that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4) "a" as amended by 2015 Iowa Acts, House File 658, or as a modified supplemental amount received under Iowa Code section 257.41 as amended by 2015 Iowa Acts, House File 658, may be used in the budget year for purposes of providing districtwide or buildingwide at-risk and dropout prevention programming targeted to nonidentified students.

98.18(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the ~~at-risk~~ formula supplementary weighting program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.18(1), administrative costs other than as allowed in subrule 98.18(1), or any other expenditures not directly related to providing the ~~at-risk or alternative school~~ approved program beyond the scope of the regular classroom program.

ITEM 4. Amend rule 281—98.21(257) as follows:

281—98.21(257) Returning At-risk program, alternative program or alternative school, and potential or returning dropout and dropout prevention program—modified supplemental amount. ~~Returning dropout and dropout prevention programs are funded~~ A modified supplemental amount is available through a school district-initiated request to the school budget review committee ~~for a modified supplemental amount pursuant to Iowa Code sections section 257.38 to as amended by 2015 Iowa Acts, House File 658; section 257.39; and sections 257.40 and 257.41 as amended by 2015 Iowa Acts, House File 658.~~ This amount must account for ~~not no~~ no more than 75 percent of the school district's total at-risk program, alternative program or alternative school, and potential or returning dropout prevention budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total dropout prevention program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the program. The

EDUCATION DEPARTMENT[281](cont'd)

75 percent portion, ~~the~~ local match, previous year carryforward, and all donations and grants shall be accounted for as categorical funding.

98.21(1) *Purpose of categorical funding.* The purpose of the ~~dropout prevention funding~~ modified supplemental amount is to provide funding to meet the needs of identified students ~~at risk of dropping out of school beyond the instructional program and services provided by the regular school program~~ for costs in excess of the amount received under rule 281—98.18(257) pursuant to Iowa Code section 257.11(4) as amended by 2015 Iowa Acts, House File 658. The funding shall be used only for expenditures that are directly related to the ~~returning dropout and dropout prevention~~ district's approved program plan established pursuant to Iowa Code sections 257.38 through 257.41.

a. and b. No change.

98.21(2) *Appropriate uses of categorical funding.* Appropriate uses of the ~~returning dropout and dropout prevention program~~ funding for an approved program include, but are not limited to:

a. Salary and benefits for instructional staff, instructional support staff, and school-based youth services staff ~~who are working with~~ dedicated to providing services directly and exclusively to the identified students who are participating in dropout prevention programs, alternative programs, and alternative schools, in a traditional or alternative setting, if the staff person's time is dedicated to working with returning dropouts or students who are deemed, at any time during the school year, to be at risk of dropping out, in order to provide services the approved program beyond those which are the services provided by the school district to students who are not identified as at risk of ~~becoming~~ or as potential or returning dropouts. However, if the staff person works part-time with students who are participating in ~~returning dropout and dropout prevention programs, alternative programs, and alternative schools~~ the approved program and has another unrelated staff assignment, only the portion of the staff person's time that is related to the ~~returning dropout and dropout prevention program, alternative program, or alternative school~~ program may be charged to the program funding.

For purposes of this paragraph, an alternative setting may be necessary to provide for a program which is offered at a location off school grounds and which is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk of ~~dropping out~~ to accelerate through multiple grade levels of achievement within a shortened time frame.

b. Professional development for all teachers and staff working with ~~at-risk~~ identified students and programs involving dropout prevention strategies under an approved program.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

(1) Meet the needs of K through grade 12 identified students ~~identified as at risk of dropping out and of returning dropouts,~~

(2) Are beyond those provided by the regular school program,

(3) Are necessary to provide the services listed in the school district's approved at-risk or returning dropout and dropout prevention program plan, and

(4) Will remain with the K through grade 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Transportation provided by the school district exclusively to transport identified students to an alternative school or alternative program located in and provided by another Iowa school district.

e. The portion of the maximum tuition allowed by Iowa Code section 282.24 that corresponds to the portion exclusively providing direct additional instruction and services to an identified group of students above the costs of instruction of pupils in a regular curriculum.

f. School-level administrator assigned exclusively to an off-site alternative school or alternative program within the district. If the principal is administering the school or program part-time, ~~then~~ the portion of time that is exclusively and directly related to the program may be charged to the program funding, but the portion of time that is related to other purposes shall not.

g. ~~Up to 5 percent of the total budgeted amount received pursuant to 2012 Iowa Acts, Senate File 451, section 1(1), may be used for purposes of providing districtwide or buildingwide returning dropout and dropout prevention programming targeted to students who are not deemed at risk of dropping out.~~

EDUCATION DEPARTMENT[281](cont'd)

g. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

(1) The child does not require special education.

(2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.

(3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.

(4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

h. Up to 5 percent of the total amount that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4) "a" as amended by 2015 Iowa Acts, House File 658, or as a modified supplemental amount received under Iowa Code section 257.41 may be used in the budget year for purposes of providing districtwide or buildingwide at-risk and dropout prevention programming targeted to nonidentified students.

98.21(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the ~~returning dropout and dropout prevention~~ modified supplemental amount program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.21(2), administrative costs other than those allowed in subrule 98.21(2), expenses related to the routine duties of a school nurse, general support for a school guidance counselor including any activities performed with ~~qualified identified~~ students that are also provided to all students, or any other expenditures not directly related to providing the ~~returning dropout and dropout prevention~~ approved program beyond the scope of the regular classroom.

ITEM 5. Adopt the following **new** paragraph **98.62(2)"i"**:

i. Payment of costs of mediation and arbitration, including but not limited to legal fees associated with such mediation or arbitration, but not including the results of the mediation or arbitration if those costs do not qualify under paragraph 98.62(2) "c" above.

ITEM 6. Amend paragraph **98.64(2)"1"** as follows:

l. Purchase of transportation equipment for transporting students and for repairing such transportation equipment when the cost of the repair exceeds \$2,500. "Repairing," for purposes of this paragraph, means restoring an existing item of transportation equipment to its original condition, as near as may be, after gradual obsolescence of physical and functional use due to wear and tear, corrosion and decay, or partial destruction, and includes maintenance that meets the definition of equipment and repair and the cost of which exceeds \$2,500.

ARC 2187C**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DEPARTMENT[605]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 17A.3, the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 1, “Organization,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 3, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to john.benson@iowa.gov.

Also, there will be a public hearing on November 3, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, 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 relating to hearing or mobility impairments, should contact the Homeland Security and Emergency Management Department and advise of specific needs.

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

These amendments are intended to implement Iowa Code chapter 29C.

The following amendments are proposed.

ITEM 1. Amend rule 605—1.1(29C) as follows:

605—1.1(29C) Description. ~~The homeland security and emergency management division~~ department ~~is a division within the department of public defense~~ is created in Iowa Code chapter 29C.

~~**1.1(1) Director.** The adjutant general, as the director of the department of public defense under the direction and control of the governor, shall have supervisory direction and control of the homeland security and emergency management division and shall be responsible to the governor for the carrying out of the provisions of Iowa Code chapter 29C. In the event of disaster beyond local control, the adjutant general may assume direct operational control over all or any part of the emergency management functions within this state.~~

1.1(2) Administrator. ~~The homeland security and emergency management division~~ department shall be under the management of ~~an administrator~~ a director appointed by the governor. ~~The administrator~~ director shall be vested with the authority to administer homeland security and emergency management affairs in this state and shall be responsible for preparing and executing the homeland security and emergency management programs of this state subject to the direction of the ~~adjutant general~~ governor. ~~The administrator~~ director, upon the direction of the governor and ~~supervisory control of the director of the department of public defense~~, shall: prepare a comprehensive plan and emergency management program for homeland security, disaster preparedness, response, mitigation, recovery, emergency operation, and emergency resource management of this state; make such studies and surveys of the

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

industries, resources and facilities in this state as may be necessary to ascertain the capabilities of the state for disaster recovery, disaster planning and operations, and emergency resource management, and to plan for the most efficient emergency use thereof; provide technical assistance to any local emergency management commission or joint commission requiring such assistance in the development of an emergency management program; and implement planning and training for emergency response teams as mandated by the federal government under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986 42 U.S.C. § 9601 et seq.; ~~the administrator~~ The director, with the approval of the governor ~~and upon recommendation of the adjutant general~~, may employ a deputy administrator and such technical, clerical, stenographic and other personnel and make such expenditures within the appropriation or from other funds made available to the department ~~of public defense~~ for purposes of homeland security and emergency management, as may be necessary to administer the purposes of Iowa Code chapters 29C, 30, and 34A.

ITEM 2. Amend rule 605—1.2(29C), introductory paragraph, as follows:

605—1.2(29C) Definitions. The following definitions are applicable to the homeland security and emergency management ~~division~~ department:

ITEM 3. Amend rule **605—1.2(29C)**, definitions of “Administrator” and “Division,” as follows:

“~~Administrator~~ Director” means the ~~administrator~~ director of the homeland security and emergency management ~~division of the~~ department ~~of public defense~~.

“~~Division~~ Department” means the homeland security and emergency management ~~division of the~~ department ~~of public defense~~.

ARC 2188C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 17A.3, the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 2, “Petitions for Rule Making,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department and to update the physical address of the Department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 3, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to john.benson@iowa.gov.

Also, there will be a public hearing on November 3, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, 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.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

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

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

These amendments are intended to implement Iowa Code chapter 29C.

The following amendment is proposed.

Amend **605—Chapter 2** as follows:

CHAPTER 2
PETITIONS FOR RULE MAKING

605—2.1(17A) Petition for rule making. Any person or agency may file a petition for rule making with the ~~division~~ department at the Homeland Security and Emergency Management ~~Division~~ Department, ~~7105 NW 70th Avenue~~ 7900 Hickman Road, Camp Dodge Building W4 Suite 500, Johnston Windsor Heights, Iowa 50134 50324. A petition is deemed filed when it is received by that office. The ~~division~~ department must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the ~~division~~ department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION <u>DEPARTMENT</u></u>	
Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}
	PETITION FOR RULE MAKING

The petition must provide the following information:

1. No change.
 2. A citation to any law deemed relevant to the ~~division's~~ department's authority to take the action urged or to the desirability of that action.
 3. to 6. No change.
- 2.1(1)** No change.

2.1(2) The homeland security and emergency management ~~division~~ department may deny a petition because it does not substantially conform to the required form.

605—2.2(17A) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The homeland security and emergency management ~~division~~ department may request a brief from the petitioner or from any other person concerning the substance of the petition.

605—2.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the ~~Administrator~~ Director, Homeland Security and Emergency Management ~~Division~~ Department, ~~7105 NW 70th Avenue~~ 7900 Hickman Road, Camp Dodge Building W4 Suite 500, Johnston Windsor Heights, Iowa 50134 50324.

605—2.4(17A) Consideration.

2.4(1) Within 14 days after the filing of a petition, the ~~division~~ department must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the homeland security and emergency management ~~division~~ department must schedule a brief and informal meeting between the petitioner and the ~~division~~ department, a member of the ~~division~~ department, or a member of the staff of the ~~division~~ department to discuss the petition. The homeland security and emergency management ~~division~~ department may request the petitioner to submit additional information or argument concerning the petition. The ~~division~~ department may also solicit comments from any person on the substance of the

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

petition. Also, comments on the substance of the petition may be submitted to the homeland security and emergency management ~~division~~ department by any person.

2.4(2) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the homeland security and emergency management ~~division~~ department must, in writing, deny the petition and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the ~~division~~ department mails or delivers the required notification to petitioner.

2.4(3) Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the ~~division's~~ department's rejection of the petition.

These rules are intended to implement Iowa Code chapter 17A.

ARC 2189C

**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DEPARTMENT[605]**

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 17A.3, the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 3, “Declaratory Orders,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department and to update the physical address of the Department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 3, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to john.benson@iowa.gov.

Also, there will be a public hearing on November 3, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, 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 relating to hearing or mobility impairments, should contact the Homeland Security and Emergency Management Department and advise of specific needs.

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

These amendments are intended to implement Iowa Code chapter 29C.

The following amendment is proposed.

Amend **605—Chapter 3** as follows:

CHAPTER 3
DECLARATORY ORDERS

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

605—3.1(17A) Petition for declaratory order. Any person may file a petition with the homeland security and emergency management ~~division~~ department for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the division department at Homeland Security and Emergency Management ~~Division~~ Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324. A petition is deemed filed when it is received by that office. The division department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the division department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION DEPARTMENT</u>	
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}
PETITION FOR DECLARATORY ORDER	

The petition must provide the following information:

- 1. to 8. No change.

The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed.

605—3.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the homeland security and emergency management ~~division~~ department shall give notice of the petition to all persons not served by the petitioner pursuant to 605—3.6(17A) to whom notice is required by any provision of law. The division department may also give notice to any other persons.

605—3.3(17A) Intervention.

3.3(1) No change.

3.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the homeland security and emergency management ~~division~~ department.

3.3(3) A petition for intervention shall be filed at the Homeland Security and Emergency Management ~~Division~~ Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324. Such a petition is deemed filed when it is received by that office. The division department will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION DEPARTMENT</u>	
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}
PETITION FOR INTERVENTION	

The petition for intervention must provide the following information:

- 1. to 6. No change.

The petition must be dated and signed by the intervenor or the intervenor’s representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor’s representative, and a statement indicating the person to whom communications should be directed.

605—3.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The homeland security and emergency management ~~division~~ department may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

605—3.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the ~~Administrator~~ Director, Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324.

605—3.6(17A) Service and filing of petitions and other papers.

3.6(1) No change.

3.6(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the ~~division~~ department.

3.6(3) No change.

605—3.7(17A) Consideration. Upon request by petitioner, the homeland security and emergency management division department must schedule a brief and informal meeting between the original petitioner, all intervenors, and the ~~division~~ department, a member of the ~~division~~ department, or a member of the staff of the ~~division~~ department, to discuss the questions raised. The ~~division~~ department may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the ~~division~~ department by any person.

605—3.8(17A) Action on petition.

3.8(1) Within the time allowed by Iowa Code section 17A.9(5), after receipt of a petition for a declaratory order, the ~~administrator~~ director or designee shall take action on the petition as required by Iowa Code section 17A.9(5).

3.8(2) No change.

605—3.9(17A) Refusal to issue order.

3.9(1) The homeland security and emergency management division department shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. No change.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the ~~division~~ department to issue an order.
3. The ~~division~~ department does not have jurisdiction over the questions presented in the petition.
4. to 7. No change.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a ~~division~~ department decision already made.
9. No change.
10. The petitioner requests the homeland security and emergency management division department to determine whether a statute is unconstitutional on its face.

3.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final ~~division~~ department action on the petition.

3.9(3) No change.

605—3.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

605—3.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

605—3.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the homeland security and emergency management division department, the petitioner, and any intervenors and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the homeland security and emergency management division department. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapter 17A.

ARC 2190C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 17A.3, the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 4, “Agency Procedure for Rule Making,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department and to update the physical address of the Department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 3, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to john.benson@iowa.gov.

Also, there will be a public hearing on November 3, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, 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 relating to hearing or mobility impairments, should contact the Homeland Security and Emergency Management Department and advise of specific needs.

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

These amendments are intended to implement Iowa Code chapter 17A.

The following amendment is proposed.

Amend **605—Chapter 4** as follows:

CHAPTER 4 AGENCY PROCEDURE FOR RULE MAKING

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

605—4.1(17A) Adoption by reference. The homeland security and emergency management division department hereby adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure, which are found on the general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf> and which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words “(commission, board, council, director)” insert “administrator director”.
 2. In lieu of the words “(specify time period)” insert “one year”.
 3. In lieu of the words “(identify office and address)” insert “Administrator Director, Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324”.
 4. In lieu of the words “(designate office and telephone number)” insert “the administrator director at (515)281 725-3231”.
 5. In lieu of the words “(designate office)” insert “Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324”.
 6. In lieu of the words “(specify the office and address)” insert “Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324”.
 7. In lieu of the words “(agency head)” insert “administrator director”.
- These rules are intended to implement Iowa Code chapter 17A.

ARC 2200C**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 231C.3(1) and 231D.2(2), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 67, “General Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services,” Chapter 69, “Assisted Living Programs,” and Chapter 70, “Adult Day Services,” Iowa Administrative Code.

These proposed amendments are the result of a five-year review of the chapters by the Department. The amendments make the following changes:

- Implement suggestions by the Department of Public Safety, State Fire Marshal Division, related to the submission of blueprints and delayed-egress specialized locking systems; rescind the requirement for minimum square footage of common space in new or remodeled buildings; and rescind the requirement for minimum square footage of operable windows in sleeping rooms.
 - Amend certain definitions and add a definition of “restraints.”
 - Add a provision that tenants have the right to be free from restraints.
 - Add a requirement that medications must be administered as prescribed.
 - Add a requirement that dependent adult abuse training must be provided as required by Iowa Code section 235B.16.
 - Add clarification of requirements for dementia-specific programs by definition.
 - Add a requirement for policies and procedures to address head injuries and certain sexual relationships.
 - Amend the rule for involuntary transfer from an assisted living program.

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

- Add a requirement that service plans updated within 30 days of the tenant's occupancy in an assisted living program must be signed and dated by all parties.
- Amend the nurse review rule in Chapter 69.
- Amend the rule requiring dementia-specific continuing education in assisted living programs.

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

Any interested person may make written suggestions or comments on the proposed amendments on or before November 3, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to David.Werning@dia.iowa.gov.

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

These amendments are intended to implement Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2).

The following amendments are proposed.

ITEM 1. Amend rule **481—67.1(231B,231C,231D)**, definitions of “Impaired decision-making ability” and “Part-time or intermittent care,” as follows:

“*Impaired decision-making ability*” means a lack of capacity to make safe and prudent decisions regarding one’s own routine safety as determined by the program manager or nurse or means having a GDS score of ~~four~~ five or above.

“*Part-time or intermittent care*” means licensed nursing services and professional therapies that are provided ~~no more than 5 days per week; or licensed nursing services and professional therapies that are provided 6 or 7 days per week for a temporary period of time with a predictable end within 21 days; or licensed nursing services and professional therapies that~~ in combination with nurse-delegated assistance with medications or activities of daily living and do not exceed 28 hours per week or, for adult day services, 4 hours per day and are provided in combination with nurse-delegated assistance with medications or activities of daily living.

ITEM 2. Adopt the following **new** definition of “Restraints” in rule **481—67.1(231B,231C,231D)**:

“*Restraints*” means any chemical or manual method which restricts freedom of movement or normal access to one’s body or any physical or mechanical device, material or equipment which is attached or adjacent to the tenant’s body that the tenant cannot remove easily and which restricts freedom of movement or normal access to one’s body.

ITEM 3. Adopt the following **new** subrule 67.3(9):

67.3(9) To be free from restraints.

ITEM 4. Adopt the following **new** paragraph **67.5(6)“d”**:

d. Medications shall be administered as prescribed by the tenant’s physician, advanced registered nurse practitioner or physician assistant.

ITEM 5. Adopt the following **new** subrule 67.7(5):

67.7(5) Appeals. The denial of a waiver request may be appealed by the program pursuant to Iowa Code chapter 17A.

ITEM 6. Adopt the following **new** subrule 67.9(6):

67.9(6) Dependent adult abuse training. Program staff shall receive training relating to the identification and reporting of dependent adult abuse as required by Iowa Code section 235B.16.

ITEM 7. Amend rule **481—69.1(231C)**, definition of “Dwelling unit,” as follows:

“*Dwelling unit*” means ~~an apartment, group of rooms or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building, and which has direct access from the outside of the building or through a common hall~~ a single unit which provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping and

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

sanitation, and which may include permanent provisions for eating and cooking. "Sanitation" for purposes of this definition means bathroom fixtures as required by this chapter.

ITEM 8. Amend subrule 69.2(2) as follows:

69.2(2) *Dementia-specific programs and door alarms.* If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings, the program shall meet all requirements for a dementia-specific program, including the requirements set forth in rule 481—69.30(231C), subrules 69.29(2) and 69.29(4), paragraph 69.35(1)“d,” and ~~subrule~~ subrules 69.32(2) and 69.32(3), which includes include the requirements relating to door alarms and specialized locking systems.

ITEM 9. Adopt the following **new** subrule 69.2(3):

69.2(3) *Dementia-specific program by definition.* If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings based on the number of tenants served who have dementia between Stages 4 and 7 on the Global Deterioration Scale, the program shall be deemed a dementia-specific program by definition. If the number of tenants served who have dementia between Stages 4 and 7 on the Global Deterioration Scale goes below that which is required by the definition of dementia-specific program at any time after the program has been deemed dementia-specific by definition and the program is not holding itself out as providing dementia care in a specialized setting, the program will no longer be considered dementia-specific.

ITEM 10. Amend subrule 69.4(7) as follows:

69.4(7) The policy and procedure for accidents and emergency response, including provisions related to head injuries.

ITEM 11. Adopt the following **new** subrule 69.4(20):

69.4(20) The policy and procedure for addressing sexual relationships between tenants and staff or between tenants with dementia greater than Stage 5 on the Global Deterioration Scale.

ITEM 12. Amend paragraph **69.9(1)“d”** as follows:

d. Maintain compliance with life safety requirements pursuant to this chapter the state fire marshal division’s requirements.

ITEM 13. Amend rule 481—69.18(231C) as follows:

481—69.18(231C) Structural and life safety Plan reviews of a building for a new program.

69.18(1) Before a building is constructed or remodeled for use in a new program, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.18(2) A program applicant shall submit ~~to the department~~ blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.18(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

69.18(4) The state fire marshal division of the department of public safety shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

69.18(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety to state how any noncompliance will be resolved.

69.18(6) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet ~~structural and life safety~~ the state fire marshal division’s requirements, construction or remodeling of the building may commence.

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

69.18(7) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

ITEM 14. Amend rule 481—69.19(231C) as follows:

481—69.19(231C) ~~Structural and life safety~~ Plan review prior to the remodeling of a building for a certified program.

69.19(1) Before a building for a certified program is remodeled, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements set forth in rule 481—69.35(231C). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.19(2) A certified program shall submit ~~to the department~~ blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.19(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

~~**69.19(4)** The department shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.~~

~~**69.19(5)** The Iowa-licensed architect or Iowa-licensed engineer shall respond to the department in 20 working days to state how any noncompliance will be resolved.~~

~~**69.19(6)**~~ **69.19(4)** Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

~~**69.19(7)**~~ **69.19(5)** The state fire marshal division of the department of public safety shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

ITEM 15. Amend subrule 69.20(1) as follows:

69.20(1) If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program's certification, the program shall submit the certificate to the department. ~~The program shall provide, at At least 90 days in advance of cessation, which includes seeking decertification, unless there is some type of emergency, written notification or decertification, the program shall provide to the department and the tenant-advocate office of long-term care ombudsman written notification of the date on which the program will cease operation, which includes seeking decertification or decertify.~~

ITEM 16. Amend subrule 69.20(2) as follows:

69.20(2) If a certified program plans to cease operation, which includes seeking decertification, at the time the program's certification expires, the program shall provide written notice of this fact to the department and the ~~tenant-advocate~~ office of long-term care ombudsman at least 90 days prior to expiration of the certification.

ITEM 17. Amend subrule 69.20(6) as follows:

69.20(6) When a program ceases operation, which includes seeking decertification, ~~tenant-advocates~~ representatives from the office of long-term care ombudsman shall be allowed by the program to privately meet with tenants to provide education and service options.

ITEM 18. Amend paragraph **69.21(2)“b”** as follows:

b. The telephone number for the office of the ~~tenant-advocate~~ long-term care ombudsman.

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

ITEM 19. Amend paragraph **69.23(1)“i”** as follows:

i. Requires maximal assistance with activities of daily living; or

ITEM 20. Adopt the following **new** paragraph **69.23(1)“j”**:

j. Despite intervention, chronically urinates or defecates in places that are not considered acceptable according to societal norms, such as on the floor or in a potted plant.

ITEM 21. Amend rule 481—69.24(231C) as follows:

481—69.24(231C) Involuntary transfer from the program.

69.24(1) Program initiation of transfer. If a program initiates the involuntary transfer of a tenant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the tenant or tenant’s legal representative contests the transfer, the following procedures shall apply:

a. The program shall notify the tenant or tenant’s legal representative, in accordance with the occupancy agreement, of the need to transfer the tenant and of the reason for the transfer and shall include the contact information for the ~~tenant advocate~~ office of long-term care ombudsman.

b. The program shall immediately provide to the ~~tenant advocate~~ office of long-term care ombudsman, by certified mail, a copy of the notification and notify the tenant’s treating physician, if any.

c. Pursuant to statute, the ~~tenant advocate~~ office of long-term care ombudsman shall offer the notified tenant or tenant’s legal representative assistance with the program’s internal appeal process. The tenant or tenant’s legal representative is not required to accept the assistance of the ~~tenant advocate~~ office of long-term care ombudsman.

d. If, following the internal appeal process, the program upholds the transfer decision, the tenant or tenant’s legal representative may utilize other remedies authorized by law to contest the transfer.

69.24(2) Transfer pursuant to results of monitoring or complaint or program-reported incident investigation by the department. If one or more tenants are identified as exceeding the admission and retention criteria for tenants and need to be transferred as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

~~*a.* Notification of the program. Within 20 working days of the monitoring or complaint or program-reported incident investigation, the department shall notify the program, in writing, of the identification of any tenant who exceeds admission and retention criteria.~~

~~*b.* Notification of others. Each identified tenant, the tenant’s legal representative, if applicable, and other providers of services to the tenant shall be notified of their opportunity to provide responses including: specific input, written comment, information, and documentation directly addressing any agreement or disagreement with the identification. All responses shall be provided to the department within 10 days of receipt of the notice.~~

~~*e.* *a.* Program agreement with the department’s finding. If the program agrees with the department’s finding and the program begins involuntary transfer proceedings, the program’s internal appeal process in subrule 69.24(1) shall be utilized for appeals.~~

~~*b.* Program disagreement with the department’s finding. If the program does not agree with the department’s finding that the tenant exceeds admission and retention criteria, the program may collect and submit all responses to the department, including those from other interested parties appeal the department’s final report as provided in rule 481—67.14(17A,231B,231C,231D,85GA,HF2365). In the program’s response, the program shall identify the tenant, list the known responses from others, and note the program’s agreement or disagreement with the responses from others. The program’s response shall be submitted to the department within 10 working days of the receipt of the notice. Submission of a response does not eliminate the applicable requirements, including submission of a plan of correction under 481—subrule 67.10(5). Other persons may also submit information directly to the department.~~

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

~~(1) Consideration of response. Within 10 working days of receipt of the program's response for each identified tenant, the department shall consider the response and make a final finding regarding the continued retention of a tenant.~~

~~(2) Amending the regulatory insufficiency. If the department's determination is to amend the regulatory insufficiency based on the response, the department shall modify the report of findings.~~

~~(3) Retaining regulatory insufficiency. If the department retains the regulatory insufficiency, the department shall review the plan of correction in accordance with this chapter and 481—Chapter 67. The department shall notify the program of the opportunity to appeal the report findings as they relate to the admission and retention decision. In addition, the department shall provide to the tenant or the tenant's legal representative the contact information for the tenant advocate. A copy of the final report shall also be sent to the tenant advocate.~~

~~(4) Effect of the filing of an appeal. If an appeal is filed, the tenant who exceeds admission and retention criteria shall be allowed to continue living at the program until all administrative appeals have been exhausted. Appeals filed that relate to the tenant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the tenant's needs shall be provided during that period of time.~~

~~(5) *c.* Request for waiver of criteria for retention of a tenant in a program. To allow a tenant to remain in the program, the program may request a waiver of criteria for retention of a tenant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.~~

ITEM 22. Adopt the following new paragraph **69.26(3)“d”**:

d. The service plan updated within 30 days of the tenant's occupancy shall be signed and dated by all parties.

ITEM 23. Amend paragraph **69.26(4)“d”** as follows:

d. For tenants who are unable to plan their own activities, including tenants with dementia, a list of person-centered planned and spontaneous activities based on the tenant's abilities and personal interests; and

ITEM 24. Amend rule 481—69.27(231C) as follows:

481—69.27(231C) Nurse review.

69.27(1) If a tenant does not receive personal or health-related care, but an observed significant change in the tenant's condition occurs, a nurse review shall be conducted. If a tenant receives personal or health-related care, the program shall provide for a registered nurse ~~or a licensed practical nurse via nurse delegation~~:

69.27(1) a. To monitor, at least every 90 days, or after a significant change in the tenant's condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

69.27(2) b. To ensure that health care professionals' orders are current for tenants who receive health care professional-directed care from the program; and

69.27(3) c. To assess and document the health status of each tenant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the tenant's health status; and

69.27(4) d. To provide the program with written documentation of the ~~activities under the service plan, as set forth in rule 481—69.26(231C)~~ nurse review, showing the time, date and signature.

69.27(2) A licensed practical nurse via nurse delegation may complete the tasks required by this rule, except when a tenant experiences a significant change in condition.

NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a tenant, nurse review is not required.

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

ITEM 25. Amend subparagraph **69.28(5)“a”(3)** as follows:

(3) Successfully completing a ~~course~~ an ANSI-accredited certified food protection manager program meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another ~~course~~ program may be substituted if the ~~course's~~ program's curriculum includes substantially similar competencies to a ~~course~~ program that meets the requirements of the Food Code and the provider of the ~~course~~ program files with the department a statement indicating that the ~~course~~ program provides substantially similar instruction as it relates to sanitation and safe food handling.

ITEM 26. Amend subrule 69.29(4) as follows:

69.29(4) ~~A dementia-specific~~ An assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant's service plan. The staff shall be awake and on duty 24 hours a day on site and in the proximate area. The staff shall check on tenants as indicated in the tenants' service plans.

ITEM 27. Amend subrule 69.30(3) as follows:

69.30(3) ~~All~~ Dementia-specific continuing education.

a. Except as otherwise provided in this subrule, all personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually.

b. Direct-contact personnel employed by or contracting with a dementia-specific program or employed by a contracting agency providing staff to a dementia-specific program shall receive a minimum of eight hours of dementia-specific continuing education annually.

c. Contracted personnel who have no contact with tenants (e.g., persons providing lawn maintenance or snow removal) are not required to receive the two hours of training required in paragraph "a."

d. The contracting agency may provide the program with documentation of dementia-specific continuing education that meets the requirements of this subrule.

ITEM 28. Amend subrule 69.32(2) as follows:

69.32(2) ~~An operating alarm system shall be connected to each exit door in a dementia-specific program. A program serving a person(s) with cognitive disorder or dementia, whether in a general or dementia-specific setting, shall have:~~

~~a. Written procedures regarding alarm systems and appropriate staff response when a tenant's service plan indicates a risk of elopement or a tenant exhibits wandering behavior.~~

~~b. Written procedures regarding appropriate staff response if a tenant with cognitive disorder or dementia is missing.~~

ITEM 29. Renumber subrules **69.32(3)** and **69.32(4)** as **69.32(5)** and **69.32(6)**.

ITEM 30. Adopt the following **new** subrule 69.32(3):

69.32(3) The program shall obtain approval from the state fire marshal division of the department of public safety before the installation of any delayed-egress specialized locking systems.

ITEM 31. Adopt the following **new** subrule 69.32(4):

69.32(4) A program serving a person(s) with cognitive disorder or dementia shall have:

a. Written procedures regarding alarm systems, if an alarm system is in place.

b. Written procedures regarding appropriate staff response when a tenant's service plan indicates a risk of elopement or when a tenant exhibits wandering behavior.

c. Written procedures regarding appropriate staff response if a tenant with cognitive disorder or dementia is missing.

ITEM 32. Amend paragraph **69.35(1)“e”** as follows:

e. The structure in which a program is housed shall ~~be built, at a minimum, of Type V (111) construction as provided in Section 22.3.1.3.3 and Sections 6.2.1A to 6.2.2 of NFPA 101, Life Safety Code, 2003 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy,~~

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

~~Massachusetts 02169-7471, or as required in~~ comply with the administrative rules promulgated by the state fire marshal.

ITEM 33. Rescind paragraph **69.35(3)“e.”**

ITEM 34. Reletter paragraph **69.35(3)“f”** as **69.35(3)“e.”**

ITEM 35. Rescind paragraphs **69.35(4)“d”** and **“f.”**

ITEM 36. Reletter paragraph **69.35(4)“e”** as **69.35(4)“d.”**

ITEM 37. Amend paragraph **70.9(1)“c”** as follows:

c. Apply for certification or recertification within 90 calendar days following verification of compliance with ~~life safety~~ the requirements of the state fire marshal division of the department of public safety pursuant to this chapter.

ITEM 38. Rescind paragraph **70.9(1)“d.”**

ITEM 39. Reletter paragraph **70.9(1)“e”** as **70.9(1)“d.”**

ITEM 40. Amend rule 481—70.18(231D) as follows:

481—70.18(231D) Structural and life safety Plan reviews of a building for a new program.

70.18(1) Before a building is constructed or remodeled for use in a new program, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

70.18(2) A program applicant shall submit ~~to the department~~ blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

70.18(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

70.18(4) The state fire marshal division of the department of public safety shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

70.18(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety to state how any noncompliance will be resolved.

70.18(6) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, construction or remodeling of the building may commence.

70.18(7) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

ITEM 41. Amend rule 481—70.19(231D) as follows:

481—70.19(231D) Structural and life safety Plan review prior to the remodeling of a building for a certified program.

70.19(1) Before a building for a certified program is remodeled, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements set forth in rule 481—70.35(231D). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

70.19(2) A certified program shall submit ~~to the department~~ blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa

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

Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

70.19(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

70.19(4) The state fire marshal division of the department of public safety shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

70.19(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety in 20 working days to state how any noncompliance will be resolved.

70.19(6) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

70.19(7) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

ITEM 42. Amend subparagraph **70.28(5)“a”(3)** as follows:

(3) Successfully completing a ~~course~~ an ANSI-accredited certified food protection manager program meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another ~~course~~ program may be substituted if the ~~course's~~ program's curriculum includes substantially similar competencies to a ~~course~~ program that meets the requirements of the Food Code and the provider of the ~~course~~ program files with the department a statement indicating that the ~~course~~ program provides substantially similar instruction as it relates to sanitation and safe food handling.

ITEM 43. Adopt the following new paragraph **70.32(2)“c”**:

c. The program shall obtain approval from the state fire marshal division before the installation of any delayed-egress specialized locking systems.

ITEM 44. Amend subrule 70.35(10) as follows:

70.35(10) The program shall meet other building and public safety codes, including:

~~a. The Americans with Disabilities Act.~~

~~b. Applicable regulations of the Occupational Safety and Health Administration.~~

~~e. Rules~~ rules pertaining to accessibility contained in the state building code in 661—Chapter 302 and provisions of the state building code relating to persons with disabilities.

~~d. Other applicable provisions of the state building code and local building codes.~~

ARC 2201C

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 507B.12 and 514G.11, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code.

These amendments are proposed to implement Iowa Code chapters 507B and 514G and to make rule 191—15.32(507B) be in accordance with 2015 Iowa Acts, House File 632, section 21. Iowa

INSURANCE DIVISION[191](cont'd)

Code chapter 507B regulates trade practices in the business of insurance in Iowa and authorizes the Iowa Insurance Commissioner to adopt rules as are necessary or proper to identify specific methods of competition or acts or practices which are prohibited by Iowa Code chapter 507B. Iowa Code chapter 514G regulates long-term care insurance and authorizes the Iowa Insurance Commissioner to adopt rules related to long-term care insurance, including ensuring the prompt payment of clean claims.

The proposed amendments to Chapter 15 remove the exemption for long-term care insurance from the requirements for the prompt payment of health claims under rule 191—15.32(507B) so that the rule will be in accordance with 2015 Iowa Acts, House File 632, section 21, which amends Iowa Code section 514G.102 to make the requirements of Iowa Code chapter 514G related to prompt payment of claims and the payment of interest apply to all long-term care insurance policies. Also, these amendments update the Division's Web site address in two places in Chapter 15.

The Division intends that these amendments shall go into effect January 13, 2016.

Any interested person may make written suggestions or comments on these proposed amendments on or before November 3, 2015. Such written materials should be directed to Becky Blum, Iowa Insurance Division, Product and Producer Regulation, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319; fax (515)281-8245; e-mail becky.blum@iid.iowa.gov.

Also, there will be a public hearing on November 3, 2015, at 10 a.m. at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, 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 relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

The Insurance Division's general waiver provisions of 191—Chapter 4 apply to these rules.

These rules will impose no fiscal impact on the State.

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

These amendments are intended to implement Iowa Code chapters 507B and 514G.

The following amendments are proposed.

ITEM 1. Amend subrule 15.32(3) as follows:

15.32(3) *Certain insurance products exempt.* Claims paid under the following insurance products are exempt from the provisions of this subrule: liability insurance, workers' compensation or similar insurance, automobile or homeowners insurance, medical payment insurance, or disability income insurance, ~~or long-term care insurance.~~

ITEM 2. Amend rule **191—15.32(507B)**, implementation sentence, as follows:

This rule is intended to implement ~~2001 Iowa Acts, chapter 69, section 8, and Iowa Code section 507B.4 as amended by 2001 Iowa Acts, chapter 69~~ sections 507B.4A and 514G.111 and 2015 Iowa Acts, House File 632, section 21.

ITEM 3. Amend subrule 15.83(1) as follows:

15.83(1) The indexed products training shall include information on all topics listed in the most recent version of the indexed products training outline available at the division's Web site, ~~www.iid.state.ia.us~~ www.iid.iowa.gov.

ITEM 4. Amend rule 191—15.85(507B,522B) as follows:

191—15.85(507B,522B) Verification of training. Insurers, producers and third-party contractors may verify a producer's completion of the indexed products training by accessing the division's Web site at ~~www.iid.state.ia.us~~ www.iid.iowa.gov.

ARC 2181C

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 505.8 and 2015 Iowa Acts, House File 455, section 4, the Insurance Division hereby gives Notice of Intended Action to adopt new Chapter 111, “Corporate Governance Annual Disclosure,” Iowa Administrative Code.

The purpose of these rules is to set forth the procedural requirements and the required contents of the corporate governance annual disclosure to implement the provisions of 2015 Iowa Acts, House File 445, sections 1 to 8. The actions and information required by these rules are necessary and appropriate to the public interest and for the protection of insurers doing business in this state. The rules outline the requirements for an insurer or insurance group to complete a corporate governance annual disclosure for submission to the Commissioner. The Division intends that insurance companies shall comply with these rules beginning January 1, 2016.

Any interested person may make written comments on or before November 3, 2015. Written comments may be sent to Bob Koppin, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to Robert.Koppin@iowa.gov or via facsimile to (515)281-3059.

A public hearing will be held on November 4, 2015, at 10 a.m. in the Conference Room 4 North of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views 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 rules.

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

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

These rules are intended to implement 2015 Iowa Acts, House File 455 [Iowa Code chapter 521H].

The following amendment is proposed.

Adopt the following **new** 191—Chapter 111:

CHAPTER 111

CORPORATE GOVERNANCE ANNUAL DISCLOSURE

191—111.1(86GA, HF455) Purpose. The purpose of this chapter is to implement 2015 Iowa Acts, House File 455, and set forth the procedures for filing and the required contents of the corporate governance annual disclosure.

191—111.2(86GA, HF455) Authority. This chapter is promulgated pursuant to the authority vested in the commissioner under 2015 Iowa Acts, House File 455, section 4, in accordance with the procedures set forth in Iowa Code chapter 17A.

191—111.3(86GA, HF455) Definitions. For the purpose of these rules, the terms “commissioner,” “corporate governance annual disclosure,” “disclosure,” “insurance group,” “insurance holding company system,” and “insurer” shall have the meanings set forth in 2015 Iowa Acts, House File 455, section 2. In addition, the following definition shall apply:

“*Senior management*” means any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and includes,

INSURANCE DIVISION[191](cont'd)

but is not limited to, the chief executive officer, chief financial officer, chief operations officer, chief procurement officer, chief legal officer, chief information officer, chief technology officer, chief revenue officer, chief visionary officer, or any other senior level executive.

191—111.4(86GA, HF455) Filing procedures.

111.4(1) An insurer, or the insurance group of which the insurer is a member, required to file a corporate governance annual disclosure by 2015 Iowa Acts, House File 455, section 3, shall no later than June 1 of each calendar year submit to the commissioner a corporate governance annual disclosure that contains the information described in rule 191—111.5(86GA, HF455).

111.4(2) The corporate governance annual disclosure must include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the corporate governance annual disclosure has been provided to the insurer's or insurance group's board of directors or the appropriate committee thereof.

111.4(3) The insurer or insurance group shall have discretion regarding the appropriate format for providing the information required by these rules and is permitted to customize the corporate governance annual disclosure to provide the most relevant information necessary to permit the commissioner to gain an understanding of the corporate governance structure and of the policies and practices utilized by the insurer or insurance group.

111.4(4) For purposes of completing the corporate governance annual disclosure, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the corporate governance annual disclosure at the level at which the insurer's or insurance group's risk appetite is determined, or the level at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which one of the three criteria was used to determine the level of reporting and explain any subsequent changes in the level of reporting.

111.4(5) If the corporate governance annual disclosure is completed at the insurance group level, then it must be filed with the lead state of the group as determined by the procedures outlined in the most recent financial analysis handbook adopted by the National Association of Insurance Commissioners. In this instance, a copy of the corporate governance annual disclosure must also, upon request, be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer.

111.4(6) An insurer or insurance group may comply with this rule by referencing the most recently filed version of other existing documents including, but not limited to, own risk and solvency assessment summary report, insurance holding company system annual registration report (Form B), enterprise risk report (Form F), Securities and Exchange Commission proxy statements, and foreign regulatory reporting requirements if the documents provide information that is comparable to the information described in rule 191—111.5(86GA, HF455). The insurer or insurance group shall clearly reference within the corporate governance annual disclosure the location of the relevant information and attach the reference document if it is not already filed or available to the regulator.

111.4(7) Each year following the initial filing of the corporate governance annual disclosure, the insurer or insurance group shall file an amended version of the previously filed corporate governance annual disclosure indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing should so state.

191—111.5(86GA, HF455) Contents of corporate governance annual disclosure.

111.5(1) The insurer or insurance group shall be as descriptive as possible in completing the corporate governance annual disclosure, with inclusion of attachments or example documents that are

INSURANCE DIVISION[191](cont'd)

used in the governance process since these may provide a means to demonstrate the strengths of the insurer's or insurance group's governance framework and practices.

111.5(2) The corporate governance annual disclosure shall describe the insurer's or insurance group's corporate governance framework and structure, including consideration of the following:

a. The board of directors and committees thereof ultimately responsible for overseeing the insurer or insurance group and the level or levels at which that oversight occurs. The insurer or insurance group shall describe and discuss the rationale for the current board of directors' size and structure; and

b. The duties of the board of directors and each of its significant committees and how they are governed, which may include bylaws, charters, or informal mandates as well as how the board of directors' leadership is structured and a discussion of the roles of the chief executive officer and chairperson of the board of directors within the organization.

111.5(3) The insurer or insurance group shall describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors:

a. How the qualifications, expertise and experience of each board of directors member meet the needs of the insurer or insurance group.

b. How an appropriate amount of independence is maintained on the board of directors and its significant committees.

c. The number of meetings held by the board of directors and its significant committees over the past year as well as information on director attendance.

d. How the insurer or insurance group identifies, nominates and elects members to the board of directors and its committees. The discussion should include, for example:

- (1) Whether a nomination committee is in place to identify and select individuals for consideration.
- (2) Whether term limits are placed on directors.
- (3) How the election and reelection processes function.
- (4) Whether a board of directors diversity policy is in place and, if so, how it functions.

e. The processes in place for the board of directors to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance, including any board of directors or committee training programs that have been put in place.

111.5(4) The insurer or insurance group shall describe the policies and practices for directing senior management, including a description of the following factors:

a. Any processes or practices such as suitability standards to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including:

(1) Identification of the specific positions for which suitability standards have been developed and a description of the standards employed.

(2) Any changes in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes.

b. The insurer's or insurance group's code of business conduct and ethics, the discussion of which should consider, for example:

- (1) Compliance with laws, rules, and regulations; and
- (2) Proactive reporting of any illegal or unethical behavior.

c. The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description shall include sufficient detail to allow the commissioner to understand how the organization ensures that compensation programs do not encourage or reward excessive risk taking. Elements to be discussed may include, but are not limited to, the following:

(1) The role of the board of directors in overseeing management compensation programs and practices.

(2) The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid.

INSURANCE DIVISION[191](cont'd)

(3) How compensation programs are related to both company and individual performance over time.

(4) Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels.

(5) Any clawback provisions built into the compensation programs to recover awards or payments if the performance measures upon which the clawback provisions are based are restated or otherwise adjusted.

(6) Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees.

d. The insurer's or insurance group's plans for chief executive officer and senior management succession.

111.5(5) The insurer or insurance group shall describe the processes by which the board of directors, its committees and senior management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's or insurance group's business activities, including a discussion of:

a. How oversight and management responsibilities are delegated among the board of directors, its committees and senior management.

b. How the board of directors is kept informed of the insurer's or insurance group's strategic plans, the associated risks, and steps that senior management is taking to monitor and manage those risks.

c. How reporting responsibilities are organized for each critical risk area. The description should allow the commissioner to understand the frequency at which information on each critical risk area is reported to and reviewed by senior management and the board of directors. This description may include, but is not limited to, the following critical risk areas of the insurer:

(1) Risk management processes (An own risk and solvency assessment summary report filer may refer to the filer's own risk and solvency assessment summary report prepared pursuant to Iowa Code chapter 522);

(2) Actuarial function;

(3) Investment decision-making processes;

(4) Reinsurance decision-making processes;

(5) Business strategy and finance decision-making processes;

(6) Compliance function;

(7) Financial reporting and internal auditing; and

(8) Market conduct decision-making processes.

These rules are intended to implement 2015 Iowa Acts, House File 455 [Iowa Code chapter 521H].

ARC 2203C**MEDICINE BOARD[653]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Medicine hereby proposes to amend Chapter 9, “Permanent Physician Licensure,” Iowa Administrative Code.

The purpose of Chapter 9 is to establish requirements for the licensure of medical physicians and osteopathic physicians. The proposed amendments implement 2015 Iowa Acts, Senate File 276, which was signed into law on April 17, 2015, and became effective July 1, 2015. The amendments define “relinquishment” and declare that a person's permanent license to practice medicine and surgery,

MEDICINE BOARD[653](cont'd)

osteopathic medicine and surgery, or administrative medicine shall be deemed relinquished if the person fails to apply for renewal or reinstatement of the license within five years after its expiration.

The Board approved this Notice of Intended Action during a regularly scheduled meeting on August 28, 2015.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on November 10, 2015. Such written materials should be sent to Mark Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by e-mail to mark.bowden@iowa.gov.

There will be a public hearing on November 10, 2015, at 11 a.m. in the Board's office, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

After analysis and review of this rule making, it has been determined that these amendments will have no impact on jobs in Iowa.

These amendments are intended to implement Iowa Code chapters 147, 148 and 272C.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition in rule **653—9.1(147,148)**:

“Relinquishment” means that a person's permanent license to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine is deemed abandoned if the person fails to renew or reinstate the license within five years after its expiration. A license that has been relinquished is no longer valid or renewable. Relinquishment is not disciplinary in nature.

ITEM 2. Adopt the following **new** rule 653—9.19(147,148):

653—9.19(147,148) Relinquishment of license to practice. A person's permanent license to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine shall be deemed relinquished if the person fails to apply for renewal or reinstatement of the license within five years after its expiration.

9.19(1) A license shall not be reinstated, reissued, or restored once it is relinquished. The person may apply for a new license pursuant to Iowa Code sections 148.3 and 148.11 and 653—Chapters 9 and 10.

9.19(2) The relinquishment of license may be stayed if, at the date of relinquishment, there is an active:

- a. Evaluation order pursuant to Iowa Code section 272C.9(1) and rule 653—24.4(272);
 - b. Combined statement of charges and settlement agreement pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and rule 653—25.3(17A);
 - c. Statement of charges pursuant to Iowa Code section 17A.12(2) and rule 653—25.4(17A);
 - d. Settlement agreement pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and rule 653—25.17(272C);
 - e. Final decision pursuant to Iowa Code sections 17A.12 and 272C.6 and rule 653—25.24(17A);
- or
- f. Application for reinstatement of the license pursuant to rule 653—9.15(147,148) or 653—9.16(147,148).

ARC 2191C

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

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 20.6(5), the Public Employment Relations Board hereby gives Notice of Intended Action to amend Chapter 6, “Negotiations and Negotiability Disputes,” Iowa Administrative Code.

Item 1 reflects amendments to the existing rule regarding scope of negotiations. The amendments have been identified in the Board’s ongoing review of its administrative rules.

Item 2 reflects amendments to the existing rule regarding negotiability disputes. The amendments have been identified in the Board’s ongoing review of its administrative rules and include a reorganization of current language, which has been moved to newly titled subrules. The amendments include the addition of specific information required for a petition for resolution of a negotiability dispute filed with the agency and clarify that the proposal at issue must be one which has been made during the course of collective bargaining. The amendments eliminate the option by which parties may request that arbitrators file petitions for the resolution of negotiability disputes raised at arbitrations but retain current language requiring the objecting party to file the petition.

Item 3 reflects nonsubstantive amendments to the existing rule regarding acceptance of agreements. The amendments have been identified in the Board’s ongoing review of its administrative rules and include a reorganization of current language, which has been moved to newly titled subrules.

Item 4 reflects nonsubstantive amendments to the existing rule regarding the filing of agreements. The amendments have been identified in the Board’s ongoing review of its administrative rules and include the elimination of the requirement that paper copies of collective bargaining agreements be submitted to the agency.

These rules do not provide for a waiver of their terms but are instead subject to the agency’s general waiver provisions found at rule 621—1.9(17A,20).

Any interested person may make written suggestions or comments on the proposed amendments on or before November 3, 2015. Written suggestions or comments should be directed to Michael G. Cormack, Chairperson, Public Employment Relations Board, 510 E. 12th Street, Des Moines, Iowa 50319; or e-mailed to Mike.Cormack@iowa.gov.

Persons who wish to convey their views orally should contact the office of the Public Employment Relations Board by telephone at (515)281-4414 or in person at the Board’s office at the address noted above.

Requests for a public hearing must be received by November 3, 2015.

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

These amendments are intended to implement Iowa Code chapter 20.

The following amendments are proposed.

ITEM 1. Amend rule 621—6.1(20) as follows:

621—6.1(20) Scope of negotiations. The scope of negotiations shall ~~be~~ include the mandatory subjects of collective bargaining as provided in Iowa Code section 20.9. “Permissive” matters are all other subjects upon which bargaining is not prohibited. Either party may introduce ~~other, nonmandatory permissive matters for negotiation, and negotiation on these matters may continue until resolved by mutual agreement of the parties or until negotiations reach the arbitration stage of impasse; provided,~~ however, ~~that~~ no party may be is required to negotiate on ~~nonmandatory permissive~~ permissive subjects of

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

bargaining. Unresolved ~~nonmandatory~~ permissive matters shall be excluded from arbitration unless submission of the matter has been mutually agreed upon by the parties. Such an agreement is applicable only to negotiations toward the collective bargaining agreement then sought and is not binding upon the parties for future negotiations.

ITEM 2. Amend rule 621—6.3(20) as follows:

621—6.3(20) Negotiability disputes.

6.3(1) *Defined.* ~~A “Negotiability negotiability dispute” is a dispute arising in good faith during the course of collective bargaining as to whether a proposal made during bargaining is a mandatory, permissive, or prohibited subject to of collective bargaining under Iowa Code section 20.9 or whether a proposal which is subject to collective bargaining under Iowa Code section 20.9 is a mandatory topic of bargaining.~~

6.3(2) *Expedited Petitions for expedited resolution.*

a. ~~In the event that a negotiability dispute arises between the employer and the certified employee organization, either party may petition the agency for expedited resolution of the dispute. The petition shall be filed and set forth the material facts of the dispute and the precise question of negotiability submitted for resolution. following:~~

- ~~(1) The name and address of the petitioner and the name, address, telephone number, and e-mail address of the petitioner’s representative;~~
- ~~(2) The name and address of the respondent and the name, address, telephone number, and e-mail address of the respondent’s representative;~~
- ~~(3) The material facts of the dispute; and~~
- ~~(4) The verbatim text of the proposal at issue.~~

b. ~~The petitioner shall promptly serve the other party with a copy of the petition and file proof thereof with the agency in accordance with 621—subrules 2.15(3) and 16.10(1). Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing shall be upon written objection to the submission of the proposal to the arbitrator. The objection shall request the arbitrator to seek a negotiability ruling from the agency regarding the proposal or state that the objecting party will file a petition for resolution of the dispute, which petition shall be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the board. Arbitration awards issued prior to the final determination of the negotiability dispute will be contingent upon that determination.~~

~~**6.3(3) *Decisions.*** Petitions filed pursuant to subrule 6.3(2) shall be given priority by the board. If deemed necessary by the board, the petition may be set for oral argument.~~

~~**6.3(3) *Preliminary ruling.*** The agency will give priority to a petition for expedited resolution of a negotiability dispute. Parties may file briefs in support of their positions within the time specified by the agency, and the agency may set the matter for oral argument. The agency may issue a preliminary ruling, without analysis, that the proposal is mandatory, permissive, or prohibited.~~

~~**6.3(4) *Final ruling.*** Within 20 days following the issuance of a preliminary ruling, either party may request the agency to issue a final ruling, which will set forth the agency’s analysis and conclusions.~~

~~**6.3(5) *Arbitration.*** Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing shall be upon written objection to the submission of the proposal to the arbitrator. The objection shall state that the objecting party will file a petition for resolution of the dispute with the agency, which petition shall be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the agency. Arbitration awards issued prior to the final determination of the negotiability dispute are contingent upon the agency’s determination.~~

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

6.3(6) *Negotiability outside of bargaining.* Questions of negotiability which do not arise during the course of bargaining are not negotiability disputes within the scope of this rule but may be posed to the agency by a petition for declaratory order filed pursuant to 621—Chapter 10.

ITEM 3. Amend rule 621—6.4(20) as follows:

621—6.4(20) ~~Acceptance of proposed agreement~~ Voluntary settlement procedures.

6.4(1) *Terms made public.* Where the parties have reached a proposed (or “tentative”) collective bargaining agreement, the public employer shall make the terms of that the agreement shall be made public by the public employer, and the employee organization shall give reasonable notice of the date, time and place of a ratification election on the tentative agreement to the public employees; provided, however, that such notice shall be at least 24 hours prior to the election and the election shall be within seven days of the date of the tentative agreement. The vote shall be by secret ballot and only members of the employee organization shall be entitled to vote; provided, however, that the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall within 24 hours notify the public employer whether the proposed agreement has been ratified.

6.4(2) *Ratification or rejection by employee organization.* Within seven days of the date of the tentative agreement, the employee organization shall conduct a ratification election on the tentative agreement. The employee organization shall give reasonable notice of the date, time and place of the election to the public employees; however, such notice shall be at least 24 hours prior to the election. The vote shall be by secret ballot, and the majority of votes cast will determine acceptance or rejection of the tentative agreement. Only members of the employee organization shall be entitled to vote; however, the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall, within 24 hours of the conclusion of the election, serve notice on the public employer as to whether or not the proposed agreement has been ratified.

6.4(3) *Acceptance or rejection by public employer.* The public employer shall, within ten days of the tentative agreement, likewise meet to accept or reject the agreement, and shall within 24 hours of the acceptance or rejection serve notice on the employee organization of its acceptance or rejection of the proposed agreement; provided, however, that the public employer shall not be required to either accept or reject the tentative agreement if it has been rejected by the employee organization.

6.4(4) *Time limits.*

a. The above time limits may be modified by a written mutual agreement between the public employer and the employee organization.

b. The above time limits shall not apply to proposed agreements between the state and any bargaining unit of state employees.

ITEM 4. Amend rule 621—6.5(20) as follows:

621—6.5(20) ~~Negotiations report—filing~~ Filing of agreement. Not later than 60 days after conclusion ratification and acceptance of an a tentative agreement or the issuance of an interest arbitration award, the public employer shall submit the collective bargaining agreement to the board a report of negotiations procedures on a form provided by the board and shall attach two copies of the agreement agency.

USURY

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

USURY(cont'd)

October 1, 2014 — October 31, 2014	4.50%
November 1, 2014 — November 30, 2014	4.50%
December 1, 2014 — December 31, 2014	4.25%
January 1, 2015 — January 31, 2015	4.25%
February 1, 2015 — February 28, 2015	4.25%
March 1, 2015 — March 31, 2015	4.00%
April 1, 2015 — April 30, 2015	4.00%
May 1, 2015 — May 31, 2015	4.00%
June 1, 2015 — June 30, 2015	4.00%
July 1, 2015 — July 31, 2015	4.25%
August 1, 2015 — August 31, 2015	4.25%
September 1, 2015 — September 30, 2015	4.25%
October 1, 2015 — October 31, 2015	4.25%

ARC 2199C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.326, the Terrace Hill Commission amends Chapter 114, "Organization and Operation of Terrace Hill," Iowa Administrative Code.

The Terrace Hill Commission is updating its administrative rules by amending certain rules to be consistent with statute and making revisions that reflect and clarify Commission practice.

The Terrace Hill Commission does not intend to grant waivers under the provisions of these rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 5, 2015, as **ARC 2072C**. A public comment was received regarding an easement to Terrace Hill. Changes were made to Item 1 as a result of the public comment and to Item 3 to reflect Commission practice.

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

These amendments are intended to implement Iowa Code section 8A.326.

These amendments will become effective November 18, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 11—114.1(8A) as follows:

11—114.1(8A) Definitions. The definitions listed in Iowa Code section 17A.2 shall apply for terms as used throughout this chapter. In addition, the following definitions shall apply:

"*Administrator*" means the administrator of Terrace Hill.

"*Commission*" means the Terrace Hill commission as established by ~~2003 Iowa Acts, chapter 145, section 41~~ Iowa Code section 8A.326.

"*Facility*" means the Terrace Hill mansion, carriage house, grounds, and all related property, all of which have been designated a National Historic Landmark and which are subject to a Conservation Easement Agreement for the Preservation of Terrace Hill, recorded with the Polk County, Iowa, Recorder and effective until January 6, 2061.

~~"*Foundation*" means the Terrace Hill Foundation, a nonprofit corporation which solicits contributions and raises funds for the renovation and improvement of the facility.~~

~~"*Society*" means the Terrace Hill Society, an unofficial organization which raises funds and provides volunteers for restoration and landscape projects of Terrace Hill.~~

ITEM 2. Amend rule 11—114.2(8A) as follows:

11—114.2(8A) Mission statement. ~~The Terrace Hill commission exists in accordance with 2003 Iowa Code Supplement section 8A.326 to preserve, maintain, renovate, landscape, and administer the Terrace Hill facility. The commission has authority to establish policy and procedures and approve the ongoing expenditures for preservation, renovation, and landscaping of Terrace Hill the facility and seeks necessary funds for these activities. Terrace Hill~~ The facility is maintained as the official residence for the governor of Iowa and serves as a facility for public and private functions.

ITEM 3. Amend rule 11—114.3(8A) as follows:

11—114.3(8A) Terrace Hill commission.

~~**114.3(1) Function.** The Terrace Hill commission exists to establish policy and procedures for the renovation, interpretation, operation and fiscal management of the facility.~~

~~**114.3(2) 114.3(1) Composition.** The commission consists of nine members appointed by the governor in accordance with 2003 Iowa Code Supplement section 8A.326.~~

~~**114.3(3) 114.3(2) Meetings.** The commission shall meet at the call of the chair. Six A majority of the members present and voting constitutes of the commission shall constitute a quorum, and an affirmative vote of five a majority of the members present is required for approval of an item.~~

All meetings are open to the public under Iowa Code chapter 21, and conducted in accordance with Robert's Rules of Order, Revised Edition, to the extent such rules are not inconsistent with Iowa law.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Public notice of all meetings shall be ~~distributed~~ made available to the news media. The tentative agenda for meetings shall be posted in the governor's office at the State Capitol at least 24 hours prior to the commencement of any meeting in accordance with Iowa Code chapter 21.

~~114.3(4)~~ **114.3(3)** *Committees—appointment.* Committees of the commission may be appointed on an ad hoc basis by the chairperson of the ~~board~~ commission. ~~Nonboard~~ Persons who are not members of the commission may be appointed to committees ~~as nonvoting members~~.

ITEM 4. Amend rule 11—114.4(8A) as follows:

11—114.4(8A) Gifts, bequests, endowments. The commission, ~~acting on behalf of the society and the foundation,~~ may accept private gifts, bequests, and endowments ~~with such gifts credited to the account of the society.~~ Accepted gifts, bequests, and endowments shall be used in accordance with the desire of the donor as expressed at the time of the donation. Undesignated funds shall be ~~credited to the general fund of the society and~~ used for projects and activities of the commission ~~or society~~.

ITEM 5. Amend rule 11—114.5(8A) as follows:

11—114.5(8A) Public and private grants and donations. The commission, ~~society, or foundation~~ may apply for and receive funds from public or private sources. Receipts from these grants shall be ~~credited to the appropriate account and~~ shall be used in accordance with all stipulations of the grant contract.

ITEM 6. Rescind and reserve subrules **114.6(1)** and **114.6(2)**.

ITEM 7. Amend rule 11—114.7(8A) as follows:

11—114.7(8A) Facilities management.

114.7(1) Address. Terrace Hill is located at 2300 Grand Avenue, Des Moines, Iowa 50312. Telephone number (515)281-7205.

114.7(2) Hours of operation. Terrace Hill is open to the public a minimum of 20 hours per week and is closed the months of January and February. Specific hours and days shall be posted at the facility. The hours shall be approved by the commission. Changes in the hours shall be effective upon 30 days' notice as posted.

114.7(3) Fees. Fees may be charged and collected by the commission ~~and shall be administered according to 2003 Iowa Code Supplement section 8A.326.~~ Fees may be charged including, but not limited to, fees for, but are not limited to, admission, special events, use of images, and technical services. All fees charged shall be approved by the commission and shall become effective upon 30 days' notice. This notice shall be a public posting in the facility. All fees shall be permanently posted.

114.7(4) Smoking. Smoking shall be prohibited in ~~all designated areas of the facility.~~ Smoking areas shall be approved by the commission.

114.7(5) Food and drink. Consumption of food and beverages shall be prohibited in the facility except in specific areas as designated by the commission.

114.7(6) Use of alcoholic beverages. Alcoholic beverages may be served at functions at the facility only with the use of an approved caterer. Interested caterers shall contact the Administrator, Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa 50312.

114.7(7) Liability. ~~All individuals and groups renting the facility for any use shall agree in writing to abide by the "hold harmless" clause specified in the letter of agreement.~~

All individuals or groups renting the facility shall be liable for any or all damages to the facility. The renter shall be billed for the cost of the repairs, extraordinary cleaning and, if necessary, the collection costs.

114.7(8) Public functions. Public functions may be held at the facility when the governor has an immediate interest or the function meets the special events criteria established by the commission. The criteria require that the event be in accordance with the mission of the facility. Weddings and wedding receptions are strictly prohibited, except in the case of the immediate family of the current governor. Inquiries shall be directed to the Administrator, Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa 50312.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 8. Amend rule 11—114.8(8A) as follows:

11—114.8(8A) Tours.

114.8(1) *Group tours.* Reservations shall be required for tour groups of ten or more. Requests for reservations shall be directed to the Administrator, Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa 50312.

114.8(2) *Fees.* An admission fee is charged at Terrace Hill. There shall be no charge for school groups. The fee schedule shall be permanently posted at the site. Inquiries concerning fees shall be directed to the Administrator, Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa 50312.

114.8(3) *Parking.* Designated parking has been established by the commission. Vehicles are not permitted in the east driveway.

114.8(4) *Pets.* Pets are not permitted at the facility with exception of those belonging to the governor, or ~~those the governor's family or service dogs or assistive animals accompanying and under the control of a person with a disability, a person assisting the hearing or visually impaired a person with a disability, or a person training a service dog or assistive animal.~~ The person is liable for damage done to the facility by the service dog or assistive animal.

ITEM 9. Amend **11—Chapter 114**, implementation sentence, as follows:

These rules are intended to implement 2003 Iowa Code ~~Supplement~~ section 8A.326.

[Filed 9/25/15, effective 11/18/15]

[Published 10/14/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/14/15.

ARC 2194C

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 3, "Pharmacy Technicians," Chapter 6, "General Pharmacy Practice," and Chapter 7, "Hospital Pharmacy Practice"; rescinds Chapter 13, "Sterile Compounding Practices"; and rescinds Chapter 20, "Pharmacy Compounding Practices," and adopts new Chapter 20, "Compounding Practices," Iowa Administrative Code.

The amendments combine the requirements currently in Chapters 13 and 20 for the compounding of drug products into a single chapter, Chapter 20, that fully adopts national minimum practice standards for compounding found in General Chapters 795 and 797 of the United States Pharmacopeia (USP). The amendments also incorporate new federal regulations as established in the Drug Quality and Security Act of 2013, also known as the Compounding Quality Act, with respect to compounding and outsourcing facilities. Current Chapter 13 is rescinded and reserved.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the April 29, 2015, Iowa Administrative Bulletin as **ARC 1979C**. The Board received numerous written comments regarding the proposed amendments. Comments from one national pharmacy chain questioned the need to include all identified information on the label of a compounded drug product prepared for general pharmacy or outpatient dispensing. In response to those comments, the Board determined that there is no need to include the FDA contact information on the prescription label, as such information can be provided in or on auxiliary information provided with the prescription to the patient. The Board did not agree that other required information, such as the identification of the product as a compounded product, was unnecessary.

Other comments suggested realigning and adding verbiage in the definition of "compounding" to ensure understanding of the exceptions identified in the definition. The Board determined that the definition, as proposed, accurately defines the term and identifies the exceptions to the definition.

PHARMACY BOARD[657](cont'd)

The Board also received comments from practitioners objecting to the stated restrictions regarding the compounding of non-patient-specific products for practitioner administration to patients (office use). The Board is unable to authorize Iowa pharmacies to compound and distribute non-patient-specific products for office use unless the Iowa pharmacy is registered with the FDA as a 503B outsourcing facility. The federal Compounding Quality Act specifically addresses this issue, and the Board may not adopt less stringent requirements.

The adopted amendments differ from those published under Notice. In response to comments identified above, proposed paragraph “e” in subrule 20.19(1) was not adopted and subsequent paragraphs have been relettered appropriately. The removed paragraph would have required pharmacies to include on the prescription label of a compounded drug product packaged for general pharmacy or outpatient dispensing FDA contact information, including the FDA Web site address or toll-free telephone number.

The amendments were approved during the August 31, 2015, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code sections 124.302, 124.303, 124.306, 124.308, 124.501, 126.9, 126.10, 126.18, 155A.2, 155A.13, 155A.28, 155A.33, and 155A.35.

These amendments will become effective on November 18, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 657—3.22(155A) as follows:

657—3.22(155A) Technical functions. At the discretion of the supervising pharmacist, the following technical functions, in addition to any of the functions authorized for a pharmacy support person pursuant to 657—Chapter 5, may be delegated to a pharmacy technician as specified in the following subrules.

3.22(1) Certified pharmacy technician. Under the supervision of a pharmacist, a certified pharmacy technician may perform technical functions delegated by the supervising pharmacist including, but not limited to, the following:

a. to h. No change.

i. Perform drug compounding processes ~~for nonsterile compounding~~ as provided in 657—Chapter 20.

~~*j.* Perform drug compounding processes for sterile compounding as provided in 657—Chapter 13.~~

~~*k. j.* As provided in rule 657—3.24(155A), accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or by the prescriber’s agent.~~

3.22(2) Pharmacy technician trainee. Under the supervision of a pharmacist, a pharmacy technician trainee may perform only the following technical functions delegated by the supervising pharmacist:

a. to g. No change.

h. Under the supervision of a pharmacist who provides training and evaluates and monitors trainee competence in the compounding processes, perform drug compounding processes ~~for nonsterile compounding~~ as provided in 657—Chapter 20.

~~*i.* Under the supervision of a pharmacist who provides training and evaluates and monitors trainees, and contingent on successful completion of appropriate media fill testing processes, perform drug compounding processes for sterile compounding as provided in 657—Chapter 13.~~

ITEM 2. Amend subrule 6.10(2) as follows:

6.10(2) Exceptions. The requirements of subrule 6.10(1) do not apply to unit dose dispensing systems, 657—22.1(155A); ~~sterile products, 657—Chapter 13;~~₂ and patient med paks, 657—22.5(126,155A).

ITEM 3. Amend paragraph **7.8(1)“b”** as follows:

b. Pharmacy personnel shall, except as specified in policies and procedures, prepare all sterile products in conformance with 657—Chapter ~~13~~ 20.

PHARMACY BOARD[657](cont'd)

ITEM 4. Rescind and reserve **657—Chapter 13**.

ITEM 5. Rescind 657—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20
COMPOUNDING PRACTICES

657—20.1(124,126,155A) Purpose and scope. The requirements of this chapter apply to compounded preparations that are dispensed, distributed, or administered to an ultimate user in the state of Iowa, regardless of the location of the pharmacy or outsourcing facility where the preparation was compounded. This chapter applies to compounded preparations intended for humans and animals. In addition to the requirements in this chapter, all pharmacies and outsourcing facilities engaged in compounding shall comply with all applicable federal laws and regulations governing compounding and all applicable state laws, rules and regulations governing the practice of pharmacy. In the event the requirements in this chapter directly conflict with any federal law or regulation, the federal law or regulation shall supersede the requirements in this chapter. The requirements of 657—Chapter 16 apply to the compounding of radiopharmaceuticals.

657—20.2(124,126,155A) Definitions. For purposes of this chapter, the following definitions apply:

“Anticipatory compounding” means the compounding of preparations in advance of the pharmacy’s receipt of patient-specific prescriptions.

“Batch preparation compounding” means anticipatory compounding, compounding preparations intended for multiple disbursements, or compounding preparations in a multiple-dose container for administration to more than one patient.

“Beyond-use date” means the date after which a compounded preparation should not be used, determined from the date that the preparation is compounded.

“Bulk drug substance” means any substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug. The term does not include intermediates used in the synthesis of such substances.

“Compounding” means the combining, mixing, diluting, pooling, flavoring, or otherwise altering of a drug or bulk drug substance to create a drug. Compounding includes the preparation of drugs or devices in which all bulk drug substances and components are nonprescription products. Compounding does not include the use of a flavoring agent to flavor a drug pursuant to rule 657—20.13(124,126,155A), nor does it include mixing or reconstituting a drug according to the product’s manufacturer label.

“FDA” means the Food and Drug Administration of the U.S. Department of Health and Human Services.

“Flavoring agent” means a therapeutically inert, nonallergenic substance consisting of inactive ingredients that is added to a drug to improve the drug’s taste and palatability.

“Outsourcing facility” means a facility that is located at a single geographic location and has registered with the FDA as an outsourcing facility in accordance with Section 503B of the Federal Food, Drug, and Cosmetic Act.

“USP” means United States Pharmacopeia.

657—20.3(124,126,155A) Nonsterile compounding. Iowa-licensed pharmacies that compound nonsterile preparations for ultimate users in the state of Iowa shall follow the current revision of USP Chapter 795 standards. Additional USP chapters incorporated by reference into USP Chapter 795 shall also be followed.

657—20.4(124,126,155A) Sterile compounding. Iowa-licensed pharmacies that compound sterile preparations for ultimate users in the state of Iowa shall follow the current revision of USP Chapter 797 standards. Additional USP chapters incorporated by reference into USP Chapter 797 shall also be followed.

PHARMACY BOARD[657](cont'd)

657—20.5(126,155A) Delayed compliance. A pharmacy that is unable to meet the requirements for full compliance with these rules and with USP Chapter 795 or USP Chapter 797 by May 18, 2016, shall, prior to that date, request and obtain from the board a waiver of the specific requirement or requirements that the pharmacy is unable to meet. A pharmacy that cannot meet the requirements for full compliance with these rules, including applicable USP chapters, and that has not obtained from the board a waiver of the specific requirement or requirements shall not engage in compounding until the pharmacy is in full compliance with all requirements or the board has approved a waiver of the specific requirement or requirements.

657—20.6(126,155A) Compounding standards for outsourcing facilities. An FDA-registered outsourcing facility shall be properly licensed in Iowa and shall follow the FDA's current good manufacturing practices (cGMPs) for outsourcing facilities when compounding preparations for hospitals, practitioners, or patients in the state of Iowa.

657—20.7 and 20.8 Reserved.

657—20.9(124,155A) Prescriber/patient/pharmacist relationship. All compounded preparations shall be dispensed pursuant to a patient-specific prescription unless the compounded preparation is distributed pursuant to rule 657—20.15(124,126,155A) or 657—20.16(124,126,155A). A prescription for a compounded preparation shall be authorized by the prescriber for a specific patient. Prescriptions for all compounded preparations shall be maintained on file at the dispensing pharmacy.

657—20.10(126,155A) Anticipatory compounding.

20.10(1) Outsourcing facilities. Outsourcing facilities are authorized to engage in anticipatory compounding. Outsourcing facilities are not required to obtain patient-specific prescriptions in order to distribute compounded preparations.

20.10(2) Pharmacies. Pharmacies may engage in anticipatory compounding only if the anticipatory compounding is based on a history of receiving valid prescriptions generated solely within an established prescriber/patient/pharmacist relationship, so long as each compounded preparation is dispensed pursuant to a patient-specific prescription.

657—20.11(126,155A) Prohibition on resale of compounded preparations. The sale of compounded preparations to other pharmacies, prescribers, or facilities, except as explicitly authorized by this chapter, is considered manufacturing.

657—20.12(126,155A) Compounding copies of an approved drug. A pharmacy or outsourcing facility may only compound preparations that are essentially copies of approved drugs if the compounded preparation is changed to produce for an individual patient a clinically significant difference to meet a medical need as determined and authorized by the prescriber. A pharmacy or outsourcing facility may compound a preparation that is essentially a copy of an approved drug if the approved drug is identified as currently in shortage on the FDA drug shortages database published on the FDA Web site, <http://www.accessdata.fda.gov/scripts/drugshortages/default.cfm>.

657—20.13(124,126,155A) Use of flavoring agents. A flavoring agent may be added to a drug at the discretion of the pharmacist or upon the request of the prescriber, the patient, or the patient's agent. The pharmacist may add flavoring agents not to exceed 5 percent of the total volume of the drug to which the flavoring agents are added. The pharmacist shall label the flavored drug with a beyond-use date no greater than 14 days past the date the flavoring agent is added if the drug is required to be stored in a refrigerator. A different beyond-use date or alternate storage conditions may be indicated if such variation is supported by peer-reviewed medical literature. The pharmacist shall electronically or manually document that a flavoring agent was added to a drug, and such documentation shall be made available for inspection and copying upon the request of the board or an agent of the board.

PHARMACY BOARD[657](cont'd)

657—20.14 Reserved.

657—20.15(124,126,155A) Compounding for office use.

20.15(1) *Human compounded preparations.* Only an FDA-registered outsourcing facility properly licensed in Iowa may distribute to a practitioner for office use human compounded preparations without a patient-specific prescription.

20.15(2) *Veterinary compounded preparations.* Veterinary compounded preparations may be sold to a practitioner for office use if compounded by an Iowa-licensed pharmacy and sold directly to the practitioner by the compounding pharmacy.

20.15(3) *Office administration.* Compounded preparations distributed for office use pursuant to subrule 20.15(1) or 20.15(2) and in accordance with the labeling requirements of subrule 20.15(4) do not require a patient-specific prescription but do require that the compounded preparation be administered to an individual patient in the practitioner's office. Compounded preparations distributed for office use pursuant to this rule shall not be further distributed to other practitioners or to patients for administration outside of the office.

20.15(4) *Labeling.* Compounded preparations for office use, in addition to the labeling requirements specified in rule 657—20.19(124,126,155A), shall include on the prescription label the practitioner's name in place of the patient's name. The label shall state "For Office Use Only—Not for Resale." If the sterility or integrity of the compounded preparation cannot be maintained after the initial opening of the container, the label shall state "Single-Dose Only."

657—20.16(124,126,155A) Compounding for hospital use. Compounded preparations distributed or dispensed to a hospital or hospital pharmacy pursuant to this rule shall be administered to an individual patient in the hospital.

20.16(1) *By an FDA-registered outsourcing facility.* Only an FDA-registered outsourcing facility properly licensed in Iowa may distribute human compounded preparations to a hospital or hospital pharmacy in the absence of a patient-specific prescription. The compounded preparation shall be labeled in compliance with subrule 20.19(3).

20.16(2) *By a pharmacy that is not an FDA-registered outsourcing facility.* Human compounded preparations that are not compounded at an FDA-registered outsourcing facility may be dispensed to a hospital or hospital pharmacy by an Iowa-licensed pharmacy pursuant to a prescriber's authorization for administration to a specific patient. The compounded preparation shall be labeled in compliance with subrule 20.19(2).

657—20.17 and 20.18 Reserved.

657—20.19(124,126,155A) Labeling. The label, or attached auxiliary labeling if necessary, affixed to the container of any compounded preparation dispensed or distributed into or within Iowa shall contain at least the information identified in one of the following subrules, as applicable.

20.19(1) *General pharmacy or outpatient dispensing.* The label shall meet the labeling requirements of 657—subrule 6.10(1) and shall include the following additional information:

- a. The name and concentration of each active ingredient.
- b. The date that the preparation was compounded.
- c. The beyond-use date of the compounded preparation.
- d. Special storage and handling instructions, if applicable.
- e. The statement "COMPOUNDED PREPARATION" or a reasonable comparable alternative statement that prominently identifies the drug as a compounded preparation.
- f. If the compounded preparation is sterile, the word "STERILE."
- g. If the compounded preparation was prepared from batch preparation compounding, the batch identification or control number.

20.19(2) *Hospital pharmacy or inpatient administration.* The label shall meet the labeling requirements of 657—subrule 22.1(3) and shall include the following additional information:

PHARMACY BOARD[657](cont'd)

- a. The name and concentration of each active ingredient.
- b. The date that the preparation was compounded.
- c. The beyond-use date of the compounded preparation.
- d. If the compounded preparation was prepared from batch preparation compounding, the batch identification or control number.
- e. Special storage and handling instructions, if applicable.

20.19(3) Outsourcing facility distribution or dispensing. The label, or auxiliary labeling if necessary, shall include the following information:

- a. The statement "THIS IS A COMPOUNDED DRUG" or a reasonable comparable alternative statement that prominently identifies the drug as a compounded preparation.
- b. The name, address, and telephone number of the outsourcing facility that compounded the preparation.
- c. The established name of the preparation.
- d. The dosage form and strength.
- e. The quantity of the preparation.
- f. The date that the preparation was compounded.
- g. The beyond-use date of the compounded preparation.
- h. Storage and handling instructions.
- i. The lot or batch identification or control number.
- j. The national drug code number, if available.
- k. The statement "Not for resale" and, if the preparation is dispensed or distributed other than pursuant to a prescription for an individual identified patient, the statement "OFFICE USE ONLY."
- l. The following additional information, which can be included on the labeling of a container (such as a plastic bag containing individual product syringes) from which individual units of the drug are removed for dispensing or for administration if there is not space on the label for such information:
 - (1) Directions for use including, as appropriate, dosage and administration;
 - (2) A list of the active and inactive ingredients, identified by established name and quantity or proportion of each ingredient;
 - (3) FDA contact information (www.fda.gov/medwatch and 1-800-FDA-1088 or successor Web site or telephone number) to facilitate adverse event reporting.
- m. If the preparation is compounded pursuant to a prescription for a specific patient, the label shall also include the label requirements in 657—subrule 6.10(1).
- n. If the preparation is compounded for office use, the label shall also include the label requirements in subrule 20.15(4).

657—20.20(126,155A) Labeling for batch preparation compounding. Compounded preparations resulting from batch preparation compounding shall be labeled with the following information until such time as the preparations are labeled pursuant to rule 657—20.19(124,126,155A) for distribution to hospitals or practitioners or for dispensing or administration to patients:

1. The date that the preparation was compounded.
2. Compounded preparation name or formula.
3. Dosage form.
4. Strength.
5. Quantity per container.
6. Unique internal batch identification or control number.
7. Beyond-use date.
8. Special storage and handling instructions, if applicable.

657—20.21 and 20.22 Reserved.

657—20.23(124,126,155A) Records. All records required by this chapter shall be retained as original records of the pharmacy or outsourcing facility and shall be readily available for inspection and

PHARMACY BOARD[657](cont'd)

photocopying by agents of the board or other authorized authorities for at least two years following the date of the record. Records shall allow for the identification of all ingredients used in compounding, all personnel involved in compounding, and all personnel involved in reviewing compounded preparations. The pharmacy or outsourcing facility shall maintain records documenting the disbursements from each batch of a compounded preparation.

These rules are intended to implement Iowa Code sections 124.302, 124.303, 124.306, 124.308, 124.501, 126.9, 126.10, 126.18, 155A.2, 155A.13, 155A.28, 155A.33, and 155A.35.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/14/15.

ARC 2196C

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 6, "General Pharmacy Practice," Chapter 7, "Hospital Pharmacy Practice," Chapter 15, "Correctional Pharmacy Practice," and Chapter 16, "Nuclear Pharmacy Practice," Iowa Administrative Code.

The amendments eliminate the requirements that pharmacies maintain the Iowa Pharmacy Law and Information Manual and authorize pharmacies to utilize other sources, including electronic or Internet-based sources, for Iowa pharmacy laws, rules, and regulations.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the July 22, 2015, Iowa Administrative Bulletin as **ARC 2065C**. The Board received numerous written comments regarding the proposed amendments. Comments were split between support of the amendments and opposition or suggestions for alternatives to the amendments.

The adopted amendments differ from those published under Notice. In response to suggestions from commenters, the Board has clarified that an acceptable law reference will include all pertinent Iowa laws, rules, and regulations that impact the pharmacy's practice.

The amendments were approved during the August 31, 2015, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code section 155A.31.

These amendments will become effective on November 18, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 657—6.3(155A) as follows:

657—6.3(155A) Reference library. References may be printed or computer-accessed. A reference library shall be maintained which includes, as at a minimum, one current reference from each of the following categories, including access to current periodic updates.

1. ~~The Iowa Pharmacy Law and Information Manual~~ A reference including all pertinent Iowa laws, rules, and regulations that impact the pharmacy's practice.

2. to 8. No change.

ITEM 2. Amend rule 657—7.3(155A) as follows:

657—7.3(155A) Reference library. References may be printed or computer-accessed. A reference library shall be maintained which includes, as at a minimum, one current reference from each of the following categories, including access to current periodic updates.

1. ~~The Iowa Pharmacy Law and Information Manual~~ A reference including all pertinent Iowa laws, rules, and regulations that impact the pharmacy's practice.

PHARMACY BOARD[657](cont'd)

2. to 9. No change.

ITEM 3. Amend rule 657—15.4(155A) as follows:

657—15.4(155A) Reference library. References may be printed or computer-accessed. Each correctional pharmacy shall have on site, at a minimum, one current reference from each of the following categories, including access to current periodic updates.

1. ~~The Iowa Pharmacy Law and Information Manual~~ A reference including all pertinent Iowa laws, rules, and regulations that impact the pharmacy's practice.

2. to 8. No change.

ITEM 4. Amend rule 657—16.5(155A) as follows:

657—16.5(155A) Library. Each nuclear pharmacy shall have access to the following references. References may be printed or computer-accessed and shall be current editions or revisions.

1. No change.

2. ~~The Iowa Pharmacy Law and Information Manual~~ A reference including all pertinent Iowa laws, rules, and regulations that impact the pharmacy's practice;

3. and 4. No change.

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ARC 2197C

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 7, "Hospital Pharmacy Practice," and Chapter 23, "Long-Term Care Pharmacy Practice," Iowa Administrative Code.

The amendments permit, as authorized by federal law, the administration of any influenza or pneumococcal vaccine to a hospital or long-term care facility patient pursuant to physician-approved hospital or facility policy after the patient has been assessed for contraindications. Current subrules limit this authority to the administration of influenza and pneumococcal polysaccharide vaccines only.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the July 22, 2015, Iowa Administrative Bulletin as **ARC 2063C**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the August 31, 2015, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code sections 155A.13, 155A.15, 155A.23, and 155A.35.

These amendments will become effective on November 18, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 7.8(14) as follows:

7.8(14) Influenza and pneumococcal vaccines. As authorized by federal law, a written or verbal patient-specific medication administration order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to physician-approved hospital policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient's medical record.

PHARMACY BOARD[657](cont'd)

ITEM 2. Amend subrule 23.9(4) as follows:

23.9(4) *Influenza and pneumococcal vaccines.* As authorized by federal law, a written or verbal patient-specific medication administration order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to physician-approved facility policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient's record. The facility shall submit to the provider pharmacy a listing of those residents or staff members who have been immunized utilizing vaccine from each vial supplied by the provider pharmacy.

[Filed 9/25/15, effective 11/18/15]

[Published 10/14/15]

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ARC 2195C

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 124.2, the Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendment rescinds rule 657—10.41(124A) in which certain substances are identified and classified as imitation controlled substances. Those substances have been identified and classified by legislative action as controlled substances subject to Iowa Code chapter 124. Rescinding the designation of those substances as imitation controlled substances eliminates the confusion created by their dual classification as imitation controlled substances, subject to the penalties for unlawful possession of imitation controlled substances, and their classification as controlled substances, subject to different penalties for unlawful possession of controlled substances.

Requests for waiver or variance are not addressed because there are no provisions from which to request a waiver or variance.

Notice of Intended Action was published in the July 22, 2015, Iowa Administrative Bulletin as **ARC 2064C**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the August 31, 2015, meeting of the Board of Pharmacy.

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

This amendment is intended to implement Iowa Code section 124A.2.

This amendment will become effective on November 18, 2015.

The following amendment is adopted.

Rescind and reserve rule **657—10.41(124A)**.

[Filed 9/25/15, effective 11/18/15]

[Published 10/14/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/14/15.

ARC 2202C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76, 151.11 and 272C.3, the Board of Chiropractic hereby amends Chapter 44, "Continuing Education for Chiropractic Physicians," and Chapter 45, "Discipline for Chiropractic Physicians," Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These amendments adopt a new subrule establishing unprofessional conduct or behavior as grounds for discipline that may be imposed on licensed chiropractors in the state of Iowa. The amendments also remove an outdated provision that has become obsolete.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 5, 2015, as **ARC 2094C**. A public hearing was held on August 25, 2015, from 9 to 9:30 a.m. in Conference Room 513, Lucas State Office Building, Des Moines, Iowa. No comments were received. No changes were made to the amendments published under Notice of Intended Action.

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

These amendments were adopted by the Board of Chiropractic on September 11, 2015.

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

These amendments are intended to implement Iowa Code chapters 147, 151 and 272C.

These amendments will become effective on November 18, 2015.

The following amendments are adopted.

ITEM 1. Amend subparagraph **44.3(2)“a”(1)** as follows:

(1) ~~At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. Beginning with the July 1, 2012, to June 30, 2014, renewal cycle, on-line instruction may qualify for “live” continuing education credit if provided by a Council on Chiropractic Education (CCE)-accredited chiropractic college in the United States, the Iowa Chiropractic Society, the American Chiropractic Association, or the International Chiropractors Association or if certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB). The remaining 12 hours may be obtained by independent study, including any on-line instruction.~~ Beginning with the July 1, 2014, to June 30, 2016, renewal cycle, at least 20 of these hours shall be earned by completing a program in which an instructor conducts the class employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as that instructor. The remaining 16 hours of continuing education credit relating to clinical case management of chiropractic patients may be obtained by independent study, including any on-line instruction, that complies with conditions specified in 645—44.1(151).

ITEM 2. Adopt the following **new** subrule 45.2(31):

45.2(31) Unprofessional conduct or behavior. A chiropractor shall not exhibit unprofessional behavior in connection with the practice of chiropractic. Unprofessional behavior shall include, but not be limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, requesting patient records without a medical justification, and theft.

[Filed 9/25/15, effective 11/18/15]

[Published 10/14/15]

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ARC 2198C

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby amends Chapter 7, “Greyhound Racing,” Iowa Administrative Code.

This amendment adopts new rule 491—7.15(99D) to implement 2014 Iowa Acts, Senate File 2362 [Iowa Code section 99D.9B], with regard to the Iowa greyhound pari-mutuel racing fund.

Notice of Intended Action was published in the June 24, 2015, Iowa Administrative Bulletin as **ARC 2045C**. On July 29, 2015, at 8:30 a.m., a public hearing was held at Prairie Meadows Racetrack and

RACING AND GAMING COMMISSION[491](cont'd)

Casino, Altoona, Iowa. There were several attendees, and 11 individuals made oral comments. In addition, 11 individuals submitted written comments.

The oral and written comments regarding the proposed rule requested that the following changes be considered:

- The majority of the money in the fund should not be allocated to greyhound owners based on their dogs' past racing performances;
- Breeders should receive a higher percentage of the distributions, in part because they did not receive any money for racing performances of the dogs they raised;
- Distributions should go only to greyhounds whelped and raised in Iowa, not in other states;
- Greyhound owners who are still racing greyhounds in Dubuque, thereby continuing to make a living racing greyhounds, should not be allowed to receive any distributions from the fund (essentially advocating for no "double dipping");
- The amount of money allowed for in the "hardship" portion of the rules should be increased;
- A cap of at least \$1 million should be implemented to ensure that no individual could receive more than that amount from the fund;
- Clarification should be made related to the location or obtaining of documentation required to accompany submission of a claim or in order to receive the appropriate distribution; and
- The length of time proposed until the first disbursement is made should be shortened.

As a result of the public hearing and comments received, several changes were made to the rule published under Notice, and the revised rule was added to the Commission's August 20 meeting agenda published on August 14, 2015. Additional oral and written comments were received on the incorporated changes. The majority of the comments were from individuals who were opposed to the Commission's implementing any type of cap on the amount of money any one individual could receive and were specifically opposed to the Commission's using a cap of \$1 million per person. As a result of the additional feedback, the Commission deferred the decision to adopt the revised rule at the August 20 meeting.

The Commission reviewed, discussed and considered all comments received over the course of the past several months. Based on the review and comments, several changes have been made to the rule published under Notice of Intended Action. In paragraph 7.15(2)"d," a clarification was made with regard to trainer eligibility. In paragraph 7.15(2)"f," the cap on the amount allowed for a hardship case was increased to \$100,000. In the introductory paragraph and paragraphs "a" and "b" of 7.15(3), language regarding the application process and other similar requirements for documentation from industry participants was removed; likewise, proposed paragraph 7.15(3)"c" was not adopted. In paragraph 7.15(3)"a," the percentage of the fund that shall be distributed based on past racing performances was changed to 70 percent. In paragraph 7.15(3)"b," the percentage of the fund that shall be distributed to qualifying greyhound industry participants without regard to purse winnings was changed to 30 percent. In paragraph 7.15(3)"b"(1)"2," a revision was made so that distributions go to breeders who whelped and raised the greyhound for the first six months of the greyhound's life in Iowa, as recorded. Proposed paragraphs 7.15(3)"d" and "e" were relettered as "e" and "f," and new paragraphs 7.15(3)"c" and "d" were adopted. Paragraph 7.15(3)"d" specifies that individual fund recipients, identified by independent tax identification numbers, shall be limited to receiving no more than \$3 million. The paragraph also notes a situation in which the \$3 million cap could be reconsidered.

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

This amendment is intended to implement Iowa Code chapters 99D and 99F.

This amendment will become effective November 18, 2015.

The following amendment is adopted.

Adopt the following **new** rule 491—7.15(99D):

491—7.15(99D) Iowa greyhound pari-mutuel racing fund. Pursuant to Iowa Code section 99D.9B, an Iowa greyhound pari-mutuel racing fund (fund) is created in the state treasury and under the control of the commission. The fund will be distributed on an annual basis pursuant to this rule.

7.15(1) Iowa greyhound association.

RACING AND GAMING COMMISSION[491](cont'd)

- a. Fifty percent of the money in the fund shall be distributed to the Iowa greyhound association.
- b. An annual audit concerning the operation of the escrow account shall be submitted to the commission 90 days after the end of the Iowa greyhound association's fiscal year.
- c. In the event that the Iowa greyhound association fails to conduct live dog racing during any calendar year, the Iowa greyhound association shall transfer any unused moneys in the escrow fund to the commission and shall receive no further distributions from the fund.

7.15(2) One-time payments.

a. *Administrative expenses.* All expenses incurred by the commission to administer the fund will be deducted before an amount is determined for distribution during each calendar year.

b. *Greyhound adoption agency (agency).* An agency will be reimbursed a dollar amount based upon original receipts and itemized expenses up to \$1,700 per greyhound. All documentation for reimbursement must be submitted to the commission office for consideration on a form prescribed by the commission. Distribution of reimbursement for qualifying requests will occur upon approval by the commission. The commission has sole discretion in determining the eligibility of receipts submitted. No requests for reimbursement will be accepted by the commission after October 31, 2016. For an agency to be eligible for reimbursement, the agency must prove to the commission that:

- (1) The agency physically handled the greyhound to facilitate the adoption;
- (2) The agency has a no-kill policy;
- (3) The greyhound raced in Iowa; and
- (4) The greyhound was placed into adoption due to the cessation of racing.

c. *Greyhound kennel owners.* Greyhound kennel owners are eligible to recover costs up to \$5,000 associated with the removal of equipment from the kennels at the pari-mutuel dog racetrack located in Pottawattamie County. For a greyhound kennel owner to be eligible for reimbursement, the owner must prove to the commission that the expenses were incurred as a result of the removal of property, excluding the transporting of the greyhounds. Greyhound kennel owners shall submit original receipts and itemize the expenses to the commission to verify expenditures. All documentation for reimbursement must be submitted to the commission office for consideration on a form prescribed by the commission. The commission has sole discretion in determining the eligibility of the receipts and expenses submitted. Distribution of reimbursement for qualifying requests will occur upon approval by the commission. No requests for reimbursement will be accepted by the commission after October 31, 2016.

d. *Trainers.* The trainer of record for the kennel employed at the pari-mutuel dog racetrack located in Pottawattamie County upon the closing of the racetrack in December 2015 shall receive \$8,000 for each year of service during the five-year period from 2011 through 2015. Proof of employment for each year for which payment is requested must be sent to the commission. The commission has sole discretion in determining the eligibility of the proof of employment submitted. Distribution for qualifying requests will occur upon approval by the commission. No requests for reimbursement under this paragraph will be accepted by the commission after June 30, 2016.

e. *Assistant trainers.* Assistant trainers employed, present and handling the day-to-day affairs at the pari-mutuel dog racetrack located in Pottawattamie County at the closing of the racetrack in December 2015 shall receive \$4,000 for each year of service during the five-year period from 2011 through 2015. Proof of employment for each year for which payment is requested must be sent to the commission. Distribution for qualifying requests will occur upon approval by the commission. Any assistant trainer who is not employed through the closing of the racetrack in December 2015 shall be eligible for payments only if the kennel owner certifies in writing the assistant trainer's services are not needed. No requests for reimbursement under this paragraph will be accepted by the commission after June 30, 2016.

f. *Financial hardship.* Industry participants are eligible to receive up to \$100,000 from the commission if they can demonstrate a need to be compensated due to hardships caused by the closing of the pari-mutuel dog racetrack located in Pottawattamie County. The burden of demonstrating hardship is on the applicant. The applicant shall submit in writing the request and basis for compensation including original receipts, if applicable, and itemized expenses. The commission has sole discretion in determining the eligibility of the applicant and the authentication of information to demonstrate

RACING AND GAMING COMMISSION[491](cont'd)

hardship. Distribution for qualifying requests will occur upon approval by the commission. No requests for reimbursement under this paragraph will be accepted by the commission after June 30, 2016.

g. Live greyhound racing in Dubuque County. Should live racing cease in Dubuque County in or after calendar year 2015 but prior to 2022, the commission will establish an application process for one-time payments related to the cessation of racing in Dubuque County. The commission has sole discretion in establishing this process.

7.15(3) Annual payments. After all one-time payments have been paid from the fund, the remainder of the fund will be distributed to industry participants. The remainder of the fund shall be distributed as follows:

a. Seventy percent of the fund shall be paid as past-performance distributions based on the percentage of purse winnings and the department of agriculture and land stewardship awards the industry participant received from 2010 through 2014. Information pertaining to purse winnings and breeders awards will be obtained from the greyhound racetracks in Pottawattamie and Dubuque counties and from the department of agriculture and land stewardship.

b. Thirty percent of the fund shall be paid to qualifying greyhound industry participants without regard to purse winnings.

(1) Points will be awarded to the following recipients:

1. Greyhound farm owners shall receive 1,060 points for each year of operation from 2010 through 2014, provided the farm was licensed by the department of agriculture and land stewardship from 2010 through 2014.

2. Greyhound breeders shall receive 32 points for each greyhound the breeder whelped and raised for the first six months of the greyhound's life in Iowa as recorded with the department of agriculture and land stewardship from 2010 through 2014.

(2) The applicant's pro rata share of the overall points awarded will be converted to the pro rata basis of the moneys distributed to qualifying greyhound industry participants without regard to purse winnings.

c. Information pertaining to registered greyhound farms or greyhounds individually registered at whelping will be obtained from the department of agriculture and land stewardship.

d. Fund recipients, identified by independent tax identification numbers, shall be limited to \$3 million over the life of the fund. In the event live racing in Dubuque County ends and, as a result, there are remaining moneys to be deposited into the fund to be distributed to qualifying greyhound participants, the commission shall establish a new limit for fund recipients to be received over the life of the fund.

e. The commission has the sole discretion in determining the eligibility of the documentation submitted as it relates to claims under this rule.

f. The first of the annual payments will be distributed no later than April 2017 with payment each year following in April. The last payment will be distributed April 2022.

[Filed 9/25/15, effective 11/18/15]

[Published 10/14/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/14/15.

ARC 2192C

SOIL CONSERVATION DIVISION[27]

Adopted and Filed

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation hereby amends Chapter 3, "Contested Case Proceedings and Practice," Chapter 4, "Declaratory Orders," Chapter 5, "Agency Procedure for Rule Making," Chapter 10, "Iowa Financial Incentive Program for Soil Erosion Control," Chapter 11, "Conservation Practices Revolving Loan Fund," Chapter 12, "Water Protection Practices—Water Protection Fund," Chapter 16, "Water Quality Initiative," Chapter 20,

SOIL CONSERVATION DIVISION[27](cont'd)

“Iowa Soil 2000 Program,” Chapter 21, “Water Quality Protection Projects—Water Protection Fund,” Chapter 22, “Soil and Water Resource Conservations Plans,” Chapter 30, “Agricultural Drainage Wells—Alternative Drainage System Assistance Program,” Chapter 40, “Coal Mining,” Chapter 50, “Iowa Abandoned Mined Land Reclamation Program,” Chapter 60, “Minerals Program,” Chapter 101, “Organization and Purpose,” Chapter 102, “Rules of Practice,” and Chapter 107, “Public Records and Fair Information Practices,” Iowa Administrative Code.

The amendments reflect the change of name of the Soil Conservation Division to the Division of Soil Conservation and Water Quality pursuant to 2015 Iowa Acts, House File 634. The amendments conform each soil and water conservation district’s limitation for conservation cost-share management practices to the language in the appropriations bill (2015 Iowa Acts, Senate File 494). The amendments also make technical updates and remove outdated language.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2102C** on August 19, 2015. No comments were received from the public. The adopted amendments are identical to the amendments published under Notice.

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

These amendments are intended to implement 2015 Iowa Acts, House File 634 and Senate File 494.

These amendments will become effective November 18, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 27—3.1(17A,161A) as follows:

27—3.1(17A,161A) Scope and applicability. In lieu of the words “(agency name)” insert “the Division of Soil Conservation and Water Quality, Department of Agriculture and Land Stewardship”.

ITEM 2. Amend rule 27—3.2(17A,161A) as follows:

27—3.2(17A,161A) Definitions. Insert the following definitions in alphabetical order:

“*Committee*” means the state soil conservation committee established at Iowa Code section 161A.4.

“*Department*” means the department of agriculture and land stewardship.

“*Director*” means the director of the division of soil conservation and water quality, department of agriculture and land stewardship.

“*Division*” means the division of soil conservation and water quality, department of agriculture and land stewardship.

“*Secretary*” means the Iowa secretary of agriculture.

In lieu of the words “(designate official)” insert “person designated by the director to preside over a contested case including, but not limited to, an administrative law judge with the department of inspections and appeals”. In lieu of the words “(agency name)” insert “the division of soil conservation and water quality, department of agriculture and land stewardship”.

ITEM 3. Amend subrule 3.12(3) as follows:

3.12(3) In lieu of the words “(specify office and address)” insert “Director’s Office, Division of Soil Conservation and Water Quality, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319”. In lieu of the words “(agency name)” insert “division”.

ITEM 4. Amend 27—Chapter 3, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 17A as amended by 1998 Iowa Acts, ~~chapter 1202~~, and Iowa Code chapter 161A.

ITEM 5. Amend rule 27—4.1(17A,161A) as follows:

27—4.1(17A,161A) Petition for declaratory order. In lieu of the words “(designate agency)” the first time the words are used, insert “division of soil conservation and water quality, department of agriculture and land stewardship (hereinafter referred to as “the division”)”. In lieu of the words “(designate agency)” the subsequent times the words are used, insert “division”. In lieu of the words “(designate office)” insert “Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa

SOIL CONSERVATION DIVISION[27](cont'd)

50319.” In lieu of the words “(AGENCY NAME)” insert “DIVISION OF SOIL CONSERVATION AND WATER QUALITY, DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP”.

ITEM 6. Amend subrule 4.3(3) as follows:

4.3(3) In lieu of the words “(designate office)” insert “the division director’s office”. In lieu of the words “(designate agency)” insert “the division”. In lieu of the words “(AGENCY NAME)” insert “DIVISION OF SOIL CONSERVATION AND WATER QUALITY, DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP”. Delete paragraph “6” and insert in lieu thereof “6. A statement that the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.”

ITEM 7. Amend rule 27—4.5(17A,161A) as follows:

27—4.5(17A,161A) Inquiries. In lieu of the words “(designate official by full title and address)” insert “the Director of the Division of Soil Conservation and Water Quality, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319”.

ITEM 8. Amend subrule 4.6(2) as follows:

4.6(2) In lieu of the words “(specify office and address)” insert “the Director of the Division of Soil Conservation and Water Quality, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319”. In lieu of the words “(agency name)” insert “division”.

ITEM 9. Amend subrule 4.8(1) as follows:

4.8(1) In lieu of the words “(designate agency head)” insert “the director of the division of soil conservation and water quality”.

ITEM 10. Amend **27—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 17A as amended by 1998 Iowa Acts, ~~chapter 1202~~, and Iowa Code ~~chapter~~ 161A.

ITEM 11. Amend rule 27—5.1(17A,161A) as follows:

27—5.1(17A,161A) Applicability. In lieu of the word “agency” insert “the division of soil conservation and water quality, department of agriculture and land stewardship (hereinafter referred to as “the division”)”.

ITEM 12. Amend subrule 5.3(2) as follows:

5.3(2) In lieu of the words “(commission, board, council, director)” insert “director of the division of soil conservation and water quality”.

ITEM 13. Amend subrule 5.5(1) as follows:

5.5(1) In lieu of the words “(identify office and address)” insert “the Director of the Division of Soil Conservation and Water Quality, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319”.

ITEM 14. Amend subrule 5.11(1) as follows:

5.11(1) In lieu of the words “(specify the office and address)” insert “the Director of the Division of Soil Conservation and Water Quality, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319”.

ITEM 15. Amend subrule 5.13(2) as follows:

5.13(2) In lieu of the words “(agency head)” insert “director of the division of soil conservation and water quality”.

ITEM 16. Amend **27—Chapter 5**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 17A as amended by 1998 Iowa Acts, ~~chapter 1202~~, and Iowa Code ~~chapter~~ 161A.

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 17. Amend rule 27—10.10(161A) as follows:

27—10.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship₂ in accordance with the policies of the state soil conservation committee in implementing the state's financial incentive program for soil erosion control. It also establishes standards and guidelines to which the soil conservation districts shall conform in fulfilling their responsibilities under this program.

ITEM 18. Amend rule **27—10.20(161A)**, definitions of "Appropriations," "Committee" and "Division," as follows:

"*Appropriations*" means those funds appropriated from the general fund of the state and provided the division of soil conservation and water quality for funding the various incentive programs for soil erosion control.

"*Committee*" or "*state soil conservation committee*" means the committee established by Iowa Code section 161A.4; as the policymaking body of the division of soil conservation and water quality.

"*Division*" means the division of soil conservation and water quality as established and maintained by the department pursuant to Iowa Code section 159.5(15) and administered pursuant to Iowa Code chapter 161A.

ITEM 19. Amend rule 27—10.33(161A), introductory paragraph, as follows:

27—10.33(161A) Appeals and reviews. A landowner or farm operator who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may, as appropriate, review the order with the district commissioners or the division of soil conservation and water quality. Appeals to the state soil conservation committee may be made by the district, a landowner or a farm operator following a review by the division director or the director's designee.

ITEM 20. Amend subrule 10.33(2) as follows:

10.33(2) Review with the division of soil conservation and water quality. After having unsuccessfully met with the district commissioners, a landowner or farm operator who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may file a written request for review with the division. The division review shall be conducted by the division director or the director's designee. This proceeding shall be informal. A landowner or farm operator shall request the review with the division in writing within 30 days following the review with the district.

ITEM 21. Amend rule 27—10.41(161A), introductory paragraph, as follows:

27—10.41(161A) Appropriations. The department of agriculture and land stewardship, division of soil conservation and water quality, has received appropriations for conservation cost sharing since 1973 and appropriations to fund certain incentive programs for soil erosion control since 1979. Funds are appropriated each year by the general assembly.

ITEM 22. Amend subrule **10.41(1)**, first unnumbered paragraph, as follows:

~~Up~~ The first \$15,000 allocated to each district and up to 30 percent of the amount remaining in a district's original and supplemental allocation may be used for the establishment of practices listed in subrules 10.82(1) and 10.82(2).

ITEM 23. Amend rule **27—10.41(161A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 161A; ~~1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs "b," "c," and "d"; 1995 Iowa Acts, chapter 216, section 1, subsection 4, paragraphs "b," "c," and "d"; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs "b," "c," and "d"; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs "b," "c," and "d."~~

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 24. Amend rule 27—10.52(161A), introductory paragraph, as follows:

27—10.52(161A) Publicly owned lakes. The division of soil conservation and water quality maintains the funds that are distributed to the publicly owned lakes program. These funds may be used to provide cost sharing not to exceed 75 percent of the approved cost of soil conservation practices on watersheds above publicly owned lakes and reservoirs. The division will allocate these program funds to eligible districts in steps identified as original allocation, recall of unobligated funds, and reallocation.

ITEM 25. Amend rule 27—10.54(161A), introductory paragraph, as follows:

27—10.54(161A) Mandatory program. The division of soil conservation and water quality maintains the funds that are distributed to the mandatory cost-share program. These funds are used to provide cost sharing to landowners who are required to establish permanent soil and water conservation practices as the result of a district's administrative order or a court order.

ITEM 26. Amend rule 27—10.95(161A) as follows:

27—10.95(161A) Forms. Standard forms, applications, and agreements used by the applicant and recipient of financial incentives for soil erosion control as outlined in these rules are provided by the division. Copies of all forms, applications, and agreements are available from the soil conservation district office located in each county. Copies are also available from the division at the following address: Division of Soil Conservation and Water Quality, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

ITEM 27. Amend 27—Chapter 10, implementation sentence, as follows:

~~Rules in Chapter 10~~ These rules are intended to implement Iowa Code chapter 161A; 1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs "b," "c," and "d"; 1995 Iowa Acts, chapter 216, section 1, subsection 4, paragraphs "b," "c," and "d"; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs "b," "c," and "d"; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs "b," "c," and "d."

ITEM 28. Amend rule 27—11.10(161A) as follows:

27—11.10(161A) Authority and scope. The Iowa general assembly appropriated to the former Iowa department of soil conservation \$1 million in 1983, \$750,000 in 1984, and \$99,000 in 1985 to establish a conservation practices revolving loan fund.

These rules provide procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee in administering the conservation practices revolving loan fund and the standards and guidelines to which the soil and water conservation districts shall conform in all contracts under this program.

ITEM 29. Amend rule 27—12.10(161C) as follows:

27—12.10(161C) Authority and scope. This chapter establishes procedures and standards to be followed by soil and water conservation districts and the division of soil conservation and water quality of the Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee in implementing water protection practices through the water protection fund created in Iowa Code section 161C.4, unnumbered paragraph 1, and subsection 2. This account shall be used to establish water protection practices with individual landowners including, but not limited to, woodland establishment and protection, establishment of native grasses and forbs, sinkhole management, agricultural drainage well management, streambank stabilization, grass waterway establishment, stream buffer strip establishment, and erosion control structure construction. Twenty-five percent of funds appropriated to the water protection practices account plus any additional appropriations for reforestation shall be used for woodland establishment and protection and establishment of native grasses and forbs.

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 30. Amend rule 27—16.2(161A), definition of “Division,” as follows:

“*Division*” means the division of soil conservation and water quality, department of agriculture and land stewardship.

ITEM 31. Amend 27—Chapter 16, implementation sentence, as follows:

These rules are intended to implement 2013 Iowa Acts, House File 648, section 20, and Senate File 435, sections 8; and 10, ~~60 and 61~~ and Iowa Code sections 466B.42 and 466B.45.

ITEM 32. Amend rule 27—20.10(161A) as follows:

27—20.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee in implementing the Iowa Soil 2000 Program goal of satisfactorily controlling erosion on all Iowa land. It also establishes standards and guidelines which the soil conservation districts will use in fulfilling their responsibilities under this program.

ITEM 33. Amend subrule 20.50(9) as follows:

20.50(9) Distribution of conservation agreement records. Copies of the soil conservation agreement and any revisions or terminations thereto shall be provided to the landowner, the division of soil conservation and water quality and the district case file.

ITEM 34. Amend rule 27—20.70(161A), definition of “Conservation folder,” as follows:

“*Conservation folder*” is defined in Iowa Code section 161A.42 to mean compiled information concerning the topography, soil composition, natural or artificial drainage characteristics and other pertinent factors concerning a particular farm unit, which are necessary to the preparation of a sound and equitable conservation agreement for that farm unit. The specific items to be contained in a conservation folder shall be prescribed by administrative rules of the division of soil conservation and water quality. The division shall provide by rule that an updated farm plan prepared for a particular farm unit within 10 years prior to the effective date of this subsection shall be considered an adequate replacement for the conservation folder for that farm unit.

ITEM 35. Amend the parenthetical implementation statute for rules in 27—Chapter 21 by striking “72GA,ch1189” and inserting “161A” in lieu thereof.

ITEM 36. Amend rule 27—21.10(161A) as follows:

27—21.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation ~~of the~~ and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee in implementing water quality protection projects through the water protection fund created in Iowa Code chapter 161C ~~pursuant to 1988 Iowa Acts, chapter 1189.~~ These projects will protect the state’s groundwater and surface water from point and nonpoint sources of contamination, including but not limited to; agricultural drainage wells, sinkholes, sedimentation, and chemical pollutants. Water protection fund resources will provide administrative, operational, and personnel support for the projects; and funds for management and structural measures to address identified water quality problems.

ITEM 37. Amend rule 27—21.62(161A) as follows:

27—21.62(161A) Content of project reports. All project reports will contain the following credit: “This project is supported in part or in total by the department of agriculture and land stewardship, division of soil conservation and water quality, through funds of the water protection fund.”

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 38. Amend ~~27~~—**Chapter 21**, implementation sentence, as follows:

These rules are intended to implement ~~1988 Iowa Acts, chapter 1189 and Iowa Code section 99E.32, subsection 3, as amended by 1988 Iowa Acts, chapter 1268, section 5, new paragraph “p.”~~ Iowa Code chapter 161A.

ITEM 39. Amend rule 27—22.10(161A) as follows:

27—22.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee in implementing the development of soil and water resource conservation plans in all soil and water conservation districts in Iowa and developing a comprehensive soil and water resource conservation plan for the state of Iowa. It establishes standards and guidelines which the soil and water conservation districts will use in fulfilling their responsibilities under this program.

ITEM 40. Amend rule 27—30.10(159,161A,455H) as follows:

27—30.10(159,161A,455H 460) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee in implementing the agricultural drainage wells — alternative drainage system assistance program ~~established by 1997 Iowa Acts, chapter 193, and chapter 215, section 16.~~ This program provides financial assistance for closing agricultural drainage wells and constructing alternative drainage systems that are part of a drainage district. These rules establish the assistance program, provide for the allocation of assistance funds, and establish procedures and standards for eligibility to receive assistance under the program.

ITEM 41. Amend rule 27—30.11(159,161A,455H), parenthetical implementation statute, as follows:

27—30.11(159,161A,455H 460) Rules are severable.

ITEM 42. Amend rule 27—30.20(159,161A,455H), parenthetical implementation statute, as follows:

27—30.20(159,161A,455H 460) Definitions.

ITEM 43. Amend rule ~~27—30.20(161A,460)~~, definition of “Division,” as follows:

“*Division*” means the division of soil conservation and water quality of the department of agriculture and land stewardship.

ITEM 44. Amend rule 27—30.30(159,161A,455H) as follows:

27—30.30(159,161A,455H 460) Appropriations. ~~Funds for the agricultural drainage wells alternative drainage system assistance program are appropriated to the division of soil conservation, Iowa department of agriculture and land stewardship, beginning July 1, 1997. The following amounts, or so much thereof as is necessary, have been appropriated to the alternative drainage system assistance fund:~~

1. ~~For the fiscal year beginning July 1, 1997, and ending June 30, 1998: \$1,500,000.~~

2. ~~For the fiscal year beginning July 1, 1998, and ending June 30, 1999: \$1,500,000.~~

Moneys shall be used to provide financial assistance under the program and to defray expenses by the division in administering the program. However, not more than 1 percent of the fund may be used to defray administrative expenses of the division. Moneys which are unobligated at the end of the fiscal year shall not revert but will be available during subsequent fiscal years of the program. Moneys earned as income, including interest, from the fund shall remain in the fund until expended, notwithstanding Iowa Code section 12C.7.

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 45. Amend rule 27—30.31(159,161A,455H), parenthetical implementation statute, as follows:

27—30.31(159,161A,455H 460) Other funds.

ITEM 46. Amend rule 27—30.40(159,161A,455H), introductory paragraph, as follows:

27—30.40(159,161A,455H 460) Allocation of funds. Funds will be allocated by the division for specific agricultural drainage well closure and alternative drainage system improvement projects. Allocations shall be 75 percent of the estimated cost of installing the alternative drainage system improvements as defined by Iowa Code section 468.3, ~~except as limited by the total allocation provision of subrule 30.40(2). Allocations of financial assistance funds will be in accordance with either subrule 30.40(1) or subrule 30.40(2).~~

ITEM 47. Rescind and reserve subrules **30.40(1)** and **30.40(2)**.

ITEM 48. Amend rule 27—30.50(159,161A,455H), parenthetical implementation statute, as follows:

27—30.50(159,161A,455H 460) Eligibility.

ITEM 49. Amend rule 27—30.60(159,161A,455H), parenthetical implementation statute, as follows:

27—30.60(159,161A,455H 460) Payment of financial assistance.

ITEM 50. Amend rule 27—30.70(159,161A,455H), parenthetical implementation statute, as follows:

27—30.70(159,161A,455H 460) Compliance procedures and reviews.

ITEM 51. Amend 27—**Chapter 30**, implementation sentence, as follows:

These rules implement ~~1997 Iowa Acts, chapter 193, and chapter 215, section 16~~ Iowa Code chapter 460.

ITEM 52. Amend rule 27—40.1(17A,207), introductory paragraph, as follows:

27—40.1(17A,207) Authority and scope. The following sets forth the rules and procedures through which the department of agriculture and land stewardship, division of soil conservation and water quality, will implement the regulatory program pursuant to Iowa Code chapter 207 and the federal Surface Mining Control and Reclamation Act of 1977 (SMCRA).

ITEM 53. Amend subrule 40.1(2) as follows:

40.1(2) The following general word substitutions are made in all incorporated federal regulations except as otherwise indicated:

“*Act*” refers to Iowa Code chapter 207.

“*Administrator*” is to be substituted for “*director*”, “*regional director*”, and “*secretary*”.

“*Division of soil conservation and water quality*” is to be substituted for “*department*”, “*the office*”, “*OSM*”, “*OSMRE*”, “*office of surface mining reclamation and enforcement*”, “*regulatory authority*”, “*State regulatory program*”, and “*regulatory program*”.

“*These rules*” is to be substituted for “*chapter*” and “*subchapter*”.

ITEM 54. Amend subrule 40.5(1) as follows:

40.5(1) Delete from 30 CFR 705.5 the definition for “State regulatory authority” and insert the following definition in lieu thereof:

“State regulatory authority” means the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, or its authorized representative.

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 55. Amend rule 27—50.10(207), introductory paragraph, as follows:

27—50.10(207) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee, to participate in the federal abandoned mined land and reclamation program as established in the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, and Iowa Code chapter 207.

ITEM 56. Amend subrule 50.190(1) as follows:

50.190(1) Availability of forms. Copies of forms utilized in the AML program are available at the following address: Division of Soil Conservation and Water Quality, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

ITEM 57. Amend rule 27—60.10(208) as follows:

27—60.10(208) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee, in implementing the requirements of Iowa Code chapter 208 to ensure reclamation upon completion of mining operations for gypsum, clay, stone, sand, gravel, and other ores or mineral solids, except coal.

Information and forms can be obtained by contacting: Mines and Minerals Bureau, Division of Soil Conservation and Water Quality, Wallace State Office Building, Des Moines, Iowa 50319. Telephone: (515)242-5003 or (515)281-6142.

ITEM 58. Amend rule 27—60.12(208), definitions of “Administrator” and “Division,” as follows:

“*Administrator*” means the administrator of the division of soil conservation and water quality, or a designee.

“*Division*” means the division of soil conservation and water quality within the department of agriculture and land stewardship.

ITEM 59. Amend subrule 60.40(4) as follows:

60.40(4) Certificates of deposit. Certificates of deposit posted as bond shall be made payable to the State of Iowa, Division of Soil Conservation and Water Quality AND (Operator). All interest earned shall be paid to the operator.

ITEM 60. Amend rule 27—101.3(466A) as follows:

27—101.3(466A) Staff. The division of soil conservation and water quality of the department of agriculture and land stewardship shall provide administrative support to the board to aid in the completion of its duties.

ITEM 61. Amend rule 27—102.1(466A), definition of “Division,” as follows:

“*Division*” means the division of soil conservation and water quality within the department of agriculture and land stewardship as established in Iowa Code section 161A.4.

ITEM 62. Amend rule 27—107.10(17A,22) as follows:

27—107.10(17A,22) Personally identifiable information. Agency records include project applications, reports, and board actions to approve or deny payment. This information is collected pursuant to the authority of Iowa Code Supplement chapter 466A and is stored in the watershed improvement review board files in the division of soil conservation and water quality. Any personally identifiable information contained in these records shall be confidential.

[Filed 9/23/15, effective 11/18/15]

[Published 10/14/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/14/15.

ARC 2180C**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4 and 476.2, the Utilities Board (Board) gives notice that on September 15, 2015, the Board adopted amendments to 199 IAC 22 as described in Docket No. RMU-2014-0003, In re: Amendments to Telephone Service Regulations [199 IAC 22]. The adopted amendments address changes to various sections of Iowa Code chapters 476 and 477 resulting from the enactment of 2014 Iowa Acts, Senate File 2195 (SF 2195), on April 25, 2014, which eliminated retail tariff requirements for local exchange carriers (LECs). The new law, codified in Iowa Code section 476.4(2), became effective on July 1, 2014, and no longer requires telephone utilities to file retail tariffs after January 1, 2015. The Board's rules governing the provision of telecommunications services are found at 199 IAC 22 and contain multiple references to retail tariffs and retail tariff requirements. The amended rules are necessary to eliminate outdated provisions and to implement the new provisions of Iowa Code section 476.4(2).

To develop the amendments, the Board sought early input from stakeholders. On May 30, 2014, the Board issued an "Information Order and Order Requesting Responses" in the docket to initiate the process of amending its administrative rules to address the requirements of SF 2195. The Information Order provided initial instructions to LECs for the withdrawal of retail tariffs prior to January 1, 2015. The Information Order also explained the Board's intent to update its rules in Chapter 22 that contain references to retail tariffs, require changes due to the enactment of SF 2195, or are no longer relevant. The Board requested responses from all interested stakeholders. The Board received three responses to the Information Order. Generally, the responses agreed that the rules need to be revised and offered preliminary suggestions as to how the rules could be amended.

Notice of Intended Action was published in the Iowa Administrative Bulletin at IAB Vol. XII, No. 23 (04/15/2015) p. 1841, as **ARC 1957C**. Written comments were filed on or before April 27, 2015, by the following participants: Qwest Corporation, d/b/a CenturyLink QC (CenturyLink); the Iowa Communications Alliance (ICA); AT&T Corp. and Teleport Communications America, LLC (collectively AT&T); Sprint Communications Company, L.P. (Sprint); MCI metro Access Transmission Services, LLC, d/b/a Verizon Access Transmission Services (Verizon); Windstream Iowa Communications, Inc. (Windstream); and Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice.

A public hearing to receive oral comments on the proposed amendments was held on June 2, 2015.

Additional written comments were filed by OCA generally restating its previously filed comments and stating its continued support of the proposed rule changes.

Based on the comments submitted at the hearing, the Board determined that the proposed amendments to 199 IAC 22 should be adopted with some modifications, as described below.

SUMMARY OF COMMENTS AND DESCRIPTION OF AMENDMENTS ADOPTED**1. Proposed changes to 22.1(3) – Definitions.***"Bill-and-keep"*

AT&T, CenturyLink, ICA, and Sprint all advocated for either the removal or the modification of the proposed definition of "bill-and-keep." AT&T suggested some changes to the proposed language so that the Board's definition would mirror the federal definition found in 47 CFR § 51.713. Similarly, CenturyLink, ICA, and Sprint all recommended that the Board eliminate the definition of "bill-and-keep" entirely because the term is already defined in corresponding federal regulations.

The Board agrees with the concerns raised by the commenters regarding the proposed definition of "bill-and-keep." The proposed amendments attempted to define the term because it is used in subrule 22.14(2) regarding intrastate access tariffs. Amending 22.14(2) eliminates the need for a definition of the term "bill-and-keep" in subrule 22.1(3). Therefore, the Board did not adopt a definition for "bill-and-keep" in subrule 22.1(3).

UTILITIES DIVISION[199](cont'd)

“Tariff” and “Wholesale services”

AT&T, CenturyLink, Verizon, and ICA provided comments regarding the Board’s proposed definitions of “tariff” and “wholesale services.” All of these participants indicated concern that the Board’s proposed definitions inadvertently include arrangements and contracts for services that are not generally subject to wholesale tariffs or interconnection agreements, such as contracts with underlying carriers and other matters generally subject to competitive contract agreements that are not subject to Board approval. These commenters suggested that the Board amend these definitions to more appropriately clarify the scope of the tariffing requirements for wholesale services.

The Board agrees with the commenters that the proposed definitions may be ambiguous regarding the inclusion of arrangements and contracts that are not generally subject to wholesale tariffs or interconnection agreements. The Board adopted the definitions for “tariff” and “wholesale services” recommended by AT&T, which appear to provide appropriate clarification to the terms.

“Transitional intrastate access service”

ICA filed comments suggesting that the proposed definition of the term “transitional intrastate access services” should be modified to mirror the FCC’s definition in 47 CFR § 51.903.

The Board agrees and amended the proposed definition of the term “transitional intrastate access services” to match the FCC’s definition.

Other comments

ICA filed comments suggesting that the terms “communications services,” “telecommunications services,” and “telephone services” should be clarified. ICA noted that the Board did not propose any changes to these definitions in its Notice of Intended Action, but ICA suggested that it may be an appropriate time to redefine these terms.

ICA also proposed that the Board consider redefining the term “demarcation point” as part of this rule making to reflect the evolution of telecommunications networks from copper to fiber. ICA suggested that the definition of the term should be modified so that it is based on the function of the equipment and should be defined as the point where the facilities owned by the company connect with facilities owned by the user.

At the June 2, 2015, public hearing, AT&T addressed ICA’s proposed definition of “demarcation point” and suggested that it is a significant issue that should be deferred to a comprehensive review of 199 IAC Chapter 22 to allow for more substantive comment and discussion. (See transcript p. 19.)

With respect to ICA’s request to clarify the terms “communications services,” “telecommunications services,” and “telephone services” in the rules, the Board notes that these three terms also appear throughout Iowa Code chapter 476. If clarity regarding the definitions of these terms is necessary, legislative involvement may be required in order to ensure compatibility between the statutory provisions and the Board’s rules implementing those provisions. Therefore, the Board did not make changes to the definition of these terms at this time.

In addition, while the Board agrees that the definition of “demarcation point” may be in need of updating, eventual changes to the term will likely result from additional rule changes addressing different telecommunications technologies, such as Voice over Internet Protocol services. The Board did not make any changes to the definition of “demarcation point” at this time but will consider changes to this definition in a more comprehensive review of Chapter 22.

2. Proposed changes to 22.1(5) – Basic utility operations.

CenturyLink filed comments suggesting that the Board may have overlooked a reference to retail tariffs in this subrule and suggested that the proposed amendment be modified to remove the reference. CenturyLink recommended that the subrule should state that a utility would not provide service in accordance with its tariffs but instead under a retail catalog or other format that is not subject to Board approval.

The Board agrees with CenturyLink that modifications should be made and rescinded the “Basic utility obligations” subrule herein. CenturyLink’s proposed modification implies that the Board has no authority over a utility’s provision of telecommunications service. SF 2195 intended to relieve retail tariff filing requirements for local exchange utilities, but it did not intend to relieve local exchange utilities from

UTILITIES DIVISION[199](cont'd)

other applicable statutes and administrative rules. Amending the subrule to state that telephone utilities must still follow applicable statutes and rules is not necessary. Subrule 22.1(5) is rescinded herein.

3. Proposed changes to 22.1(6)“c” – Deregulated actions.

AT&T filed comments suggesting that the language of the proposed amendment, which identifies the regulation changes brought about by SF 2195, is not entirely consistent with similar references in subrule 22.1(6). AT&T suggested that the Board further modify the proposed amendment to make it consistent with the other references to SF 2195 in Chapter 22. AT&T noted that the list of deregulated actions identified in this subrule includes the recording function of billing and collection services. This service is also referenced in 22.14(2)“d”(5) and should be removed from that subparagraph as well.

The Board agrees with AT&T’s comments and modified proposed paragraph 22.1(6)“c” to make it consistent with all other references to SF 2195. The Board also rescinded 22.14(2)“d”(5) to remove the reference to the recording function of billing and collection services, as suggested.

4. Proposed changes to 22.2(3) – Tariffs to be filed with the board.

CenturyLink filed comments suggesting that the Board may have overlooked a reference to retail tariffs in this subrule and recommended that the subrule be clarified to relate only to required tariffs.

The Board agrees with CenturyLink’s comments and amended the subrule as recommended by CenturyLink.

5. Proposed changes to 22.2(5) – Content of tariffs.

ICA filed comments suggesting that the proposed amendment to this subrule should be modified by adding the phrase “included in the tariff” to the end of paragraph “i.” ICA stated that the addition of this phrase clarifies the services that should be included in the tariff.

The Board agrees with ICA’s comment regarding clarification of this subrule and modified it as recommended.

6. Proposed changes to 22.3(1) – Directories.

CenturyLink and ICA filed comments recommending that the Board consider eliminating this subrule. Both CenturyLink and ICA suggested that the competitive telecommunications marketplace provides consumers with alternatives to the traditional paper directory for listing information, including Web-based directory searches and wireless or other devices to store numbers. According to CenturyLink and ICA, changing customer preferences have led to a continued decrease in the usefulness of printed directories, and some concern has been raised regarding the environmental impact of unused directories. ICA suggested that an alternative to eliminating this subrule entirely would be to modify the subrule so that carriers are required to provide customers with access to an electronic or printed directory via an opt-in mechanism instead of the current requirement of a delivered paper directory.

The Board recognizes that with changes in telecommunications technologies come changes in customer preferences regarding printed directories. However, elimination of the printed directories requirement is not appropriate at this time. Modifications, or possible removal, of this subrule is best considered in a more comprehensive review of Chapter 22.

7. Proposed changes to 22.4(1) – Customer information.

In the Notice of Intended Action, the Board proposed to add new paragraphs to the subrule that require local exchange utilities to develop a catalog or service guide, make the utility’s retail rates available on the utility’s Web site, and disclose the availability of the schedule of retail rates, catalog, and service guide.

Windstream and AT&T filed comments suggesting that the Board’s proposed amendments to this subrule extend beyond the scope of SF 2195. Windstream argued that the proposed changes to this subrule, specifically those changes that require each local exchange carrier to post its retail rates (and any related requirements), is tantamount to an electronic tariffing requirement and should be rejected. Windstream stated that its customers are aware of their rates at the time they agree to service and will be notified in advance of any changes to their rates so there is no need for an electronic “tariff” of retail rates.

Similarly, AT&T asserted that the Board should not dictate the information that must be included in service guides and customer catalogs. At the June 2, 2015, public hearing, AT&T restated its written

UTILITIES DIVISION[199](cont'd)

position that requiring carriers to list in a service guide all the information that was previously contained in a tariff effectively defeated the intent of SF 2195. (See transcript pp. 11-12.)

The Board considered the arguments raised by Windstream and AT&T regarding the perception that these requirements exceed the intended scope of SF 2195. The Board elected not to adopt any changes to subrule 22.4(1) at this time.

8. Proposed changes to 22.14(2)“a” – Filing of intrastate access service tariffs.

ICA submitted comments suggesting that the proposed definition of the term “bill-and-keep” in 22.14(2)“a” should be withdrawn. ICA recommended that the proposed paragraph be modified to replace the term “bill-and-keep” with the phrase “removed from tariff.” In addition, ICA suggested that the first sentence of the proposed paragraph be modified to clarify that there are not separate tariffs for intrastate access service and transitional intrastate access service.

AT&T filed comments recommending modifications to the proposed language of this paragraph to distinguish between the timing of annual access tariff filings for incumbent local exchange carriers and certain competitive local exchange carriers. Specifically, AT&T noted that a competitive local exchange carrier that benchmarks its rates to an incumbent local exchange carrier may not be able to file its annual access tariff rate changes at the same time as the incumbent carrier because it may not know what the incumbent carrier’s rate changes will be.

CenturyLink also filed comments recommending changes to this paragraph. CenturyLink suggested modifications to the proposed language to clarify that transitional intrastate access services are “switched” access services and that they involve “terminating” rates.

The Board considered the comments and suggestions presented by ICA, AT&T, and CenturyLink and modified the paragraph to incorporate the commenters’ recommendations.

9. Proposed changes to 22.14(2)“b” – Filing of intrastate access service tariffs.

Sprint filed comments recommending that the Board modify the paragraph to clarify that access tariff concurrence does not apply in situations involving high volume access services. ICA also filed comments questioning whether the language in the amended paragraph would allow more concurrences with access tariffs when a utility is in the same exchange area. AT&T filed similar comments proposing that additional qualifications to the concurrence rule be added to the paragraph in order to make the rule consistent with the federal access concurrence rules under 47 CFR § 61.26.

At the June 2, 2015, public hearing, AT&T explained that under the federal rules, a competitive local exchange carrier (CLEC) must qualify as a rural CLEC prior to having the ability to concur in another rural telephone company’s access tariff. (See transcript p. 18.)

The Board considered the comments and suggestions of Sprint, ICA, and AT&T and agrees that modifications should be made to the amended paragraph. The Board further amended the paragraph to incorporate the language suggested by AT&T, as it appears that the suggested language satisfies the concerns of all commenters.

10. Proposed changes to 22.14(2)“d”(1) – Carrier common line charge.

CenturyLink, AT&T, and Sprint filed comments suggesting modifications to the subparagraph to remove the reference to the carrier common line charge (CCLC) of three cents per access minute. Sprint argued that the Board should eliminate not only the terminating CCLC but also the originating CCLC. Sprint further argued that the Board’s decade-long review of the applicability of the CCLC has acknowledged that the FCC arguably preempts state authority for continuing to allow the CCLC as it is currently specified in the Board’s rules.

AT&T and CenturyLink offered some suggestions to modify the rule language that directly references any rate that would be set as the result of any potential transitional access service reductions.

The Board’s current CCLC rules reference a three-cents-per-minute CCLC rate for both originating and terminating intrastate access services. The proposed amendment eliminates the terminating CCLC because the FCC has preempted state authority to set specific terminating access rates. Sprint appears to be recommending a flash-cut elimination of the CCLC since Sprint does not propose language incorporating a phase-down of the originating charge. The Board considered Sprint’s comments and found that amending the subparagraph to reflect a flash-cut or phase-down elimination of the originating CCLC should be discussed in a comprehensive review of Chapter 22.

UTILITIES DIVISION[199](cont'd)

11. Proposed changes to 22.16 – Discontinuance of service.

Sprint filed comments expressing concern regarding the specific detail for how access billing disputes are to be handled when there is a discontinuance of service. Sprint stated that while the proposed amendments to rule 199—22.16(476) require notice to be given of an intended discontinuance of service “to the board and consumer advocate,” there is no explicit requirement that the customer whose service will be discontinued will be given notice. Sprint argued that the 2 days’ notice for discontinuance of nonpayment as provided in the proposed amendments is too short of a time frame to be meaningful. Sprint suggested that the Board modify the proposed amendments to allow for 30 days’ notice of discontinuance for nonpayment.

The Board considered Sprint’s comments and suggestions but adopted the proposed amendments without modification. The proposed 2-business-day notice for a discontinuance of service pertains only in cases of nonpayment of account, violation of rules and regulations, or violation of Board orders. The notice period for all other discontinuance of service situations remains at 30 to 90 days depending on whether customers are impacted.

The proposed amendments consider that cases of nonpayment of account, violation of rules and regulations, or violation of Board orders are exceptions to the 30-to-90-day notice period for a typical notice for discontinuance of service. In the past, there have been situations where little or no advance notice was provided to the Board or OCA when a local exchange carrier intended to discontinue service to an interexchange carrier over the nonpayment of access charges. A 2-business-day notice will allow time for the Board and OCA to review a filed notice of discontinuance of service and still issue an emergency order docketing the billing dispute for investigation or staying the discontinuance of service, if necessary.

12. Proposed changes to 26.5(1)“b” – Notification of customers.

AT&T filed comments suggesting that the Board’s proposed changes to this paragraph, which requires telephone utilities to file copies of rate change notices with the Board, are outside the scope of SF 2195. AT&T recommended that the paragraph be modified to eliminate language that requires companies to file rate change notices with the Board.

Pursuant to the proposed amendment, telephone utilities exempt from filing retail tariffs would not need to follow the specific rate increase notice requirements identified in 199 IAC Chapter 26. However, telephone utilities would need to file with the Board copies of the rate increase notices that they send to their retail customers. The intent of the proposed amendment was not to subject the rate increase notices to Board jurisdiction but instead provide information to the Board staff for the purpose of addressing customer complaints or inquiries regarding retail rate increases.

The Board considered AT&T’s comments and determined that the proposed language requiring the filing of rate increase notices exceeds the scope of SF 2195. Therefore, the Board did not adopt the proposed changes to paragraph 26.5(1)“b.”

After analysis and review of this rule making, the Board tentatively concludes that the amendments will not have a detrimental effect on jobs in Iowa.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.2.

These amendments will become effective November 18, 2015.

The following amendments are adopted.

ITEM 1. Amend **199—Chapter 22**, title, as follows:

~~RATES CHARGED AND SERVICE SUPPLIED BY TELEPHONE UTILITIES~~

ITEM 2. Amend subrule 22.1(1), introductory paragraph, as follows:

22.1(1) *Application and purpose of rules.* The rules shall apply to any telephone utility operating within the state of Iowa subject to Iowa Code chapter 476, and shall supersede all conflicting rules of any telephone utility which were in force and effect prior to the adoption of their superseding rules. Unless otherwise indicated, “telephone utility” or “utility” shall mean ~~both~~ local exchange utility, and interexchange utility, or alternative operator services company. These rules shall be construed in a manner consistent with their intent:

UTILITIES DIVISION[199](cont'd)

ITEM 3. Amend subrule **22.1(3)**, definitions of “Customer provision,” “Local exchange utility” and “Tariff,” as follows:

“*Customer provision*” means customer purchase or lease of terminal equipment or inside station wiring from the telephone ~~company~~ utility or from any other supplier.

“*Local exchange utility*” means a telephone utility that provides local exchange service under ~~tariff filed with the board~~ an authorized certificate of public convenience and necessity. The utility may also provide other services and facilities such as access services.

“*Tariff*” means the entire body of rates, classifications, rules, procedures, policies, etc., adopted and filed with the board by a ~~telephone~~ local exchange utility, ~~including for wholesale services, not governed by an interconnection agreement or commercial agreement, or by an alternative operator services company for retail services,~~ in fulfilling its role of furnishing communications services.

ITEM 4. Rescind the definitions of “Base rate area,” “Message rate service,” “Rate zone,” “Rural service,” “Special rate area” and “Toll rate” in subrule **22.1(3)**.

ITEM 5. Adopt the following new definitions in subrule **22.1(3)**:

“*Retail services*” means those communications services furnished by a telephone utility directly to end-user customers. For an alternative operator services company, the terms and conditions of its retail services are addressed in an approved intrastate tariff. For a local exchange utility, the terms and conditions of its retail services are typically addressed in a retail catalog or other format, which is not subject to board approval.

“*Transitional intrastate access service*” means terminating end office access service that was subject to intrastate access rates as of December 31, 2011; terminating tandem-switched transport access service subject to intrastate access rates as of December 31, 2011; and originating and terminating dedicated transport access service subject to intrastate access rates as of December 31, 2011.

“*Wholesale services*” means those communications services furnished by one telephone utility to another provider of communications services. The terms and conditions of wholesale services may be addressed in a telephone utility’s approved intrastate access tariff, local interconnection tariff, interconnection agreement reached under Sections 251 and 252 of the federal Telecommunications Act, or in a commercial agreement reached between the providers.

ITEM 6. Rescind and reserve subrule **22.1(5)**.

ITEM 7. Amend subrule 22.1(6) as follows:

22.1(6) Deregulation actions.

a. and b. No change.

c. Deregulation resulting from the passage of 2014 Iowa Acts, chapter 1099, section 4. Effective July 1, 2014, Iowa Code section 476.4 was amended to require that telephone utilities should only file wholesale tariffs with the board. Amended Iowa Code section 476.4 required local exchange utilities to withdraw their retail tariffs between July 1, 2014, and January 1, 2015. Docket No. RMU-2014-0003.

ITEM 8. Amend subrule 22.2(3) as follows:

22.2(3) Tariffs to be filed with the board. The utility, including an alternative operator services company, shall file ~~its tariff~~ all required tariffs with the board; and shall maintain such tariff ~~file~~ filings in a current status. A copy of the same ~~tariff~~ tariffs shall ~~also be on file in all business offices of the telephone utility and shall be available for inspection by the public~~ be available upon request.

The tariff shall be classified, designated, arranged, and submitted so as to conform to the requirements of this chapter or board order. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification, and content of tariffs shall be in accordance with these rules unless otherwise provided.

~~Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not file schedules of rates unless required by another rule or by board order. Nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board’s duties upon request to do so~~

UTILITIES DIVISION[199](cont'd)

by the board. Every telephone utility shall make the schedule of its rates readily available to customers on the utility's Web site, if the utility has one, or by mail, upon request.

ITEM 9. Amend subrule 22.2(4) as follows:

22.2(4) Form and identification. All tariffs shall conform to the following rules.

a. The tariff shall be printed, ~~typewritten or otherwise reproduced on 8½ × 11-inch sheets of white paper equal in durability to 20-pound bond paper with 25 percent cotton or rag content~~ so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side ~~suitable for binding~~. In the case of utilities subject to regulation by any federal agency, the format of sheets of tariff as filed with the board may be the same format as is required by the federal agency, provided that the rules of the board as to title page; identity of superseding, replacing or revising sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue and effective date; and the words "Filed with the board" shall be applied to modify the federal agency format for the purposes of filing with this board.

b. and c. No change.

d. All sheets except the title page shall have, in addition to the above-stated requirements, the following further information:

(1) and (2) No change.

(3) Effective date ~~(to be left blank by rate-regulated utilities).~~

EXHIBIT A

..... Telephone Tariff
(Name of Company)
Filed with board.
Part No.
..... Sheet No.
Canceling (or revising) Sheet No.
Amending Sheet No.
EXAMPLE
Issued Effective
(Date) (Date)
By

ITEM 10. Amend subrule 22.2(5) as follows:

22.2(5) Content of tariffs.

a. No change.

~~b. Local exchange utilities shall file a map which shall clearly define the base rate boundary and any rural or special zones that are set forth in the tariff. The boundary line location on such maps shall be delineated from fixed reference points.~~

~~c. b.~~ The period during which the billed amount may be paid before the account becomes delinquent shall be specified. Where net and gross amounts are billed, the difference between net and gross is a late payment charge and the amount shall be specified.

~~d. c.~~ Forms of standard contracts required of customers for the various types of service available other than those which are defined elsewhere in the tariff.

~~e.~~ A designation, by exchange, of the EAS to other exchanges.

~~f.~~ The list of exchange areas served.

~~g.~~ Definitions of classes of customers.

~~h.~~ Extension rules, under which extensions of service will be made, indicating what portion of the extension or cost thereof will be furnished by the utility; and if the rule is based on cost, the items of cost included as required in 22.3(6).

UTILITIES DIVISION[199](cont'd)

~~i.~~—The type of construction which the utility requires the customer to provide if in excess of the Iowa electrical safety code or the requirements of the municipality having jurisdiction, whichever may be the most stringent in any particular.

~~j.~~—Statement of the type of special construction commonly requested by customers which the utility allows to be connected, and the terms upon which such construction will be permitted, with due provision for the avoidance of unjust discrimination as between customers who request special construction and those who do not. This applies, for example, to a case where a customer desires underground service in overhead territory.

~~k. d.~~ Rules with which prospective customers must comply as a condition of receiving service.

~~l. e.~~ Notice by customer required for having service discontinued.

~~m.~~—Rules covering temporary service.

~~n.~~—Rules covering the type of equipment which may or may not be connected.

~~o. f.~~ Rules on billing periods, bill issuance, notice of delinquency, refusal of service, service disconnection and reconnection and customer account termination for nonpayment of bill.

~~p.~~—Rescinded IAB 12/21/05, effective 1/25/06.

~~q. g.~~ Customer deposit rules which cover when deposits are required, how the amounts of required deposits are calculated, requests for additional deposits, interest on deposits, records maintained, issuance of receipts to customers, replacement of lost receipts, refunds and unclaimed deposit disposition.

~~r. h.~~ A separate glossary of all acronyms and trade names used.

~~s. i.~~ A general explanation of each regulated service offering available from the utility included in the tariff.

~~t.~~—Rescinded IAB 12/21/05, effective 1/25/06.

~~u.~~—Rescinded IAB 12/21/05, effective 1/25/06.

~~v.~~—Rescinded IAB 12/21/05, effective 1/25/06.

ITEM 11. Amend subrule 22.3(1) as follows:

22.3(1) Directories. All directories published after the effective date of these rules shall conform to the following:

a. to c. No change.

d. The directory shall contain such instructions concerning placing local and long distance calls, calls to repair and information services, and location of telephone ~~company~~ utility business offices as may be appropriate to the area served by the directory. A statement shall be included that the ~~company~~ utility will verify the condition of a line if requested by a customer and whether any charge will apply. The directory must indicate how to order 900 and 976 blocking and indicate that the first block is without charge. The directory shall contain descriptions of all current N11 services.

e. No change.

f. In the event of an error or omission, in the name or number listing of a customer, that customer's correct name and telephone number shall be furnished to the calling party either upon request to or interception by the telephone ~~company~~ utility.

g. to i. No change.

ITEM 12. Amend subrule 22.3(5) as follows:

22.3(5) Pay telephone services and facilities. All telephone utilities shall make available to customers provisions for the interconnection of pay telephone equipment ~~on the same basis as business service.~~ A separate access line shall not be required for pay telephone equipment. ~~Nonrate-regulated telephone utilities shall provide service consistent with this subrule, but the subrule shall not apply to the pricing by nonrate-regulated telephone utilities of access lines to pay telephones.~~

ITEM 13. Amend subrule 22.3(12) as follows:

22.3(12) Ordering and transferring of service. ~~The~~ All local exchange utilities shall establish terms and conditions for ordering and transferring local exchange service ~~shall be contained in the telephone utility's tariff.~~

UTILITIES DIVISION[199](cont'd)

ITEM 14. Amend subrule 22.3(14) as follows:

22.3(14) *Adjacent exchange service.* All local exchange utilities shall ~~file tariffs which include provisions which~~ allow customers to establish adjacent exchange service.

a. The ~~tariffs shall require the customer to~~ shall pay the full cost of establishing and maintaining the adjacent exchange service.

b. In addition, the ~~tariffs~~ local exchange utility may include all or part of the following service provisions:

(1) The ~~subscriber~~ customer shall subscribe to local exchange service in the primary exchange in addition to the adjacent exchange service.

(2) to (4) No change.

(5) Failure of the ~~subscriber~~ customer to comply with the ~~tariff utility's~~ utility's provisions related to adjacent exchange service shall ~~make the subscriber~~ subject the customer to discontinuance of service after appropriate notice.

c. No change.

ITEM 15. Amend subrule 22.4(3) as follows:

22.4(3) *Customer billing, timely payment, late payment charges, payment and collection efforts.* Each ~~utility's tariff rules~~ utility shall comply with these minimum standards.

a. and b. No change.

c. Paper bills shall be issued and delivered via U.S. mail unless the customer agrees to electronic or other billing ~~pursuant to~~ terms specified by ~~tariff or~~ customer agreement. Except as otherwise noted, the requirements of this subrule apply to both paper and electronic bills. The bill form or a bill insert shall provide the following information:

(1) to (6) No change.

d. to g. No change.

h. Maximum payment required for installation and activation of local exchange service shall comply with the total derived in accord with these rules ~~and the filed tariff~~.

(1) An applicant for local exchange service, who ~~under the tariff credit rules~~ is required to make a deposit to guarantee payment of bills, may be required to pay the service charges and deposit prior to obtaining ~~service~~ services.

(2) No change.

i. Maximum payments required by an active account or inactive account, for restoration of service of the same class and location as existed prior to disconnection, shall be the total of charges derived for reconnection and must comply with 22.4(2), 22.4(5) and 22.4(7). ~~Only charges specified in the filed tariff shall be applied.~~

j. to l. No change.

ITEM 16. Amend subrule 22.4(4) as follows:

22.4(4) *Customer complaints.*

a. No change.

b. Each utility shall ~~provide in its filed tariff~~ develop a concise, fully informative procedure for the resolution of all customer complaints.

c. The utility shall take reasonable steps to ensure that customers ~~unable to travel~~ shall not be denied the right to be heard.

d. The final step in the resolution of a complaint hearing and review procedure shall be a filing for board resolution of the complaint issues pursuant to 199—Chapter 6.

ITEM 17. Amend subrule 22.4(5) as follows:

22.4(5) *Refusal or disconnection of service.* Notice of a pending disconnection shall be rendered and local exchange service shall be refused or disconnected as set forth in ~~the tariff~~ these rules. The notice of pending disconnection required by these rules shall be a written notice setting forth the reason for the notice, and the final date by which the account is to be settled or specific action taken.

The notice shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered

UTILITIES DIVISION[199](cont'd)

to the last-known address of the person responsible for payment for the service. The final date shall be not less than five days after the notice is rendered.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for refusal or disconnection of service. This notice shall include a toll-free or collect number where a utility representative qualified to provide additional information about the disconnection can be reached. The notice shall also state the final date by which the account is to be settled or other specific action taken. In determining the final date, the days of notice for the causes shall be concurrent.

Service may be refused or disconnected for any of the reasons listed below. Unless otherwise stated, the customer shall be provided notice of the pending disconnection and the rule violation which necessitates disconnection. Furthermore, unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is disconnected. Except as provided in 22.4(5) "a," "b," "c," "d," and "e," no service shall be disconnected on the day preceding or the day on which the utility's local business office or local authorized agent is closed. Service may be refused or disconnected:

a. to d. No change.

e. For violation of or noncompliance with the utility's board's rules ~~on file with the board~~, the requirements of municipal ordinances or law pertaining to the service.

f. For failure of the customer or prospective customer to furnish service equipment, permits, certificates or rights-of-way specified ~~to be furnished in the utility's rules filed with the board by the utility~~ as conditions for obtaining service, or for the withdrawal of that same equipment or the termination of those permissions or rights, or for the failure of the customer or prospective customer to fulfill the contractual obligations imposed ~~upon the customer~~ as conditions of obtaining service ~~by a contract filed with and subject to the regulatory authority of the board.~~

g. No change.

h. For nonpayment of bill or deposit, except as restricted by 22.4(7), provided that the utility has made a reasonable attempt to effect collection and:

(1) and (2) No change.

(3) In the event of a dispute concerning the bill, the ~~telephone company~~ utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill. Following payment of the undisputed amount, efforts to resolve the complaint, ~~using complaint procedures in the company's tariff~~, shall continue and for not less than 45 days after the rendering of the disputed bill, the service shall not be disconnected for nonpayment of the disputed amount. The 45 days may be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

ITEM 18. Amend subrule 22.5(14) as follows:

22.5(14) Information service access blocking. Each local exchange utility shall ~~include in its tariff on file with the board a provision giving~~ provide its subscribers customers the option of blocking access to all 900 and 976 prefix numbers, without charge for the first block.

ITEM 19. Amend subrule 22.6(6) as follows:

22.6(6) Business offices.

a. Each local exchange utility shall have one or more business offices or customer service centers staffed to provide customer access ~~in person or by telephone~~ to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error, and, generally, to act as representatives of the local exchange utility. If one business office serves several exchanges, toll-free calling from those exchanges to that office shall be provided.

b. No change.

ITEM 20. Amend rule 199—22.10(476), introductory paragraph, as follows:

199—22.10(476) Unfair practices. All unfair or deceptive practices related to customer provision of equipment are prohibited. Any failure to provide information to customers or to deal with customers

UTILITIES DIVISION[199](cont'd)

who provide their own terminal equipment or inside station wiring or an alteration of the charges for or availability of equipment or services on that ground, unless specifically authorized by board order or rule ~~and by the utility's tariff~~, shall constitute unfair or deceptive practices. In cases of equipment in compliance with Federal Communications Commission registration requirements, telephone utility personnel are prohibited from making any statement, express or implied, to, or which will reach, a customer or prospective customer that terminal equipment in compliance with Federal Communications Commission registration requirements cannot properly be attached to the telephone network. This does not apply to good-faith efforts to amend the Federal Communications Commission requirements.

ITEM 21. Amend subrule 22.11(1) as follows:

22.11(1) Construction by user limitation. A user shall not be allowed to construct inside station wiring from a demarcation point or between two or more buildings on the same premises to obtain service from an exchange other than that by which the user would normally be served, excluding users being provided adjacent exchange service or foreign exchange service ~~as provided in a company's tariff~~. Existing inside wiring obtaining local exchange service within another exchange boundary shall be disconnected by the user within ten days after receipt of written notification from the local exchange company.

ITEM 22. Amend rule 199—22.12(476) as follows:

199—22.12(476) Contents Content of wholesale tariff filings proposing rates rate changes.

22.12(1) Construction of rule. This rule shall be construed in a manner consistent with its purpose to expedite informed consideration of wholesale tariff filings proposing rates that propose rate changes by ensuring the availability of relevant information on a standardized basis. Unless a waiver is granted prior to the filing of a wholesale tariff, this rule shall apply to all wholesale tariff filings by rate-regulated telephone utilities proposing rates rate changes, except the retail tariff filings of AOS utilities that propose rates at or below the corresponding rates for similar services of utilities whose rates have been approved by the board in a rate case or set in a market determined by the board to be competitive.

22.12(2) to 22.12(4) No change.

ITEM 23. Amend subparagraph **22.14(1)“b”(3)** as follows:

(3) This rule shall be inapplicable to:

1. ~~Communications made by a person using facilities or services of telephone utilities to which an intrastate carrier common line charge applies pursuant to 22.14(3)“a.”~~
2. Administrative administrative communications made by or to a telephone utility.

ITEM 24. Amend subrule 22.14(2) as follows:

22.14(2) Filing of intrastate access service tariffs.

a. Tariffs providing for intrastate switched access services shall be filed with the board by a telephone local exchange utility which provides such services. ~~Iowa intrastate access service tariffs of rate-regulated utilities shall be based only on Iowa intrastate costs. A local exchange utility whose tariff or concurring tariff does not contain automatic reductions to implement the applicable transitional intrastate access service reductions shall file revised transitional intrastate access services rates with the board to become effective on or about July 1 of each year until such terminating rates are removed from the tariff. A competitive local exchange carrier that is required to benchmark its intrastate access service rates to the rates of an incumbent local exchange carrier shall file revised transitional intrastate access rates with the board to become effective on or about August 1 of each year until such terminating rates are removed from the tariff.~~ Unless otherwise provided, the filings are subject to the applicable rules of the board.

b. ~~A non-rate-regulated~~ Except in situations involving HVAS, a local exchange utility ~~in its general tariff~~ may concur in the intrastate access tariff filed by another ~~non-rate-regulated~~ local exchange utility serving the same exchange area. However, a competitive local exchange carrier may not concur in the intrastate access tariff of an incumbent local exchange carrier that qualifies as a rural telephone company pursuant to 47 U.S.C. § 153(44) unless the competitive local exchange carrier also is a rural CLEC pursuant to 47 CFR § 61.26(a)(6).

UTILITIES DIVISION[199](cont'd)

(1) Alternatively, a ~~non-rate-regulated~~ local exchange utility may voluntarily elect to join another ~~nonrate-regulated~~ local exchange utility or utilities in forming an association of local exchange utilities. The association may file intrastate access service tariffs. ~~A utility in its general tariff can concur in the association tariffs.~~

(2) No change.

c. No change.

d. All intrastate access service tariffs shall incorporate the following:

(1) Carrier common line charge. The rate for the intrastate carrier common line charge shall be three cents per access minute or fraction thereof for ~~both the~~ originating and terminating segments of the communication; unless a ~~different lower~~ rate is required by the transitional intrastate access service reductions or if numbered paragraphs "1" and "2" are applicable. The carrier common line charge shall be assessed to exchange access made by ~~any an~~ interexchange telephone utility, including resale carriers. In lieu of this charge, interconnected private systems shall pay for access as provided in 22.14(1) "b."

1. No change.

2. A competitive local exchange carrier ~~that concurs with the Iowa Telephone Association (ITA) Access Service Tariff No. 1 and that offers service in exchanges where the incumbent local exchange carrier's intrastate access rate is lower than the ITA access rate~~ shall deduct the carrier common line charge from its intrastate access service tariff.

(2) to (4) No change.

~~(5) Recording function of billing and collections. The intrastate access service tariffs shall include the rate to be charged for performing the recording function associated with billing and collections.~~

(6) to (8) No change.

e. No change.

ITEM 25. Adopt the following new subrule 22.14(7):

22.14(7) Access billing disputes and discontinuation of service. The provisions of subparagraph 22.4(5) "h"(3) also apply to intrastate access billing disputes. The provisions of rule 199—22.16(476) shall be followed before a utility discontinues providing intrastate access service to another utility.

ITEM 26. Rescind and reserve subrule **22.15(3)**.

ITEM 27. Amend rule 199—22.16(476) as follows:

199—22.16(476) Discontinuance of service. ~~No~~ Except in the case of emergency, no local exchange utility or interexchange utility may discontinue providing intrastate service to any local exchange or part of a local exchange ~~except in the case of emergency,~~ without providing notice to the board and the consumer advocate.

In cases of nonpayment of account, or violation of rules and regulations; except as provided below, or violation of board orders, no utility shall discontinue service without providing at least two business days' notice to the board and the consumer advocate.

~~22.16(1) Prior to discontinuing service~~ In all other cases, the utility shall file with the board and the consumer advocate a notice of intent to discontinue service at least 90 days prior to the proposed date of discontinuance. However, if the utility shows it has no customers for the service it proposes to discontinue, the utility need only file such notice 30 days prior to discontinuance.

~~22.16(2)~~ **22.16(1)** The notice of discontinuance of service shall include the following:

1. to 6. No change.

~~22.16(3)~~ **22.16(2)** If after 30 days of the filing of such notice, no action is taken by the board, the discontinuance may take place as proposed.

~~22.16(4)~~ **22.16(3)** The board, on its own motion or at the request of the consumer advocate or affected customer, may hold a hearing on such discontinuance.

ITEM 28. Amend subrule 22.19(3) as follows:

22.19(3) Blocking. AOS companies shall not block the completion of calls which would allow the caller to reach a long distance telephone ~~company~~ utility different from the AOS company. All AOS

UTILITIES DIVISION[199](cont'd)

company contracts with contracting entities must prohibit call blocking by the contracting entity. The contracting entity shall not violate that contract provision.

ITEM 29. Amend paragraph **22.20(3)“a,”** introductory paragraph, as follows:

~~a. Each utility's maps~~ If a utility files a paper boundary map, the map shall be on a scale of one inch to the mile. If a utility files a boundary map in an electronic format, the relevant scale shall be noted in the filing. Boundary maps shall include information equivalent to the county maps which are available from the Iowa department of transportation, showing all roads, railroads, waterways, plus township and range lines outside the municipalities. A larger scale shall be used where necessary to clarify areas. All map details shall be clean-cut and readable.

ITEM 30. Rescind subrule 22.20(4) and adopt the following **new** subrule in lieu thereof:

22.20(4) Certificate modifications. Two local exchange utilities may transfer the service territory boundaries and customers from one utility to another after affected customers have been notified and are given an opportunity for a hearing before the board. A certificate modification shall be approved if the board finds that the transfer will result in adequate service to affected customers, the transfer is in the public interest, and the provisions of paragraph 22.23(2)“e” have been followed. If the certificate modification involves an ILEC, the ILEC shall file revised boundary maps.

After July 1, 2014, a local exchange utility may expand its service territory by filing a notice of the expansion with the board and by providing that notice to affected utilities. The notice shall list the exchanges where the utility currently provides ILEC and CLEC service and shall provide the names of the exchanges where the utility proposes to expand its competitive service area.

a. Filing instructions. The notice of the expansion shall be filed using the board's electronic filing system in accordance with rule 199—14.9(17A,476). The filing shall be titled “Proposed Expansion of Competitive Service Area,” with a reference to the year for which the notice is filed. The board's records and information center will assign each filing an ES docket number, signifying “Expansion of Service Areas.” Unless docketed by the board for further investigation, a letter approving the notice and modifying the utility's certificate will be issued within 30 days of the filing. ES dockets are not subject to protection from public disclosure.

b. Conservation of numbering resources. A utility proposing to expand its competitive service area shall not apply for numbering resources in those exchanges until its provision of local exchange service to customers becomes imminent.

[Filed 9/17/15, effective 11/18/15]

[Published 10/14/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/14/15.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA
EXECUTIVE ORDER NUMBER EIGHTY-SIX

WHEREAS, All children in Iowa deserve to receive education and go to school each and every day in a safe and respectful learning environment; and

WHEREAS, All children in Iowa deserve a classroom and community that allow them to grow and flourish, and not live in fear of when and where the bullying will occur again.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, declare that the time to end bullying in Iowa is now. I hereby order and direct:

1. **Establishment of the Governor's Office for Bullying Prevention:** The University of Northern Iowa's Center for Violence Prevention ("the Center") shall establish the Governor's Office for Bullying Prevention ("the Office"). The Office's mission shall be to empower schools to provide each and every student with a safe and respectful learning environment.

The Office shall do the following:

- a. **Training:** Ensure schools have access to training on establishing anti-bullying policies and conducting investigations of complaints of harassment or bullying pursuant to Iowa Code section 280.28. Training shall be made available to schools electronically or through other means.
 - b. **24-hour hotline:** The Office, in conjunction with the Iowa Department of Public Health and the Iowa Department of Education, shall promote YourLIFEIowa.org, an existing hotline for students who feel threatened, bullied or harassed at school.
 - c. **Reporting Procedures:** The Office, working in collaboration with the Iowa Department of Education, shall develop a procedure for the prompt notification of parents or guardians of the victims and alleged perpetrators in reported incidents of harassment or bullying.
 - d. **Cyberbullying:** Although bullying is an age-old problem, cyberbullying is new and presents a dynamic challenge. From e-mail, cell phones, text messages, instant messages, websites, social media and other electronic means, bullying and harassment can be a 24-7 issue. The Office is charged with developing guidelines promoting safety from cyberbullying and how to respond to bullying that takes place electronically and interferes with learning at school.
 - e. **Data Collection:** The Office will work with schools and the Iowa Department of Education to address inconsistencies in school reporting of bullying and harassment data.
 - f. **Varsity Interscholastic Athletic Participation:** The Office will convene a working group including the Iowa Girls High School Athletic Union, the Iowa High School Athletic Association, the Iowa Association of School Boards, the School Administrators of Iowa and the Iowa Department of Education to propose administrative rules to the State Board of Education allowing a student previously subject to harassment or bullying as defined by Iowa Code to open enroll and participate immediately in a varsity interscholastic sport.
2. **Bullying and prevention student mentoring pilot program:** The Office shall promote a student mentoring program. This program will promote student leadership in order to prevent and respond to bullying and violence in schools. This program will spread best practices for bullying and violence prevention for middle and high school students.
 3. This Order shall apply prospectively as of the date of the signing of this Order. This Order shall be interpreted in accordance with all applicable laws. It is not intended to supersede any law or collective bargaining agreement.

4. If any provision of this Order, or the application of such provision to any person or circumstance, is held to be invalid, the remaining provisions, as applied to any person or circumstance, shall not be affected thereby.
5. This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its Departments, Agencies, or Political Subdivisions, or its officers, employees, or agents, or any other person.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 28th day of September, in the year of our Lord two thousand fifteen.


TERRY E. BRANSTAD
GOVERNOR

ATTEST:


PAUL D. PATE
SECRETARY OF STATE