



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 1123 to 1245 include **ARC 7288B** to **ARC 7335B**

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

- Filed, Customer councils, rescind ch 10
ARC 7292B 1220
- Filed, Information technology—board
membership, audit of fees, 20.5, 20.8(6)
ARC 7290B 1220
- Filed, Information
technology—participating agencies,
operational standards, 25.1, 25.5(5)
ARC 7289B 1221
- Filed, Eligibility of charitable
agencies—criteria included in
campaign, 71.6(1)“f” and “h” **ARC 7291B** 1222

ALL AGENCIES

- Agency identification numbers 1121
- Citation of administrative rules 1116
- Schedule for rule making 1117

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]“umbrella”

- Notice, Update of references to Iowa
Code, amendments to chs 1, 3, 6, 7, 9
to 17, 19, 23, 25 **ARC 7319B** 1123

CULTURAL AFFAIRS DEPARTMENT[221]

- Notice, Iowa community cultural grants
program, 6.3, 6.5, 6.6 **ARC 7311B** 1127

DELAYS

- Insurance Division[191] Pharmacy
benefits managers, Delay Lifted 1246

Environmental Protection

- Commission[567] Underground
storage tanks—technical standards and
corrective action 1246
- Public Health Department[641] Oral health 1246

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

- Notice, Waiver of wage and nonstatutory
program requirements under
certain limited conditions, 68.2(6),
68.4(7)“a”(1), 174.4, 175.4 **ARC 7315B** 1129
- Filed Emergency, CDBG contingency
fund, 23.4, 23.10 **ARC 7314B**. 1209
- Filed Emergency, Waiver of wage and
nonstatutory program requirements
under certain limited conditions,
68.2(6), 68.4(7)“a”(1), 174.4, 175.4
ARC 7316B 1210

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

- Notice, Substitute authorization for
preschool special education, 14.143
ARC 7329B 1129
- Filed, Adding endorsements to licenses,
14.106 **ARC 7321B** 1223
- Filed, Administrator licenses, 14.114
ARC 7322B 1224
- Filed, Two-year teacher exchange license,
14.120(1) **ARC 7324B**. 1224
- Filed, Special education instructional
endorsements, 15.1(2) **ARC 7323B** 1225

ENVIRONMENTAL PROTECTION**COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Notice, Air quality, 22.1(2)"r," 22.8(1),
23.1 **ARC 7306B** 1130
- Notice, Fee schedule—water use permit
program, 50.4(2), 55.5(2) **ARC 7307B** 1137
- Notice, Private sewage disposal systems,
64.15(4), ch 69 **ARC 7308B** 1139
- Notice, Solid waste comprehensive
planning requirements, amendments to
ch 101 **ARC 7310B** 1173
- Delay, Underground storage
tanks—technical standards and
corrective action 1246

HUMAN SERVICES DEPARTMENT[441]

- Filed Emergency After Notice, Medicaid
and FIP—eligibility; alignment
of procedures across programs,
amendments to chs 40, 41, 43, 45, 46,
75, 76 **ARC 7295B** 1214
- Filed, Iowa disaster aid individual
assistance grant program, 58.3(2),
58.4(4), 58.5, 58.6 **ARC 7296B** 1226
- Filed Emergency After Notice,
Medicaid—continuous eligibility for
children, 75.19, 75.54(4) **ARC 7298B** 1215
- Filed Emergency After Notice, Medicaid
coverage—behavioral health services,
77.26, 78.29, 79.1(2), 79.3(2)"d"
ARC 7300B 1216
- Filed, Medicaid—local education agency
expenses for transportation, 78.6(6),
78.25(2)"e," 78.50(1) **ARC 7301B** 1227
- Filed, Medicaid—reimbursement
for nursing facilities related to
performance, 81.6(16)"g," 81.36(5)
ARC 7302B 1227
- Filed, Child care centers, child
development homes—staff training,
109.2(6)"b," 109.7, 110.5 **ARC 7303B** 1229

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

- Filed, Viatical and life settlements,
amendments to ch 48 **ARC 7317B** 1234
- Filed, Annual financial reporting
requirements, ch 98 **ARC 7304B** 1235
- Filed, Sales of cemetery merchandise,
funeral merchandise and funeral
services, chs 100 to 106 **ARC 7318B** 1236
- Delay Lifted, Pharmacy benefits managers 1246

IOWA FINANCE AUTHORITY[265]

- Notice, Second amended 2009 qualified
allocation plan, 12.1 **ARC 7294B** 1179
- Filed Emergency, Second amended 2009
qualified allocation plan, 12.1 **ARC 7293B** 1218

MANAGEMENT DEPARTMENT[541]

- Filed, DAS customer council, ch 12
ARC 7313B 1237

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Filed, Physical, mental, and clinical
competency evaluations, 24.4 **ARC 7305B** 1241

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Notice, Zoning of Mississippi River, city
of Burlington, 40.56 **ARC 7309B** 1180

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Notice, Podiatry—residency programs,
220.2(11), 220.7(3) **ARC 7325B** 1181
- Filed, Board of optometry, rescind chs
179, 184; amend chs 180 to 183 **ARC 7297B** 1241
- Filed, Board of podiatry, rescind chs 219,
221, 225; amend chs 220, 222, 224
ARC 7320B 1242

PUBLIC HEALTH DEPARTMENT[641]

- Notice, Plumbing and mechanical
systems licensure fees, ch 28 **ARC 7328B** 1182
- Notice, Plumbing and mechanical
systems professionals—application,
licensure, and examination, ch 29
ARC 7330B 1184
- Filed, Plumbing and mechanical systems
examining board—administrative and
regulatory authority, ch 27 **ARC 7332B** 1243
- Delay, Oral health 1246

PUBLIC HEARINGS

- Summarized list 1118

PUBLIC SAFETY DEPARTMENT[661]

- Notice, Commercial explosive licensing,
rescind 5.7, 5.851, 5.865, 5.866; adopt
ch 235 **ARC 7312B** 1190

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

- Filed, Horse racing; licensure; monitoring
activities; progressive slot machines,
amendments to chs 5, 6, 10 to 12
ARC 7288B 1244

REAL ESTATE COMMISSION[193E]

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

Filed, Time period for completion of
 required education, 4.1(10), 16.2(3)
ARC 7299B 1244

REVENUE DEPARTMENT[701]

Notice, Interest rate—calendar year 2009,
 10.2(28) **ARC 7334B** 1194
 Notice, Bonding procedure, 11.10 **ARC 7331B** ... 1195
 Notice, Use tax exemption, 32.3, 33.9,
 33.10 **ARC 7327B** 1197

Notice, Inheritance tax exemption for
 qualified tuition plans, 86.5(14) **ARC 7326B** .. 1201
 Notice, Inheritance and estate
 tax—applicability dates, 86.15,
 87.1, 87.6 **ARC 7333B** 1202
 Notice, License sanctions for collection
 of state debt, ch 153 **ARC 7335B** 1203

USURY

Notice 1208

PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2008

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Wednesday, November 12, 2008	December 3, 2008
13	Wednesday, November 26, 2008	December 17, 2008
14	Wednesday, December 10, 2008	December 31, 2008

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

AGENCY	HEARING LOCATION	DATE AND TIME
CREDIT UNION DIVISION[189]		
Iowa Code references updated, amendments to chs 1, 3, 6, 7, 9 to 17, 19, 23, 25 IAB 11/5/08 ARC 7319B	Conference Room 200 E. Grand Ave. Des Moines, Iowa	November 25, 2008 10 a.m.
CULTURAL AFFAIRS DEPARTMENT[221]		
Iowa community cultural grants program, 6.3, 6.5, 6.6 IAB 11/5/08 ARC 7311B	Tone Board Room, 3rd Floor West Historical Bldg. 600 E. Locust St. Des Moines, Iowa	November 25, 2008 10 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Waiver of wage and nonstatutory program requirements, 68.2(6), 68.4(7), 174.4, 175.4 IAB 11/5/08 ARC 7315B (See also ARC 7316B herein)	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	December 4, 2008 1:30 to 2:30 p.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Chapter reorganization, rescind chs 14 to 22; adopt chs 12 to 24 IAB 10/22/08 ARC 7284B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 12, 2008 1 p.m.
Class A license requirements, 14.115 IAB 10/8/08 ARC 7252B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 5, 2008 1 p.m.
Substitute authorization—preschool special education, 14.143 IAB 10/8/08 ARC 7329B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 3, 2008 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Air quality, 22.1(2), 22.8(1), 23.1 IAB 11/5/08 ARC 7306B	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	December 8, 2008 1 p.m.
Maximum annual Title V operating permit fee, 22.106(1) IAB 10/8/08 ARC 7220B	Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	November 12, 2008 10 a.m.
Fee schedule—water use permit program, 50.4(2), 55.5(2) IAB 11/5/08 ARC 7307B	Kelly Hall, Onawa Community Center 320 10th St. Onawa, Iowa	December 3, 2008 9 a.m.
	Public Library 123 S. Linn St. Iowa City, Iowa	December 5, 2008 10 a.m.
	Auditorium, Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	December 11, 2008 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)		
Private sewage disposal systems, 64.15(4), ch 69 IAB 11/5/08 ARC 7308B	South Conference Room, Suite M 401 SW 7th St. Des Moines, Iowa	December 2, 2008 1:30 to 4:30 p.m.
	Room B, Public Library 123 S. Linn St. Iowa City, Iowa	December 3, 2008 1 to 3 p.m.
	Meeting Room, Public Library 424 Central Ave. Fort Dodge, Iowa	December 4, 2008 1 to 3 p.m.
Solid waste comprehensive planning requirements, amendments to ch 101 IAB 11/5/08 ARC 7310B	Fifth Floor E. Conference Room Wallace State Office Bldg. Des Moines, Iowa	November 25, 2008 1 to 3 p.m.
HISTORICAL DIVISION[223]		
State historical society—award programs, 21.2, 21.3 IAB 10/22/08 ARC 7278B	Classroom B, Third Floor West Historical Bldg. 600 E. Locust St. Des Moines, Iowa	November 12, 2008 9:30 a.m.
NATURAL RESOURCE COMMISSION[571]		
Zoning of Mississippi River, City of Burlington, 40.56 IAB 11/5/08 ARC 7309B	Fourth Floor E. Conference Room Wallace State Office Bldg. Des Moines, Iowa	November 25, 2008 9 a.m.
PROFESSIONAL LICENSURE DIVISION[645]		
Board of behavioral science, rescind chs 30, 34; amend chs 31 to 33 IAB 10/22/08 ARC 7286B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 12, 2008 9:30 to 10 a.m.
Board of nursing home administrators, rescind chs 140, 145; amend chs 141, 143, 144 IAB 10/22/08 ARC 7285B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 13, 2008 10 to 11 a.m.
Podiatry—residency programs, 220.2(11), 220.7(3) IAB 11/5/08 ARC 7325B	Fifth Floor Board Room 526 Lucas State Office Bldg. Des Moines, Iowa	November 25, 2008 9 to 9:30 a.m.
Board of speech pathology and audiology, rescind chs 299, 305; amend chs 300, 303, 304 IAB 10/22/08 ARC 7280B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 12, 2008 9 to 9:30 a.m.
PUBLIC HEALTH DEPARTMENT[641]		
Plumbing and mechanical systems licensure fees, ch 28 IAB 11/5/08 ARC 7328B	Public Library 529 Pierce St. Sioux City, Iowa	November 25, 2008 11 a.m. to 1 p.m.
	Room C, Public Library 400 Willow Ave. Council Bluffs, Iowa	November 26, 2008 11 a.m. to 1 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
PUBLIC HEALTH DEPARTMENT[641] (Cont'd)		
Plumbing and mechanical systems professionals—application, licensure, and examination, ch 29 IAB 11/5/08 ARC 7330B	Room B, Public Library 415 Commercial St. Waterloo, Iowa	December 1, 2008 10:30 a.m. to 12:30 p.m.
	Public Library 102 W. 4th St. Ottumwa, Iowa	December 2, 2008 11 a.m. to 1 p.m.
	Public Library 2950 Learning Campus Dr. Bettendorf, Iowa	December 3, 2008 11 a.m. to 1 p.m.
	Room 517 & 518 Lucas State Office Bldg. Des Moines, Iowa	December 4, 2008 1 to 3 p.m.
	Public Library 529 Pierce St. Sioux City, Iowa	November 25, 2008 11 a.m. to 1 p.m.
	Room C, Public Library 400 Willow Ave. Council Bluffs, Iowa	November 26, 2008 11 a.m. to 1 p.m.
	Room B, Public Library 415 Commercial St. Waterloo, Iowa	December 1, 2008 10:30 a.m. to 12:30 p.m.
	Public Library 102 W. 4th St. Ottumwa, Iowa	December 2, 2008 11 a.m. to 1 p.m.
	Public Library 2950 Learning Campus Dr. Bettendorf, Iowa	December 3, 2008 11 a.m. to 1 p.m.
	Room 517 & 518 Lucas State Office Bldg. Des Moines, Iowa	December 4, 2008 1 to 3 p.m.
PUBLIC SAFETY DEPARTMENT[661]		
Commercial explosive licensing, 5.7, 5.851, 5.865, 5.866; adopt ch 235 IAB 11/5/08 ARC 7312B	1st Floor Public Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	December 9, 2008 8:30 a.m.
REAL ESTATE COMMISSION[193E]		
Trust accounts—tax identification number and depository address modified, 13.1(2) IAB 10/22/08 ARC 7271B	Conference Room, Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	November 12, 2008 9 to 9:30 a.m.

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

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

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

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

The following list will be updated as changes occur:

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

Community Action Agencies Division[427]
Criminal and Juvenile Justice Planning Division[428]
Deaf Services Division[429]
Persons With Disabilities Division[431]
Latino Affairs Division[433]
Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 7319B

CREDIT UNION DIVISION[189]

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 chapter 17A, the Credit Union Division hereby gives Notice of Intended Action to amend Chapters 1, 3, 6, 7, 9 to 17, 19, 23, and 25, Iowa Administrative Code.

The purpose of the proposed amendments is to update references to Iowa Code Supplement chapter 533.

Interested persons may make written comments on the proposed amendments on or before November 25, 2008. Such written material should be directed to the Superintendent of Credit Unions, Credit Union Division, Department of Commerce, 200 East Grand Avenue, Suite 370, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Credit Unions, Department of Commerce, at (515)281-6516 or at 200 East Grand Avenue, Suite 370, Des Moines, Iowa.

Also, a public hearing will be held on November 25, 2008, at 10 a.m. in the Credit Union Division Conference Room at 200 East Grand Avenue in Des Moines. Persons may present their views at the public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Superintendent of Credit Unions at least one day prior to the date of the public hearing.

These amendments are intended to implement Iowa Code Supplement chapter 533.

The following amendments are proposed.

ITEM 1. Amend rule **189—1.3(17A,533)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section ~~533.52~~ 533.107.

ITEM 2. Amend rule **189—1.4(17A,533)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section ~~533.51~~ 533.102.

ITEM 3. Amend rule **189—3.1(533)**, definition of "Credit union," as follows:

"*Credit union*" means credit union as defined in the Iowa Credit Union Act, Iowa Code Supplement section ~~533.1~~ 533.102.

ITEM 4. Amend subrule 3.2(2) as follows:

3.2(2) An Iowa-chartered credit union shall remain responsible for the entire annual fee pursuant to Iowa Code Supplement section ~~533.62~~ 533.112 during the year in which the credit union converts.

ITEM 5. Amend subrule 3.4(8) as follows:

3.4(8) In addition, if the purpose of conversion is to become a mutual savings bank or savings association, or a stock institution, the notice must describe a method that will be used to provide for a pro-rata distribution of all unencumbered credit union retained and undivided earnings in excess of regulatory required reserves, as calculated pursuant to Iowa Code Supplement section ~~533.17~~ 533.303, or in excess of a well-capitalized net worth level, calculated pursuant to the Federal Credit Union Act, 12 U.S.C. Section 1790d, whichever amount is greater. The pro-rata distribution shall occur on all shares of record as of the date of first notice to members under this rule, and must be based upon the member's share balance less any amount pledged to share-secured loans.

ITEM 6. Amend **189—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.34~~ 533.403.

CREDIT UNION DIVISION[189](cont'd)

ITEM 7. Amend **189—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.4(19)~~ 533.301(19).

ITEM 8. Amend rule 189—7.1(533), introductory paragraph, as follows:

189—7.1(533) Authority. Iowa Code Supplement subsection ~~533.4(1)~~ 533.301(1) grants ~~credit unions~~ a credit union the power to receive from its members, nonmembers where the credit union is serving predominantly low-income members, other credit unions, and federal, state, county, and city governments, payments on shares or as deposits.

ITEM 9. Amend paragraph **7.5(2)“c”** as follows:

c. That the nonmember shares and deposits held by the credit union must be withdrawn and the account closed either upon the stated date of maturity of the account or the date when the account ceases to be federally insured as required by Iowa Code Supplement section ~~533.64~~ 533.307, whichever occurs first.

ITEM 10. Amend **189—Chapter 7**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.4(1)~~ 533.301(1).

ITEM 11. Amend rule **189—9.1(533)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 533.4(21) and 533.16(4)“a.”~~ Supplement section 533.315(4)“a.”

ITEM 12. Amend rule **189—9.2(533)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 533.4(21) and 533.16(4)“a.”~~ Supplement section 533.315(4)“a.”

ITEM 13. Amend rule 189—10.1(533) as follows:

189—10.1(533) Corporate central credit union powers. A corporate central credit union established in accordance with Iowa Code chapter 533 shall have all the powers, restrictions, and obligations imposed upon or granted to a credit union established in accordance with that chapter, the additional powers permitted under Iowa Code Supplement section ~~533.38~~ 533.213, and such other powers granted to federally chartered corporate central credit unions under Part 704 of the National Credit Union Administration Rules and Regulations.

This rule is intended to implement Iowa Code Supplement section ~~533.38~~ 533.213.

ITEM 14. Amend **189—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.6~~ 533.501.

ITEM 15. Amend **189—Chapter 12**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.2~~ 533.201.

ITEM 16. Amend rule 189—13.1(533), introductory paragraph, as follows:

189—13.1(533) Powers of superintendent or special deputy superintendent. When the superintendent takes control of a credit union pursuant to Iowa Code ~~section 533.6~~ Supplement sections 533.501 and 533.502, the superintendent or the superintendent’s special deputy shall have the power to operate and direct the affairs of the credit union in its regular course of business which shall include, but not be limited to:

ITEM 17. Amend rule 189—13.2(533) as follows:

189—13.2(533) Surrender of control. The superintendent shall determine when the superintendent’s control shall cease unless such right to control expires as provided by Iowa Code ~~section 533.6~~ Supplement sections 533.501 and 533.502. Upon determining that control shall cease, the superintendent shall either turn the control of the credit union back to the board of directors of the credit union or shall seek a receivership.

CREDIT UNION DIVISION[189](cont'd)

ITEM 18. Amend **189—Chapter 13**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section 533.6(4)~~ Supplement sections 533.501 and 533.502.

ITEM 19. Amend rule **189—14.1(533)**, definition of “Division officer,” as follows:

“*Division officer*” means the superintendent, deputy superintendent or any division employee authorized by the superintendent under Iowa Code Supplement section 533.59 533.505 to subpoena witnesses, to compel their attendance, to administer oaths, to examine any person under oath and to require the production of books and records.

ITEM 20. Amend subrule 15.6(1) as follows:

15.6(1) Each credit union operating a branch office in this state pursuant to these rules and Iowa Code Supplement section 533.39 533.115 shall pay an annual fee of \$250 to the superintendent on or before February 1 of each year.

ITEM 21. Amend **189—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section 533.39 533.115.

ITEM 22. Amend **189—Chapter 16**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section 533.1 533.204.

ITEM 23. Amend subrule 17.1(1) as follows:

17.1(1) These rules implement the authority of credit unions organized in accordance with Iowa Code Supplement chapter 533 to engage in investment and deposit activities which would be permitted if the credit union were federally chartered in accordance with Iowa Code Supplement sections 533.4(5)(j) and 533.4(25) 533.301(5) “j” and 533.301(25), and are promulgated under the authority of Iowa Code Supplement section 533.1 533.104.

ITEM 24. Amend subrule 17.1(3) as follows:

17.1(3) Exceptions. These rules do not apply to:

a. Investment in loans to members and other activities pursuant to Iowa Code Supplement sections 533.4(2) 533.301(2), 533.4(3) 533.301(3), 533.4(15) 533.301(15) and 533.4(16) 533.301(16);

b. Investment in real estate-secured loans to members pursuant to Iowa Code Supplement section 533.16(4) 533.315(4);

c. Investment in credit union service organizations pursuant to Iowa Code Supplement section 533.4(5)(f) 533.301(5) “f”;

d. Investment in fixed assets pursuant to Iowa Code Supplement section 533.4(10) 533.301(10).

ITEM 25. Amend rule **189—17.2(533)**, definition of “Investment portfolio,” as follows:

“*Investment portfolio*” means the amount invested by a credit union pursuant to Iowa Code Supplement sections 533.4(5) 533.301(5), 533.4(25) 533.301(25), 533.47 533.304 and 533.48 533.305, excluding any investment in nonearning assets such as real estate, premises and equipment, the capitalization deposit in the National Credit Union Share Insurance Fund (NCUSIF), and any other investment which does not generate a regular dividend or interest or receive or accrue added value.

ITEM 26. Amend subrule 17.4(2) as follows:

17.4(2) A credit union must maintain documentation for each investment transaction for as long as it holds the investment and until the documentation has been audited in accordance with Iowa Code Supplement section 533.11 533.208 or NCUA rules and regulations, 12 CFR Part 701.12, or both, and examined by the superintendent or the NCUA, or both. The documentation should include, where applicable, bids and prices at purchase and sale and for periodic updates, relevant disclosure documents or a description of the security from an industry-recognized information provider, financial data, and tests and reports required by the credit union’s investment policy and these rules.

ITEM 27. Amend subrule 17.4(3) as follows:

17.4(3) A credit union must maintain documentation that its board of directors used to approve a broker-dealer or a safekeeper for as long as the broker-dealer or safekeeper is approved and until the documentation has been audited in accordance with Iowa Code Supplement section 533.11 533.208 or

CREDIT UNION DIVISION[189](cont'd)

NCUA rules and regulations, 12 CFR Part 701.12, or both, and examined by the superintendent or the NCUA, or both.

ITEM 28. Amend paragraph **17.13(4)“b”** as follows:

b. Any cash the credit union receives, when aggregated with all other credit union borrowings, is subject to the borrowing limit in accordance with Iowa Code Supplement section ~~533.15~~ 533.306 or to any lesser amount specified by policy of the board of directors, and any investments the credit union purchases with that cash are permissible for federal credit unions; and

ITEM 29. Amend paragraph **17.13(5)“c”** as follows:

c. Any cash the credit union receives, when aggregated with all other credit union borrowings, is subject to the borrowing limit in accordance with Iowa Code Supplement section ~~533.15~~ 533.306 or to any lesser amount specified by policy of the board of directors, and any investments the credit union purchases with that cash are permissible for federal credit unions and mature no later than the maturity of the transaction; and

ITEM 30. Amend subrule 17.14(8), introductory paragraph, as follows:

17.14(8) *Debt obligations of U.S.-chartered corporations.* An Iowa state-chartered credit union may invest in unsecured notes and acceptances, commonly referred to as “commercial paper” and “corporate bonds,” of U.S.-chartered corporations pursuant to Iowa Code Supplement section ~~533.4(5)(h) and (i)~~ 533.301(5)“h” and “i” and this rule, only if:

ITEM 31. Amend subrule 17.20(3) as follows:

17.20(3) Although automatic authority is granted to Iowa credit unions by Iowa Code Supplement sections ~~533.4(5)(j)~~ 533.301(5)“j” and ~~533.4(25)~~ 533.301(25) and these rules, such authority may be withheld or withdrawn by the superintendent for safety and soundness concerns or for blatant disregard for these rules, in whole or in part, by a credit union.

ITEM 32. Amend **189—Chapter 17**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.4(5)~~ 533.301(5).

ITEM 33. Amend **189—Chapter 19**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.7~~ 533.203(3).

ITEM 34. Amend subrule **23.1(1)**, definition of “Board,” as follows:

“*Board*” means the credit union review board created by Iowa Code Supplement section ~~533.53~~ 533.107.

ITEM 35. Amend subrule 23.2(2) as follows:

23.2(2) *Special waiver or variance rules not precluded.* These uniform waiver and variance rules shall not preclude the superintendent from granting waivers or variances in other contexts including, without limitation, those described in Iowa Code Supplement sections ~~533.17~~ 533.303 and ~~533.30~~ 533.401 or on the basis of other standards if a statute or other rule authorizes the superintendent to do so and the superintendent deems it appropriate to do so.

ITEM 36. Amend paragraph **25.13(2)“f”** as follows:

f. All papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of any state credit union or other person by the superintendent of credit unions pursuant to the laws of this state. (Iowa Code Supplement section ~~533.60~~ 533.108)

ITEM 37. Amend paragraph **25.13(2)“g”** as follows:

g. Reports of examinations conducted by the superintendent of credit unions and reports of examinations received by or furnished to the superintendent of credit unions pursuant to Iowa Code Supplement section ~~533.6(2)~~ 533.113.

ITEM 38. Amend paragraph **25.13(2)“i”** as follows:

i. All information obtained by examiners and described in Iowa Code Supplement section ~~533.60~~ 533.108.

CREDIT UNION DIVISION[189](cont'd)

ITEM 39. Amend paragraph **25.13(2)“j”** as follows:

j. All applications, reports, materials, documents, information and other writings obtained from the National Credit Union Administration or authorized account insurer (Iowa Code Supplement section ~~533.64~~ 533.307), Federal Reserve Bank, Comptroller of the Currency or any agency of the United States government which would cause the denial of services or information to the agency. (Iowa Code section 22.9; the Privacy Act of 1974, (U.S.C. 522a), and Part 790 of the National Credit Union Administration Rules and Regulations, 12 CFR 790, August 1987)

ITEM 40. Amend rule 189—25.14(17A,22) as follows:

189—25.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 189—25.1(17A,22). The credit union division does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in another record system. The record systems maintained by the agency which may contain personally identifiable information are the files of current and former agency employees. This information is collected pursuant to Iowa Code Supplement section ~~533.55~~ 533.106 and is subject to the provisions of Iowa Code sections 19A.9 and 19A.15.

ITEM 41. Amend subrule 25.15(7) as follows:

25.15(7) Reports to superintendent. Reports obtained by the superintendent of credit unions pursuant to the provisions of Iowa Code Supplement section ~~533.6(4)~~ 533.330. These reports are considered open reports.

ITEM 42. Amend subrule 25.15(8) as follows:

25.15(8) Officers, directors and shareholders. Lists filed with the superintendent of credit unions pursuant to the provisions of Iowa Code Supplement section ~~533.8~~ 533.204. These reports are considered open records.

ARC 7311B

CULTURAL AFFAIRS DEPARTMENT[221]

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 303.1 and 303.1A, the Department of Cultural Affairs hereby gives Notice of Intended Action to amend Chapter 6, “Iowa Community Cultural Grants (ICCG) Program,” Iowa Administrative Code.

The proposed amendments clarify the restriction against funding religious organizations by this grant program and remove some restrictions related to matching funds and innovative projects.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on November 25, 2008. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail Kristen.VanderMolen@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing on November 25, 2008, at 10 a.m. at the above address in the Tone Board Room, Third Floor West, 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.

CULTURAL AFFAIRS DEPARTMENT[221](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 Department and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 303.

The following amendments are proposed.

ITEM 1. Amend rule **221—6.3(303)**, definitions of “Community group” and “In-kind contribution,” as follows:

“*Community group*” means an Iowa nonprofit, tax-exempt organization which is open to the general public and established for the promotion and development of one or more of the following disciplines or activities: the arts, history, culture, ethnicity, historic preservation, tourism, economic development, festivals, or municipal libraries. “Community group” shall not include a school, college, university, political party, labor union, state or federal government agency, religious organization, church, convention, or association of churches operated primarily for religious purposes, or operated, supervised, controlled or principally supported by a religious organization, church, convention, or association of churches. “Community group” also shall not include any organization whose primary purpose is to support any excluded type of organization.

“*In-kind contribution*” means a noncash contribution provided by a grantee as a part of the grantee’s matching share of a project. ~~In-kind contributions shall not exceed 50 percent of the matching funds requirement.~~

ITEM 2. Amend rules 221—6.5(303) and 221—6.6(303) as follows:

221—6.5(303) Review criteria. Review criteria shall be ~~according to the department’s published guidelines and shall~~ include the following minimum criteria:

1. The historical, ethnic, cultural, and tourism value and quality of the proposed project;
2. The number and impact of full- and part-time employment for Iowans created by the proposed project;
3. ~~The innovation of the proposed project and the~~ degree of collaboration with other interested entities;
4. The financial need of the applicant for the proposed project; and
5. The appropriateness of the project budget, ~~including certification that the eligible organization will supply matching funds that include in-kind contributions of no more than 50 percent.~~

Additional review criteria are as listed in the published project guidelines.

221—6.6(303) Award amounts. Grant awards shall be made from \$1,000 at a minimum to \$25,000 at a maximum. ~~At least 25 percent of the funds allocated for the ICCG program annually shall be awarded to projects which were not in existence prior to the previous deadline as established by the department. Projects which represent a significant enhancement or an expansion of a previously established project shall also qualify as a new project in consideration of funding.~~ The director reserves the right not to grant all appropriated funds if there is an insufficient number of applications submitted to adequately achieve the purposes of the Act as defined in rule 221—6.1(303).

ARC 7315B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development proposes to amend Chapter 68, "High Quality Job Creation (HQJC) Program," Chapter 174, "Wage, Benefit, and Investment Requirements," and Chapter 175, "Application Review and Approval Procedures," Iowa Administrative Code.

These amendments update the rules that govern requests for wage waivers under the HQJC program, the IVF (2005) funding source, and the CEBA program. The amendments allow an applicant, under certain limited conditions, to request that the Iowa Economic Development Board waive wage and nonstatutory CEBA program requirements for businesses that have sustained substantial physical damage as a result of a natural disaster in a presidentially declared disaster area. The amendments update the HQJC program rules by rescinding references to the Board's ability to waive other eligibility requirements because the statutory section that authorized the waiver of other eligibility requirements, Iowa Code section 15.337, has been repealed.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on December 4, 2008. Interested persons may submit written or oral comments by contacting Mike Farley, Business Finance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4853.

A public hearing to receive comments about the proposed amendments will be held from 1:30 to 2:30 p.m. on December 4, 2008, at the above address in the ICN/Main Conference Room.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 7316B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapters 15, 15E and 15G.

ARC 7329B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

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

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

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

The substitute authorization rule currently authorizes a paraeducator who serves in an elementary special education classroom to serve as a short-term substitute for the teacher in that elementary special education classroom. Due to the preschool legislation, there have been questions about the authority to substitute in a preschool setting. The substitute authorization rule is being revised in this amendment to include the paraeducator who serves in a preschool special education classroom so that the paraeducator

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

may serve as a short-term substitute for the preschool special education teacher. This change will not include the program for four-year-olds.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, December 3, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, December 5, 2008. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—14.143(272), introductory paragraph, as follows:

282—14.143(272) Requirements for a substitute authorization. A substitute authorization allows an individual to substitute in a middle school, junior high school, or high school for no more than five consecutive days in one job assignment. An individual who holds a paraeducator certificate and completes the substitute authorization program is authorized to substitute only in the special education classroom in which the individual paraeducator is employed. This special education classroom may be on the preschool or elementary school level as well as the middle school, junior high school or high school level.

ARC 7306B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, "Controlling Pollution," and Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

The primary purpose of the rule making is to adopt new federal regulations affecting stationary internal combustion engines, gasoline distribution facilities and surface coating operations and also to amend the state air construction permitting requirements to better accommodate the new federal regulations. The proposed amendments adopt by reference additional, minor amendments to federal regulations.

Over the last year, the U.S. Environmental Protection Agency (EPA) finalized several new air quality regulations under two programs authorized by the federal Clean Air Act (CAA), the New Source Performance Standards (NSPS) program and the National Emission Standards for Hazardous Air Pollutants (NESHAP) program. These programs require new and existing facilities in a particular

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

industry sector that construct and operate specific equipment to meet uniform standards for air pollutant emissions. The NSPS program typically addresses “criteria pollutants,” such as fine particulate, sulfur dioxide (SO₂), or nitrogen oxides (NO_x), whereas the NESHAP program addresses hazardous air pollutants (HAP), sometimes called air toxics. NSPS and NESHAP requirements vary depending on the processes, activities or equipment being regulated, and whether the processes, activities or equipment are considered to be new or existing.

This rule making includes adoption of new federal NSPS and NESHAP requirements potentially impacting facilities or businesses that previously had few, if any, air quality requirements. Because of the potential impacts to small businesses and previously unregulated facilities, the Department is developing implementation strategies in conjunction with the proposed rule making. The strategies include cooperative efforts with the University of Northern Iowa – Iowa Air Emissions Assistance Program (UNI), Iowa Department of Economic Development (IDED), the Linn and Polk County local air quality programs, and other interested associations and organizations to provide outreach, education and compliance assistance to stakeholders.

The Department’s outreach efforts began earlier this year, will continue during the rule-making process, and will go on after the new rules are adopted. The implementation strategies will depend on the specific rule requirements and on stakeholder needs, but will include informational meetings, workshops, training, fact sheets, guides, and Web-based compliance tools.

It is hoped that this rule making, in conjunction with the Department’s outreach efforts, will result in reductions in air toxic and other air pollutant emissions while minimizing the regulatory burden to small businesses and other affected facilities.

Item 1 amends paragraph 22.1(2)“r,” the construction permit exemption for internal combustion engines with a brake horsepower rating of less than 400. The Department is amending this exemption because of the new NSPS and NESHAP requirements for stationary internal combustion engines. At the time this exemption was first adopted in the mid-1990s, there were no federal air quality requirements applicable to these smaller engines. The new NSPS and NESHAP regulations for engines are rather complex and lengthy and require all sizes of new, modified and reconstructed stationary internal combustion engines to meet certain emissions requirements. To address federal changes, the Department is amending the construction permit exemption to require submittal of a registration certifying NSPS and NESHAP compliance prior to installation of the engine. The registration form will provide the owners and operators of affected facilities a series of questions to ensure that the engine they order and install complies with the NSPS and NESHAP, while still allowing the owner or operator to be exempt from the requirement to obtain a construction permit. The registration will also assist the Department air quality and field office staff in ensuring that affected facilities are in compliance.

Item 2 amends subrule 22.8(1), the permit by rule for spray booths (PBR). The Department is amending the PBR provisions to reflect new NESHAP requirements for surface coating operations. At the time the PBR was first adopted, small spray operations were not subject to any federal air quality regulations. Under new NESHAP requirements, the owner or operator of any size of facility that spray applies materials containing any of the “target HAP” specified under the NESHAP must comply with numerous requirements. Additionally, owners and operators that spray coat motor vehicles and mobile equipment and choose not to use materials containing the “target HAP” must still petition for an exemption from the NESHAP requirements.

Currently, owners and operators of facilities that spray apply three gallons or less of materials per day are eligible to use the PBR. The owners or operators of PBR-eligible facilities simply complete a notification letter certifying that they meet the PBR requirements. To accommodate the new federal requirements, the Department is amending the PBR requirements and the Department’s accompanying form to require that an owner or operator certify that the facility is in compliance with or otherwise exempt from the NESHAP. The revised PBR form will provide owners and operators a series of questions that will assist them in complying with the NESHAP. Owners and operators of existing facilities that choose to continue using the target HAP will need to reapply for the PBR to certify compliance prior to the NESHAP compliance date. The proposed amendment to subrule 22.8(1) will assist the Department

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

air quality and field office staff in ensuring NESHAP compliance, while still allowing smaller spray operations to use a streamlined permit.

Item 3 amends the introductory paragraph of subrule 23.1(2), the provisions adopting by reference the federal New Source Performance Standards (NSPS) contained in 40 CFR Part 60. The specific NSPS requirements being adopted are described in Item 4. EPA also took final action regarding an existing NSPS for equipment leaks of volatile organic compounds (VOC) in the synthetic organic chemicals manufacturing industry (SOCMI) and at petroleum refineries. EPA extended the stay of certain compliance requirements in the federal regulations.

Item 4 amends subrule 23.1(2) by adding new paragraph “zzz” to adopt the new NSPS for stationary spark ignition internal combustion engines (SI engines). SI engines are typically gasoline fueled, but also include engines with spark plugs that burn other fuels. SI engines are used at power plants, industrial sources and other facilities to generate electricity and to power pumps and compressors.

The new standards for SI engines will limit emissions of NO_x, carbon monoxide (CO) and volatile organic compounds (VOC). The standards apply to larger SI engines (500 horsepower or greater) manufactured or ordered after July 1, 2007, to smaller SI engines manufactured or ordered after July 1, 2008, and to any size of SI engine modified or reconstructed after June 12, 2006. The NSPS phases in more stringent emissions requirements for engines with later manufacture dates. This NSPS is similar to the NSPS for stationary compression ignition (CI) engines. CI engines are typically diesel fueled. The Department adopted the NSPS for CI engines in February 2007.

Item 5 amends subrule 23.1(4), the emission standards for hazardous air pollutants for source categories, also known as National Emission Standards for Hazardous Air Pollutants or NESHAP, to adopt recent amendments that EPA made to 40 CFR Part 63. The specific NESHAP requirements being newly adopted or amended are described in Items 6 and 7. EPA also issued final amendments to existing NESHAP as follows:

- EPA issued amendments to the NESHAP for dry cleaning facilities (Subpart M). These amendments add clarity to, and better explanations of, the types of equipment included in the standards, the testing and monitoring requirements, and the reporting and record-keeping requirements. The amendments also correct typographical errors.

- EPA issued amendments to the NESHAP for semiconductor manufacturing (Subpart BBBBB). The Department is not aware of any facilities in Iowa currently subject to this NESHAP. These amendments establish a new maximum achievable control technology floor level of control for existing and new combined process vent streams containing inorganic and organic HAP. The amendments also clarify the emission requirements for process vents by adding definitions for organic, inorganic, and combined process vent streams that contain both organic and inorganic HAP.

- EPA issued final amendments to the NESHAP for organic liquids distribution (non-gasoline) (Subpart EEEE). The amendments clarify, add flexibility to, and extend some of the compliance dates for storage tanks. The amendments also clarify the requirements for monitoring of storage tank pressure relief devices.

Item 6 amends paragraph 23.1(4)“cz,” the NESHAP for stationary reciprocating internal combustion engines (RICE) (Subpart ZZZZ). The amendments include standards to limit HAP from new and reconstructed engines located at area sources. The amendments also include standards to regulate HAP from smaller-size engines located at major sources.

Area sources are usually smaller commercial or industrial operations that typically release less HAP. Specifically, area sources have potential emissions less than 10 tpy (tons per year) of any single HAP and less than 25 tpy of any combination of HAP. Facilities that have potential HAP emissions greater than or equal to these levels are classified as major sources for HAP.

Generally, the RICE NESHAP requires new and reconstructed engines to meet the NSPS requirements for CI or SI engines. Existing engines located at area sources are not covered under these new regulations. However, EPA has published a notice in the Federal Register stating that EPA plans to issue standards in the future for existing engines located at area sources.

Item 7 amends subrule 23.1(4) by adopting new paragraphs “eb,” “ec,” and “eh.” This amendment adopts by reference three new NESHAP for new and existing area sources for the following source

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

categories: (1) bulk gasoline facilities such as bulk plants, bulk terminals, and pipeline breakout stations (Subpart BBBB); (2) gasoline dispensing facilities (GDF) such as gas stations (Subpart CCCCC); and (3) paint stripping and miscellaneous surface coating operations (Subpart HHHHH)

The area source NESHAP for bulk gasoline distribution will reduce VOC and HAP from gasoline vapors, including benzene emissions. Bulk terminals and pipeline breakout stations typically have higher monthly gasoline throughputs, and the owners and operators are required to control emissions through submerged filling at tanks and loading racks and controls on gasoline storage tanks. Owners and operators of larger terminals must capture and control gasoline vapors at the loading rack. The Department has received initial notification from approximately 20 existing facilities that will be subject to the NESHAP. Existing facilities will need to comply with the NESHAP by January 2011.

Bulk gasoline plants have lower monthly gasoline throughputs than terminals or breakout stations. Owners and operators of bulk plants are required to control gasoline vapors by using submerged filling at tanks and loading racks. The Department estimates that there may be 100 to 200 bulk plants affected by the NESHAP. However, owners and operators of bulk plants are already required to use submerged filling at tanks under existing state rules for underground storage tanks (UST) and for flammable liquids. The Department is working with the Petroleum Marketers and Convenience Stores of Iowa (PMCI), EPA and industry consultants to assist affected facilities with the new NESHAP requirements. The Department met with PMCI and other bulk plant stakeholders on August 21, 2008, and plans to continue working closely with stakeholders on outreach and compliance.

The second area source NESHAP being adopted by reference affects gasoline dispensing facilities (GDF) such as gas stations. Like the NESHAP for bulk facilities, this NESHAP will reduce VOC and HAP, including benzene emissions, from gasoline vapors. These standards apply to gasoline cargo tanks (trucks) and each storage tank. The NESHAP does not apply to equipment, such as gasoline pumps, used for refueling motor vehicles.

The gasoline dispensing NESHAP requirements are based on the actual, monthly throughput of gasoline at the facility. Under the NESHAP, owners and operators of smaller facilities are required to follow specified good management practices (GMP) to minimize gasoline evaporation. Owners and operators of medium-size facilities are required to follow GMP and use submerged filling of gasoline tanks. Owners and operators of large facilities (greater than or equal to 100,000 gallons/month gasoline throughput) must employ GMP, submerged fill, and a vapor balance system during storage tank loadings.

Owners and operators of GDF are already required to implement GMP and submerged fill under existing administrative rules for UST and for flammable liquids. Vapor balancing is not required under existing administrative rules. The Department estimates that the owners and operators of approximately 250 large GDF will need to implement vapor balancing. However, approximately 50 of these facilities already use vapor balancing, and nearly all of the remaining 200 facilities will have until January 2011 to comply with the NESHAP requirements.

On June 25, 2008, EPA amended the NESHAP provisions affecting new, large GDF. EPA amended the pressure and vacuum vent valve cracking pressure and leak rate requirements for vapor balance systems used to control emissions from gasoline storage tanks at gasoline dispensing facilities. Newly constructed or reconstructed gasoline dispensing facilities must comply with the requirements of these amendments by the effective date of the EPA amendments (September 23, 2008), or upon start-up, whichever is later.

The Department has been corresponding regularly with EPA, PMCI and a number of affected facilities regarding the new requirements. The Department met with PMCI and other stakeholders on August 21, 2008, to formulate an outreach and compliance assistance strategy, and plans to continue working closely with stakeholders.

At the August 21, 2008, meeting, the Department learned that a number of new, large GDF stated that they would be unable to retrofit their equipment to comply with the NESHAP vapor balance system requirements by the September 23, 2008, compliance date. The Department is working with these facilities and EPA Region VII to issue compliance extensions, as appropriate, on a case-by-case basis.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The third area source NESHAP being adopted by reference affects paint stripping and certain surface coating operations, including spray coating of motor vehicles and mobile equipment. Currently, the Department is not aware of any Iowa facilities affected by the paint stripping provisions of this NESHAP.

The requirements for miscellaneous surface coating, which includes spray application of coatings to motor vehicles or mobile equipment, require owners and operators of facilities that spray apply coatings containing certain "target HAP" to control HAP through a variety of means. In brief, affected facility owners and operators must enclose spray areas, use high efficiency paint guns, capture 98 percent of overspray, capture paint and solvent when cleaning, and train and certify paint operators. Owners and operators of existing facilities will have until January 2011 to either switch to coatings that do not contain the "target HAP" or to comply with the NESHAP requirements. The Department estimates that 1,000 minor source facilities may be subject to the NESHAP, but that many of the facility owners and operators will choose to stop using the "target HAP" prior to the NESHAP compliance date.

The Department, in cooperation with UNI, IDED, and Linn and Polk County local air quality programs, hosted the first stakeholder meeting on July 15, 2008. The 30 participants received a presentation on the NESHAP and air permitting requirements, a draft guide and other outreach materials. The participants provided valuable input at this initial meeting, and the Department will be offering additional meetings and compliance assistance tools over the next 18 months.

This NESHAP will also impact approximately 15 Title V facilities that are currently considered to be area sources for HAP. The Department will be working directly with owners and operators of these facilities regarding the new NESHAP requirements.

Any person may make written suggestions or comments on the proposed amendments on or before December 9, 2008. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515)242-5094; or by electronic mail to christine.paulson@dnr.iowa.gov.

A public hearing will be held on December 8, 2008, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau office located at 7900 Hickman Road, Urbandale, Iowa. At the public hearing, comments on the proposed amendments may be submitted orally or in writing. All comments must be received no later than Tuesday, December 9, 2008.

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

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

The following amendments are proposed.

ITEM 1. Amend paragraph 22.1(2)"r" as follows:

r: An internal combustion engine with a brake horsepower rating of less than 400 measured at the shaft, provided that the owner or operator meets all of the conditions in this paragraph. For the purposes of this exemption, the manufacturer's nameplate ~~rating~~ rated capacity at full load shall be defined as the brake horsepower output at the shaft. ~~An internal combustion engine may be subject to the new source performance standards (NSPS) for stationary compression ignition internal combustion engines set forth in 40 CFR Part 60, Subpart III, as adopted by reference in 567—paragraph 23.1(2)“yyy.”~~ The owner or operator of an engine that was manufactured, ordered, modified or reconstructed after [insert effective date of these amendments] may use this exemption only if the owner or operator, prior to installing, modifying or reconstructing the engine, submits to the department a completed registration, on forms provided by the department, certifying that the engine is in compliance with the following federal regulations:

(1) New source performance standards (NSPS) for stationary compression ignition internal combustion engines (40 CFR Part 60, Subpart III); or

(2) New source performance standards (NSPS) for stationary spark ignition internal combustion engines (40 CFR Part 60, Subpart JJJ); and

(3) National emission standards for hazardous air pollutants (NESHAP) for reciprocating internal combustion engines (40 CFR Part 63, Subpart ZZZZ).

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Use of this exemption does not relieve an owner or operator from any obligation to comply with ~~the~~ NSPS or NESHAP requirements.

ITEM 2. Amend subrule 22.8(1) as follows:

22.8(1) Permit by rule for spray booths. Spray booths which comply with the requirements contained in this rule will be deemed to be in compliance with the requirements to obtain an air construction permit and an air operating permit. Spray booths which comply with this rule will be considered to have federally enforceable limits so that their potential emissions are less than the major source limits for regulated air pollutants and hazardous air pollutants as defined in 567—22.100(455B).

a. Definition. “Sprayed material” is material sprayed from spray equipment when used in the surface coating process in the spray booth, including but not limited to paint, solvents, and mixtures of paint and solvents.

b. Facilities which facilitywide spray one gallon per day or less of sprayed material are exempt from all other requirements in 567—Chapter 22, except that they must submit the certification in 22.8(1) “e” to the department and keep records of daily sprayed material use. The facility owner or operator must keep the records of daily sprayed material use for 18 months from the date to which the records apply. The owner or operator must also certify that the facility is in compliance with or otherwise exempt from the federal regulations specified in 22.8(1) “e.”

c. Facilities which facilitywide spray more than one gallon per day but never more than three gallons per day are exempt from all other requirements in 567—Chapter 22, except that they must submit the certification in 22.8(1) “e” to the department, keep records of daily sprayed material use, and vent emissions from a spray booth(s) through a stack(s) which is at least 22 feet tall, measured from ground level. The facility owner or operator must keep the records of daily sprayed material use for 18 months from the date to which the records apply. The owner or operator must also certify that the facility is in compliance with or otherwise exempt from the federal regulations specified in 22.8(1) “e.”

d. Facilities which facilitywide spray more than three gallons per day ~~must comply with all applicable statutes and rules~~ are not eligible to use the permit by rule for spray booths and must apply for a construction permit as required by subrules 22.1(1) and 22.1(3) unless otherwise exempt.

e. Notification letter.

(1) Facilities which claim to be permitted by provisions of this rule must submit to the department a written ~~statement as follows~~ notification letter, on forms provided by the department, certifying that the facility meets the following conditions:

~~“I certify that all paint booths at the facility and listed below are in compliance with all applicable requirements of 567 IAC 22.8(1) and all other applicable requirements, including but not limited to the allowable emission rate for painting and surface coating operations of 0.01 gr/scf of exhaust gas as specified in 567—subrule 23.4(13). I understand that this equipment shall be deemed permitted under the terms of 567 IAC 22.8(1) only if all applicable requirements of 567 IAC 22.8(1) are met. This certification is based on information and belief formed after reasonable inquiry; the statements and information in the document are true, accurate, and complete.”~~

1. All paint booths and associated equipment are in compliance with the provisions of subrule 22.8(1);

2. All paint booths and associated equipment are in compliance with all applicable requirements, including, but not limited to, the allowable particulate emission rate for painting and surface coating operations of 0.01 gr/scf of exhaust gas as specified in 567—subrule 23.4(13); and

3. All paint booths and associated equipment are in compliance with or otherwise exempt from the national emissions standards for hazardous air pollutants (NESHAP) for paint stripping and miscellaneous surface coating at area sources (40 CFR Part 63, Subpart HHHHHH).

(2) The certification must be signed by one of the following individuals.

~~(1)~~ 1. For corporations, a principal executive officer of at least the level of vice president, or a responsible official as defined at 567 IAC 22.100(455B).

~~(2)~~ 2. For partnerships, a general partner.

~~(3)~~ 3. For sole proprietorships, the proprietor.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

~~(4)~~ 4. For municipal, state, county, or other public facilities, the principal executive officer or the ranking elected official.

ITEM 3. Amend subrule **23.1(2)**, introductory paragraph, as follows:

23.1(2) *New source performance standards.* The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~November 16, 2007~~, June 2, 2008, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 4. Adopt the following new paragraph **23.1(2)“zzz”**:

zzz. Stationary spark ignition internal combustion engines. These standards apply to each stationary spark ignition internal combustion engine whose construction, modification or reconstruction commenced after June 12, 2006. (Part 60, Subpart JJJJ)

ITEM 5. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) *Emission standards for hazardous air pollutants for source categories.* The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~April 8, 2008~~, July 22, 2008, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4) “a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below. The provisions of 40 CFR Part 60, Subparts A, B, Da, and HHHH for the Clean Air Mercury Rule (CAMR), are found at subrules 23.1(2) and 23.1(5) and in 567—Chapter 34.

ITEM 6. Amend paragraph **23.1(4)“cz”** as follows:

cz. Emission standards for stationary reciprocating internal combustion engines. These standards apply to new and existing major sources with stationary reciprocating internal combustion engines (RICE). These standards also apply to new and reconstructed RICE located at area sources. For purposes of these standards, stationary RICE means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. (Part 63, Subpart ZZZZ ~~as amended through April 20, 2006~~)

ITEM 7. Adopt the following new paragraphs **23.1(4)“eb,” “ec” and “eh”**:

eb. Emission standards for hazardous air pollutants for gasoline distribution area sources: bulk terminals, bulk plants and pipeline facilities. This standard applies to new and existing bulk gasoline terminals, pipeline breakout stations, pipeline pumping stations and bulk gasoline plants that are area sources for hazardous air pollutant emissions. (Part 63, Subpart BBBB)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ec. Emission standards for hazardous air pollutants for area sources: gasoline dispensing facilities. This standard applies to new and existing gasoline dispensing facilities (GDF) that are area sources for hazardous air pollutant emissions. The affected equipment includes each gasoline cargo tank during delivery of product to GDF and also includes each storage tank. The equipment used for refueling of motor vehicles is not covered under these standards. (Part 63, Subpart CCCCCC)

eh. Emission standards for hazardous air pollutants for area sources: paint stripping and miscellaneous surface coating operations. This standard applies to new or existing area sources of hazardous air pollutant emissions that engage in any of the following activities: (1) paint stripping operations that use methylene chloride (MeCl)-containing paint stripping formulations; (2) spray application of coatings to motor vehicles or mobile equipment; or (3) spray application of coatings to plastic or metal substrate with coatings that contain compounds of chromium (Cr), lead (Pb), manganese (Mn), nickel (Ni) or cadmium (Cd). (Part 63, Subpart HHHHHH)

ARC 7307B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.261 through 455B.274 and 2008 Iowa Acts, House File 2672, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 50, "Scope of Division—Definitions—Forms—Rules of Practice," and Chapter 55, "Aquifer Storage and Recovery: Criteria and Conditions for Authorizing Storage, Recovery, and Use of Water," Iowa Administrative Code.

The purpose of this rule making is to include the fee schedule for the water use permit program in the Iowa Administrative Code. The previous water use permit fee schedule was rescinded in August 2008. Iowa Code section 455B.105(11) allows the Environmental Protection Commission to adopt by rule a schedule of fees for permit applications as well as a schedule of fees to be assessed for the management of Iowa's water use permitting program. In determining the fee schedules, the Commission shall consider the cost of administration of permits, review of applications and compliance with the terms of the permits, and the relative benefits to the applicant and to the public of permit review, issuance, and monitoring compliance.

By statute, water use permits are issued for up to ten years. Appropriations from the General Fund have been used to fund issuance of the water use permits and related costs at approximately \$292,600 for state fiscal year 2009.

The General Fund appropriations do not cover the cost of the program as envisioned in the late 1960s, nor do they cover funding for the additional requirements placed on the Department to administer this program during the ensuing years, such as: priority water allocation implementation during droughts; implementation of water conservation practices; and well interference compensation resolution. Many permit decisions must be made with available hydrogeological data that is inadequate. Well interference cases often require that the Department meet with appropriate individuals to assess hydrogeologic, engineering, and environmental impacts of contested water allocation issues. Historically, there has been insufficient funding to meet these needs.

During the last legislative session, the Legislature established a dedicated fund and authorized the Department to collect up to \$500,000 in permit fees to implement this program. Each year, the Environmental Protection Commission will be asked to set the fee based on the budgeted expenses for that year minus the amount of any unused funds from the previous year, with general fund appropriations that are assumed to remain at approximately \$292,600 each fiscal year. The permit fee rule for the

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

aquifer storage and recovery well permitting program will be revised and moved from 567—Chapter 55 to 567—Chapter 50.

Any interested person may file written comments on the proposed amendments on or before Friday, December 12, 2008. Written comments or questions regarding the proposed amendments should be directed to Diane Moles, Water Supply Engineering Section, Iowa Department of Natural Resources, 401 SW 7th Street, Suite M, Des Moines, Iowa 50309-4611; via fax at (515)725-0348; or via E-mail at diane.moles@dnr.iowa.gov.

Oral or written comments will also be accepted at the public hearings that will be held on the following dates:

Wednesday, December 3, 2008	9 a.m.	Onawa Community Center Kelly Hall 320 Tenth Street Onawa, Iowa
Friday, December 5, 2008	10 a.m.	Iowa City Public Library 123 S. Linn Street Iowa City, Iowa (Parking is available in the ramp at the corner of Linn and Burlington; the library will validate the parking stub for one hour.)
Thursday, December 11, 2008	10 a.m.	Wallace Building Auditorium 502 E. Ninth Street Des Moines, Iowa (Parking is available in the ramp west of the Wallace Building or in the lot east of the Capitol.)

At each hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule making.

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

These amendments are intended to implement Iowa Code sections 455B.105 and 455B.261 through 455B.274 and 2008 Iowa Acts, House File 2672.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 50.4(2):

50.4(2) Fees.

a. Application fee. An application to the department for a new permit, modification of an existing permit, or registration of a minor nonrecurring use of water must be accompanied with the fee listed in the table below. These fees are nonrefundable and are not transferable. For any single application, if more than one fee in the table below applies, only the higher fee is required. The fees become effective on July 1, 2009.

Application Description	Form	Fees, in dollars
(1) To apply for a new permit to withdraw or divert water	16 (542-3106)	\$350
(2) To renew an existing permit	542-1470	\$0
(3) To modify an existing permit to either add a new source or increase the amount or rate of water withdrawn or diverted from a source or sources	16 (542-3106)	\$350
(4) To modify the conditions of an existing permit which are not described in Item 3 of this table (see above)	16 (542-3106)	\$0
(5) To apply for an aquifer storage and recovery permit or a protected source designation	N/A	\$700
(6) To apply for a permit to store water	18 (542-3109)	\$75
(7) To register a minor nonrecurring use of water	20 (542-3112)	\$75

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

b. Annual permit fee. In addition to the application fee, there is an annual permit fee for a water use permit or an aquifer storage and recovery permit. The annual fee shall be based on the number of active permits. Each permit holder shall pay the same annual fee. The fee will not be prorated and is nonrefundable. The annual permit fee is due December 1 of each year, beginning with December 1, 2009. The department will provide an annual fee notice to each permittee at least 60 days prior to the fee due date. An additional fee of \$100 will be imposed if the fee is not received by December 1. Failure to remit the fee by January 1 may result in the cancellation of the permit.

(1) There is no annual fee for a water storage permit (see (6) of table at paragraph 50.4(2)“a”) or for a minor nonrecurring water use registration (see (7) of table at paragraph 50.4(2)“a”).

(2) The annual fee shall be based on the costs for administering the water use permitting program for the previous calendar year and on the budget for the next fiscal year. The department will review the annual permit fee each year and adjust the fee as necessary to cover all reasonable costs required to develop and administer the water use permitting program. Permit holders that have paid an application fee after December 1, but prior to November 30, will not be required to pay an annual fee until December 1 of the following year. If an applicant remits an annual fee for the 12-month period beginning December 1 and then later submits an application fee for a permit modification, the applicant will be refunded the lesser of the fees. The department shall request commission approval of the amount of the annual fee no later than September of each year.

ITEM 2. Rescind and reserve subrule 55.5(2).

ARC 7308B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.173 and 455B.197, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” to rescind Chapter 69, “Onsite Wastewater Treatment and Disposal Systems,” and to adopt new Chapter 69, “Private Sewage Disposal Systems,” Iowa Administrative Code.

Pursuant to Iowa Code section 455B.173(3), the Commission is required to establish, modify, or repeal rules relating to the location, construction, operation, and maintenance of disposal systems.

In addition, Iowa Code section 455B.173(11) requires the Commission to adopt rules for the issuance of a single general permit, after notice and opportunity for a public hearing. The single general permit shall cover numerous facilities to the extent that they are representative of a class of facilities which can be identified and conditioned by a single permit. The proposed new chapter will fulfill the Commission’s and the Department’s requirements pursuant to Iowa Code sections 455B.173(3) and 455B.173(11).

The following summary describes the proposed amendment to Chapter 64 and the significant changes that are proposed for Chapter 69. The summary does not detail each of the proposed changes, but highlights the changes that will have the greatest impact on onsite wastewater treatment systems and the state of Iowa.

Chapter 64

Rule 567—64.15(455B) will change to reflect the new effective dates of General Permit No. 4.

Chapter 69

The proposed new Chapter 69 begins with a title change to be consistent with Iowa Code chapter 455B, division III, part 1. Several definitions have also been changed to be consistent with statute.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Definitions were added for new technologies. Definitions were removed for terms repeated in NPDES General Permit No. 4 as well as for a term not used in Chapter 69.

Several terminology changes have been made to be consistent with the latest national onsite wastewater standards, the Consortium for Decentralized Wastewater Treatment's glossary of terms, and other Iowa Administrative Code rules.

Provisions have been added for tank abandonment, grease interceptors, and permits by rule. The permit by rule is intended to act as an operation permit for discharging systems that do not require General Permit No. 4. A new rule has been added that pertains to inspection of septic systems at the time of transfer of property. This rule is needed to implement 2008 Iowa Acts, Senate File 261, which modifies Iowa Code section 455B.172 to require that the septic system of a home be inspected before the sale or transfer of the home is finalized. 2008 Iowa Acts, Senate File 261, also requires the establishment of a certified "time of transfer" inspector program. Requirements for the certified inspector program are included in this new rule.

New provisions have also been added that require a final inspection on a new system installation and that require counties to enter basic information about that system into the state onsite wastewater database system. New Chapter 69 also includes technologies that have been in use but were not included in the current chapter. These technologies include peat filters, textile filters, expanded polystyrene aggregate, filtered pump vaults, and at-grade soil absorption systems. These are all proven technologies in Iowa and nationally. The subrules pertaining to peat moss biofilter systems and recirculating textile filter systems include maintenance requirements since these systems normally are discharging systems.

The requirements for NPDES General Permit No. 4 have been changed. Systems that discharge to designated waters of the state will still require a permit with increased effluent testing and monitoring. Discharging systems that do not discharge to designated waters of the state and whose effluent is not expected to reach designated waters of the state will not require a General Permit No. 4. However, these systems will require annual inspection and record keeping. The records of the inspections and maintenance must be provided to the administrative authority upon request. This requirement applies to all discharging systems. The permit requirements have been removed from the body of Chapter 69. Discharging system rules refer to General Permit No. 4 for testing and maintenance requirements. A separate rationale for General Permit No. 4 is available from the Department.

Septic tank sizing and lid configurations have been changed. The sizing chart increases each tank's capacity by 250 gallons, eliminating the need for the former requirement to add capacity for appliances that have high water use. The minimum tank capacity will be 1,250 gallons. Most septic tanks in the field will not be affected by this change. Effluent screens will be required in the outlet of septic tanks. These devices prevent suspended solids from leaving the tank and fouling the secondary treatment system. Since effluent screens require regular maintenance, the configuration of openings on the septic tank lid will change to facilitate cleaning of the screens. Another requirement that will make maintenance easier is the requirement that risers on septic tanks come to the ground surface. This change will encourage pumping and maintenance of septic tanks. Tanks and risers will also be required to be watertight.

Soil absorption system sizing charts will now enable users to size systems based on soil loading rates determined from soil analysis. Soil analysis is now the recommended method for determining a soil's capability to accept water. Percolation tests will still be permitted but must be correlated to a soil loading rate for sizing. This change is an educational attempt to slowly move toward soil analysis exclusively in the future. Additional charts have been added to correlate percolation test results and soil loading rates. Sizing charts are given for 2- and 3-foot-wide trenches. The various trench technologies are sized accordingly based upon trench bottom square footage. This method is the nationally accepted method for soil absorption systems.

Provisions for use of a free access sand filter following a septic tank have been removed. Free access sand filters are sized considerably smaller than buried sand filters based upon their ability to be raked and maintained. In practice, the Department has found that these systems do not receive the maintenance needed. Buried sand filters are preferred and can be installed in most cases where a free access sand filter was proposed. There are also other alternatives to free access sand filters. The use of free access sand filters will still be permitted following an aerobic treatment unit since the effluent is of better quality.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Provisions for use of waste stabilization ponds for single-family homes have also been removed. The majority of these systems are not installed according to code requirements and, therefore, do not protect groundwater or the environment. Use of waste stabilization ponds will still be permitted for commercial establishments provided that the ponds are designed by an engineer. Requiring that waste stabilization ponds be professionally designed is intended to improve their construction and maintenance. The rule concerning chemical toilets, which are rarely used in Iowa, has been removed.

A 500-gallon trash tank must now precede an aerobic treatment unit if one is not already incorporated in the unit's design. The aerobic treatment unit must be followed by a free access sand filter or other system at a size prescribed in these rules. Aerobic treatment units are maintenance intensive, and these changes are needed to ensure that the units do not discharge poor quality effluent between service visits or when improperly operated.

Any person may submit written suggestions or comments on the proposed amendments on or before December 5, 2008. Such written material should be submitted to Daniel Olson, NPDES Section, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by E-mail to daniel.olson@dnr.iowa.gov. Persons who have questions or would like a copy of the draft rule making with additions and strikeouts included may contact Mr. Olson by E-mail or by telephone at (515)281-8263.

Following are the dates and times of three public hearings where persons may present their views either orally or in writing:

December 2, 2008	1:30 to 4:30 p.m.	IDNR South Conference Room 401 SW 7th Street, Ste. M Des Moines, Iowa
December 3, 2008	1 to 3 p.m.	Iowa City Public Library, Room B 123 South Linn Street Iowa City, Iowa
December 4, 2008	1 to 3 p.m.	Fort Dodge Public Library Meeting Room, 424 Central Ave. Fort Dodge, Iowa

At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subjects of the amendments. Any person who intends to attend a public hearing and has special requirements, such as those related to mobility or hearing impairments, should contact the Department of Natural Resources to advise of any specific needs.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendments are proposed.

ITEM 1. Amend subrule 64.15(4) as follows:

64.15(4) "Discharge from Onsite Wastewater Treatment and Disposal Systems," NPDES General Permit No. 4, effective ~~January 1, 2004~~ [effective date of rule], to ~~December 31, 2008~~ [two years from effective date of rule].

ITEM 2. Rescind 567—Chapter 69 and adopt the following **new** chapter in lieu thereof:

CHAPTER 69
PRIVATE SEWAGE DISPOSAL SYSTEMS

567—69.1(455B) General.

69.1(1) Applicability. These rules are applicable only to private sewage disposal systems.

69.1(2) Definitions.

"Administrative authority" means the department and the local board of health as authorized by Iowa Code section 455B.172 and Iowa Code chapter 137.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

“*Aerobic treatment unit*” means a disposal system employing bacterial action which is maintained by the utilization of air or oxygen and includes the aeration plant and equipment and the method of final effluent disposal.

“*Approved*” means accepted or acceptable under an applicable specification stated or cited in these rules or accepted by the administrative authority as suitable for the proposed use.

“*Area drain*” means a drain installed to collect surface or storm water from an open area of a building or property.

“*Building drain*” means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of any building and conveys the same to the building sewer.

“*Building sewer*” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of a private sewage disposal system conveying the drainage of a building site.

“*Chamber system*” means a buried structure, typically with a domed or arched top, providing at least a 6-inch height of sidewall soil exposure and creating a covered open space above a buried soil infiltrative surface.

“*Conventional,*” when used in reference to sewage treatment, means a soil absorption system involving a series of 2- to 3-foot-wide trenches filled with gravel 1 foot deep, containing a 4-inch-diameter rigid pipe or other alternative trench technologies to convey the sewage effluent.

“*Distribution box*” means a structure designed to accomplish the equal distribution of wastewater to two or more soil absorption trenches.

“*Domestic sewage*” or “*domestic wastewater*” means the water-carried waste products from residences, public buildings, institutions, or other buildings, including bodily discharges from human beings together with groundwater infiltration and surface water as may be present.

“*Drainage ditch*” means any watercourse meeting the classification of a “general use segment” under 567—paragraph 61.3(1) “a” which includes intermittent watercourses and those watercourses which typically flow only for short periods of time following precipitation in the immediate locality and whose channels are normally above the water table.

“*Drip irrigation*” means a form of subsurface soil absorption using shallow pressure distribution with low-pressure drip emitters.

“*Drop box*” means a structure used to divert wastewater flow into a soil absorption trench. When the trench is filled to a set level, the drop box then allows any additional wastewater not absorbed by that trench to flow to the next drop box or soil absorption trench.

“*Dwelling*” means any house or place used or intended to be used by humans as a place of residence.

“*Expanded polystyrene (EPS) aggregate systems*” means cylinders comprised of expanded polystyrene (EPS) synthetic aggregate contained in high-strength polyethylene netting. Cylinders may vary in diameter and are produced both with and without a distribution pipe. Cylinders may be configured in a trench, bed, at-grade and mound applications to obtain the desired width, height and length. All cylinders contain a geotextile barrier fabric prefabricated between the aggregate and netting that spans across the top of the EPS. Cylinders containing a distribution pipe shall be connected end-to-end with an internal coupling device.

“*Fill soil*” means clean soil, free of debris or large organic material, which has been mechanically moved onto a site and has been in place for less than one year.

“*Foundation drain*” means that portion of a building drainage system which is provided to drain groundwater, not including any wastewater, from the outside of the foundation or over or under the basement floor and which is not connected to the building drain.

“*Free access filter*” means an intermittent sand filter constructed within the natural soil or above the ground surface, with access to the distributor pipes and top of the filter media for maintenance and media replacement.

“*Gravel*” means stone screened from river sand or quarried and washed free of clay and clay coatings. Concrete aggregate designated as Class II by the department of transportation is acceptable.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

“Gravelless pipe system” means a soil absorption system comprised of 10-inch-diameter corrugated plastic pipe, perforated with holes on a 120-degree arc centered on the bottom, wrapped in a sheath of geotextile filter wrap, and installed level in a trench without gravel bedding or cover.

“Grease interceptor” means a watertight device designed to intercept and retain or remove grease and fatty substances. The device may be located inside (grease separator) or outside (grease tank or grease trap) of a facility.

“Intermittent sand filter” means a bed of granular materials 24 to 36 inches deep underlain by graded gravel and collecting tile. Wastewater is applied intermittently to the surface of the bed through distribution pipes, and the bed is underdrained to collect and discharge the final effluent. Uniform distribution is normally obtained by dosing so as to utilize the entire surface of the bed. Filters may be designed to provide free access (open filters) or may be buried in the ground (buried filters or subsurface sand filters).

“Lake” means a natural or man-made impoundment of water with more than one acre of water surface area at the high water level.

“Limiting layer” means bedrock, seasonally high groundwater level, or any layer of soil with a stabilized percolation rate exceeding 60 minutes for the water to fall one inch.

“Mound system” means an aboveground soil absorption system used to disperse effluent from septic tanks in cases in which a seasonally high water table, high bedrock conditions, slowly permeable soils, or limited land areas prevent conventional subsurface soil absorption systems.

“Packed bed media filter” means a watertight structure filled with uniformly sized media that is normally placed over an underdrain system. The wastewater is dosed onto the surface of the media through a distribution network and is allowed to percolate through the media to the underdrain system. The underdrain collects the filtrate and discharges the final effluent.

“Percolation test” means a falling water level procedure used to determine the ability of soils to absorb primary treated wastewater. (See Appendix B.)

“Pond” means a natural or man-made impoundment of water with a water surface area of one acre or less at the high water level.

“Pretreated effluent” means septic tank effluent treated through aeration or other methods that, upon laboratory analysis, meets or exceeds a monthly average for biochemical oxygen demand (BOD) of 30 mg/L and total suspended solids (TSS) of 30 mg/L.

“Primary treatment unit” means a unit or system used to separate the floating and settleable solids from the wastewater before the partially treated effluent is discharged for secondary treatment.

“Private sewage disposal system” means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than 16 individuals on a continuing basis. This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.

“Professional soil analysis” means an alternative to the percolation test which depends upon a knowledgeable person evaluating the soil characteristics, such as color, texture, and structure, in order to determine an equivalent percolation or loading rate. A person performing a professional soil analysis shall demonstrate training and experience in soil morphology, such as testing absorption qualities of soil by the physical examination of the soil’s color, mottling, texture, structure, topography, and hillslope position.

“Qualified sampler,” for the purposes of collecting compliance effluent samples required under NPDES General Permit No. 4, means one of the following persons: a city or county environmental health staff person; an Iowa-certified wastewater treatment operator; or an individual who has received training approved by the department to conduct effluent sampling.

“Roof drain” means a drain installed to receive water collecting on the surface of a roof and discharging into an area or storm drain system.

“Secondary treatment system” means a system which provides biological treatment of the effluent from septic tanks or other primary treatment units to meet minimum effluent standards as required in these rules and NPDES General Permit No. 4. Examples include soil absorption systems, media filters, aerobic treatment units, or other systems providing equivalent treatment.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

“*Septage*” means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or from a holding tank, when the system is cleaned or maintained.

“*Septic tank*” means a watertight structure into which wastewater is discharged for solids separation and digestion (referred to as part of the closed portion of the treatment system).

“*Sewage sludge*” means any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. “Sewage sludge” includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum septage, portable toilet pumpings, Type III marine device pumpings as defined in 33 C.F.R. Part 159, and sewage sludge products. “Sewage sludge” does not include grit, screenings, or ash generated during the incineration of sewage sludge.

“*Stream*” means any watercourse listed as a “designated use segment” in rule 567—61.3(455B) which includes any watercourse that maintains flow throughout the year or contains sufficient pooled areas during intermittent flow periods to maintain a viable aquatic community.

“*Subsurface sand filter*” means a system in which the effluent from the primary treatment unit is discharged into perforated pipes, filtered through a layer of sand, and collected by lower perforated pipes for discharge to the surface or to a subsurface soil absorption system. A subsurface sand filter is an intermittent sand filter that is placed within the ground and provided with a natural topsoil cover over the crown of the distribution pipes.

“*Subsurface soil absorption system*” means a system of perforated conduits connected to a distribution system, forming a series of subsurface, water-carrying channels into which the primary treated effluent is discharged for direct absorption into the soil (referred to as part of the open portion of the treatment system).

69.1(3) General regulations.

a. Connections to approved sewer system.

(1) No private sewage disposal system shall be installed, repaired, or rehabilitated where a publicly owned treatment works (POTW) is available or where a local ordinance requires connection to a POTW. The POTW may be considered as not available when such POTW, or any building or any exterior drainage facility connected thereto, is located more than 200 feet from any proposed building or exterior drainage facility on any lot or premises which abuts and is served by such POTW. Final determination of availability shall be made by the administrative authority.

(2) When a POTW becomes available within 200 feet, any building then served by a private sewage disposal system shall be connected to said POTW within a time frame or under conditions set by the administrative authority.

(3) When a POTW is not available, every building wherein persons reside, congregate, or are employed shall be provided with an approved private sewage disposal system.

(4) If a building is to be connected to an existing private sewage disposal system, that existing system shall meet the standards of these rules and be appropriately sized.

b. Discharge restrictions. It is prohibited to discharge any wastewater from private sewage disposal systems (except as permitted in this chapter) to any ditch, stream, pond, lake, natural or artificial waterway, county drain tile, surface water drain tile, or land drain tile, to the groundwater, or to the surface of the ground. Under no conditions shall effluent from private sewage disposal systems be discharged to any abandoned well, agricultural drainage well or sinkhole. Existing discharges to any of the above-listed locations or structures shall be eliminated by the construction of a system in compliance with the requirements of these rules.

c. Construction or alteration. All private sewage disposal systems constructed or altered after [the effective date of these rules] shall comply with these requirements. Alteration includes any changes that affect the treatment or disposal of the waste. Repair of existing components that does not change the treatment or disposal of the waste is exempt. However, the discharge restrictions in paragraph “*b*” above apply.

d. Abandonment. Private sewage disposal systems that are abandoned shall have the septic tank pumped, the tank lid crushed into the tank, and the tank filled with sand or soil.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

69.1(4) Construction permit required. No private sewage disposal system shall be installed or altered as described in paragraph 69.1(3) “c” unless a construction permit issued by the administrative authority has been obtained. The installation shall be in accordance with these rules.

69.1(5) Permit by rule. This chapter is intended to act as a permit by rule for private sewage disposal systems. Activities in compliance with this chapter are permitted by the director for purposes of compliance with sections 455B.183 and 455B.186 of the Code of Iowa.

567—69.2(455B) Time of transfer inspections.

69.2(1) Inspections required. Prior to any transfer of ownership of a building where a person resides, congregates, or is employed that is served by a private sewage disposal system, the sewage disposal system serving the building shall be inspected. A building that will be demolished without being occupied does not require an inspection. A legally binding document verifying that the building will be demolished shall be provided to the county and to the department for record. In the event that weather or other temporary physical conditions prevent the certified inspection from being conducted, the buyer shall execute and submit a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection. Title abstracts to property with private sewage disposal systems shall include documentation of compliance with the requirements in this rule.

a. Inspection criteria. If a private sewage disposal system is failing to ensure effective wastewater treatment or is otherwise improperly functioning, the private sewage disposal system shall be renovated to meet current construction standards, as adopted by the department, either by the seller or, by agreement, within a reasonable time period as determined by the county or the department, by the buyer. If the private sewage disposal system is properly treating the wastewater and not creating an unsanitary condition in the environment at the time of inspection, the system is not required to meet current construction standards.

b. Inspection validity. An inspection is valid for a period of two years for any ownership transfers during that period.

69.2(2) Certified time of transfer inspectors. Inspections shall be conducted by an inspector certified by the department. In order to be a certified time of transfer inspector, an individual shall have met the experience requirements, have successfully completed the inspection course and examination, and have been issued a current certificate by the department in accordance with this rule.

a. Experience requirements. In order to be certified by taking the inspection course and examination only, an individual must have at least two years’ experience in the operation, installation, inspection, design or maintenance of private sewage disposal systems. Individuals lacking this experience must complete additional coursework before attending the inspection course with testing. The additional courses shall include, but not be limited to, “Onsite Basics 101” and “Alternative Systems” offered by the Onsite Wastewater Training Center of Iowa or courses determined by the department to be equivalent.

b. Examination application. A person wishing to take the examination necessary to become a certified inspector shall complete the Time of Transfer Inspection Certification Examination Application, Form XXXX. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate pertinent educational background, training and past experience in providing private sewage disposal services. The completed application and the application fee shall be sent to Time of Transfer Inspector Certification, Iowa Department of Natural Resources, 502 E. 9th St., Des Moines, Iowa 50319-0034. An application for examination must be received by the department at least 60 days prior to the date of the examination.

c. Application evaluation. The director may designate department personnel or an experience review committee to evaluate all applications for examination. A notification of the application review decision will be sent to the applicant prior to the examination date. The applicant shall have the right to dispute the application evaluation.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

d. Certification. Applicants who successfully meet the department's requirements will receive a written certification from the department. The department shall maintain a current listing of certified time of transfer inspectors. The list shall be available on the department's Web site and shall be provided to county boards of health and other interested parties.

e. Fees. The following nonrefundable fees apply:

- (1) Examination fee. The fee for each examination shall be \$50.
- (2) Certification fee. The fee for inspector certification shall be \$75 for each one-half year of a two-year period from the date of issuance of the certification to June 30 of the next even-numbered year.
- (3) Certification renewal fee. The fee for certification renewal shall be \$300 for the two-year period.
- (4) Penalty fee. The penalty fee shall be \$100 for each 30 days in delinquency. The penalty fee is for late payment of the initial certification fee or renewal fee or for incomplete application forms.

f. Renewal period. All certificates shall expire on June 30 of even-numbered years and must be renewed every two years in order to maintain certification.

69.2(3) Continuing education.

a. CEU requirements. Continuing education units (CEUs) must be earned during each two-year period from July 1 of the even-numbered year until June 30 of the next even-numbered year. A certified inspector must earn 1.2 CEUs or 12 contact hours during each two-year period.

b. CEU approval. All activities for which CEU credit will be granted must be approved by an accredited college or university, an issuing agency, or the department and shall be related to private sewage disposal systems.

c. CEU reporting. It is the personal responsibility of the certified inspector to maintain a written record of and to notify the department of the CEUs earned during the period. The CEUs earned during the period shall be shown on the application for renewal.

69.2(4) Certificate renewal.

a. Certification period. All certificates shall expire on June 30 of even-numbered years and must be renewed every two years in order to stay effective.

b. Application for renewal. Renewal applications shall be submitted on DNR Form 542-XXXX 60 days before the expiration date of the current certificate. Late applications or incomplete applications may lead to revocation of the certificate. Renewal of certificates will only be granted to inspectors in good standing.

c. CEUs. Only those certified inspectors fulfilling the continuing education requirements before the end of each two-year period (June 30) will be allowed to renew their certificates. The certificates of inspectors not fulfilling the continuing education requirements shall expire on June 30 of the even-numbered year.

d. Renewal fee. A renewal fee in the amount of \$300 must accompany the renewal application in order for the inspector to renew the certificate. Failure to submit the renewal fee on time may lead to revocation of the certificate.

69.2(5) Obligations of certified inspectors.

a. Certified inspectors shall conduct time of transfer inspections according to this rule.

b. Following an inspection, the inspection form and any related reports shall be provided to the county environmental health department for enforcement of any follow-up mandatory improvements to the system, to the department for record, and to the county recorder's office.

69.2(6) Disciplinary action.

a. Grounds for disciplinary action. Disciplinary action may be taken against a certified time of transfer inspector on any of the grounds specified in Iowa Code section 455B.109A and the following more specific grounds: (Iowa Code section 455B.109 authorizes the assessment of administrative penalties for violations of Iowa Code chapter 455B or rules, permits, and orders promulgated or issued pursuant to Iowa Code chapter 455B. The department will follow the provisions of 567—Chapter 10 for assessing such penalties.)

(1) Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted pursuant to this chapter.

(2) Conducting time of transfer inspections after a certificate has expired.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

- (3) Failure to renew a certificate on time.
 - (4) Failure to obtain required continuing education units.
 - (5) Failure to submit, within the time required, complete inspection records or reports.
 - (6) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified inspector.
 - (7) Violation of private sewage disposal or commercial septic tank cleaner rules or other requirements contained in 567—Chapter 68 and this chapter.
 - (8) Failure to advise a person for whom a time of transfer inspection is being provided that a potentially hazardous condition or hazardous condition as defined in Iowa Code section 455B.381(4) has been encountered.
 - (9) Knowingly causing or allowing to exist a potentially hazardous condition or hazardous condition due to the construction of a private sewage disposal system.
 - (10) Failure to document and record that a private sewage disposal system is not working effectively.
 - (11) Installing or modifying a private sewage disposal system without a construction permit.
- b. Disciplinary sanctions.*
- (1) Allowable disciplinary sanctions are:
 1. Revocation of a certificate. Revocation of a certificate may be permanent without chance of recertification or may be for a specified period of time, depending upon the gravity of the infraction.
 2. Partial revocation or suspension. Revocation or suspension of the practice of a particular aspect of the certified inspector's obligation may be imposed.
 3. Probation. Probation may be imposed and may include conditions relevant to the specific grounds for disciplinary action. Additional education or training or reexamination may be required as a condition of probation. Reexamination may include written and oral examinations.
 - (2) Fees. The department shall determine which fees pursuant to paragraph 69.2(2) "e" apply.
- c. Procedure.*
- (1) The director shall initiate disciplinary action. The director may investigate any alleged factual situation that may be grounds for disciplinary action under this subrule and report the results of the investigation to the commission.
 - (2) The director may issue an administrative order that may assess a penalty or refer a case to the attorney general for prosecution for any disciplinary action.
 - (3) Written notice by certified mail shall be provided to a certified inspector against whom disciplinary action is being considered. The certified inspector will be given 20 days' advance notice that an informal hearing has been scheduled before the commission. The notice will provide the specific date, place, and time at which the commission will hold the informal hearing to determine whether a formal hearing is warranted or whether informal resolution can be reached. The certified inspector may present any relevant facts and indicate the inspector's position in the matter.
 - (4) A certified inspector who receives notice of an informal hearing shall communicate orally or in writing with the department, and efforts shall be made to clarify the respective positions of the certified inspector and the department. At the informal hearing, the department may present a recommendation concerning disciplinary sanctions to the commission.
 - (5) Failure to attend the informal hearing or otherwise to communicate facts and positions relevant to the matter by the scheduled date will be considered by the commission when determining whether a formal hearing is warranted.
 - (6) If agreement as to appropriate disciplinary sanction, if any, can be reached with the certified inspector, and the commission concurs, a written stipulation and settlement between the department and the certified inspector shall be entered into. The stipulation and settlement shall recite the basic facts and violations alleged, any facts presented by the certified inspector and the reasons for the particular sanctions imposed.
 - (7) If the commission determines that no disciplinary action is warranted on the facts asserted, the certified inspector shall be notified of the decision in writing.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(8) If the commission determines that an opportunity for formal hearing is required to impose any disciplinary sanction specified in paragraph 69.2(6)“b,” the director shall proceed in accordance with 567—Chapter 7.

69.2(7) *Recertification after revocation.* Upon revocation of a certificate in accordance with paragraph 69.2(6)“b,” application for certification may be allowed after two years from the date of revocation. Any such applicant must pass an examination and be certified in the same manner as other applicants. The department shall require the applicant to take and pass a written and oral examination in order to become recertified. Appropriate fees as determined by the department pursuant to paragraph 69.2(2)“e” shall apply.

69.2(8) *Inspection procedures.* Inspections shall be conducted as follows:

a. Inspection form. The inspection shall be conducted using DNR Form 542-0191, Time of Transfer Inspection Report.

b. Record search. Prior to an inspection, the certified inspector shall contact the administrative authority to obtain any permits, as-built drawings or other information that may be available concerning the system being inspected. Information may also be obtained from service providers or the homeowner. If an as-built drawing is available, the system inspection shall verify that drawing. If no as-built drawing is available, the inspector shall develop an as-built drawing as part of the inspection.

c. Septic tank. At the time of inspection, any septic tank(s) existing as part of the sewage disposal system shall be opened and have the contents pumped out and disposed of according to 567—Chapter 68. In the alternative, the owner may provide evidence of the septic tank being properly pumped out within three years prior to the inspection by a commercial septic tank cleaner licensed by the department which shall include documentation of the size and condition of the tank and its components at the time of such occurrence. If the septic tank(s) is opened, the condition of the tank and its components shall be documented and included in the final report.

d. Pumps and pump chambers. Pump chambers or vaults shall be opened for inspection, and the pump shall be tested to ensure proper operation.

e. Secondary treatment. Proof that a secondary treatment system is in place must be provided. This proof may include, but is not limited to:

(1) Opening a distribution box or uncovering a header pipe for a soil absorption system. Existing distribution boxes shall be opened for inspection.

(2) Verification of the existence of a sand filter by locating the vents and discharge pipe.

(3) Locating and opening the lid(s) of an advanced treatment unit.

(4) Absorption fields shall be probed to determine their condition. The condition of the fields shall be noted on the inspection report. The condition of the absorption field may also be determined with a hydraulic loading test.

f. Discharging systems. An effluent test shall be performed on any legally discharging private sewage disposal system. The effluent shall be tested to determine if it meets the requirements of the NPDES General Permit No. 4, and the test results shall be included in the inspection report.

(1) The certified inspector shall ensure that a legally discharging private sewage disposal system has an NPDES General Permit No. 4, if applicable.

(2) The certified inspector shall ensure that a Notice of Intent to discharge is submitted to the department for coverage under the NPDES General Permit No. 4.

g. Packaged treatment units. An advanced treatment unit, such as an aerobic treatment unit, textile filter, peat filter or fixed activated sludge treatment system, shall be inspected according to the manufacturer’s recommendations.

h. Other systems and system components. Private sewage disposal systems not mentioned above shall be inspected for code compliance, and an effluent sample shall be taken if applicable. Any components of the private sewage disposal system not mentioned above shall be inspected for proper function. Examples of other components include, but are not limited to, effluent screens, tertiary treatment systems, disinfection devices, alarms, control boxes and timers.

i. Inspection reports. Following an inspection, the inspection form and a narrative report describing the condition of the private sewage disposal system at the time of the inspection shall be

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

provided to the county, to the department for record, and to the county recorder in the county where the inspection occurred.

567—69.3(455B) Site analysis.

69.3(1) Site evaluation. A site evaluation shall be conducted prior to issuance of a construction permit. Consideration shall be given to, but not be limited to, the impact of the following: topography; drainageways; terraces; floodplain; percent of land slope; location of property lines; location of easements; buried utilities; existing and proposed tile lines; existing, proposed and abandoned water wells; amount of available area for the installation of the system; evidence of unstable ground; alteration (cutting, filling, compacting) of existing soil profile; and soil characteristics determined from a soil analysis, percolation tests, and soil survey maps if available.

a. Soil survey reports. During a site analysis and investigation, maximum use should be made of soil survey reports, which are available from USDA Natural Resources Conservation Service. A general identification of the percolation potential can be made from soil map units in Iowa. Verification of the soil permeability of the specific site must be performed.

b. Final inspections. All newly constructed private sewage disposal systems shall be inspected by the administrative authority before the system is backfilled or at a time prescribed by the administrative authority. A final as-built drawing shall be made as part of the final inspection.

c. Onsite wastewater tracking system. All pertinent information, including but not limited to, the site address, owner, type, date of installation, and as-built drawing of the private sewage disposal system shall be entered into the department's Web-based onsite wastewater tracking system.

69.3(2) Minimum distances. All private sewage disposal systems shall be located in accordance with the minimum distances shown in Table I.

Table I

Minimum Distance in Feet From	Closed Portion of Treatment System ⁽¹⁾	Open Portion of Treatment System ⁽²⁾
Private water supply well	50	100
Public water supply well	200	200
Groundwater heat pump borehole	50	100
Lake or reservoir	50	100
Stream or pond	25	25
Edge of drainage ditch	10	10
Dwelling or other structure	10	10
Property lines (unless a mutual easement is signed and recorded)	10	10
Other type of subsurface treatment system	5	10
Water lines continually under pressure	10	10
Suction water lines	50	100
Foundation drains or subsurface tiles	10	10

⁽¹⁾ Includes septic tanks, aerobic treatment units, fully contained media filters and impervious vault toilets.

⁽²⁾ Includes subsurface absorption systems, mound systems, intermittent sand filters, constructed wetlands, open bottom media filters and waste stabilization ponds.

567—69.4(455B) Requirements when effluent is discharged into surface water. All discharges from private sewage disposal systems which are discharged into, or have the potential to reach, any designated waters of the state or subsurface drainage tile shall be treated in a manner that will conform with the requirements of NPDES General Permit No. 4 issued by the department of natural resources, as referenced in 567—Chapter 64. Prior to the use of any system discharging to designated waters of the state or a subsurface drainage tile, a Notice of Intent to be covered by NPDES General Permit No. 4 shall be submitted to the department. Systems covered by this permit must meet all applicable requirements listed in the permit, including effluent sampling and monitoring.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

567—69.5(455B) Requirements when effluent is discharged above the ground surface.

69.5(1) All private sewage disposal systems that discharge above the ground surface shall be annually inspected to ensure proper operation.

69.5(2) Private sewage disposal systems that require a maintenance contract shall be inspected by a manufacturer’s certified technician or person demonstrating knowledge of the system in accordance with the manufacturer’s standards.

69.5(3) Private sewage disposal systems that do not require a maintenance contract shall be visually inspected by a person with knowledge of the system for any malfunction and shall have the septic tank opened, inspected, and pumped if needed. A record of the inspection and any tank pumping shall be maintained and be made available to the administrative authority upon request.

567—69.6(455B) Requirements when effluent is discharged into the soil. No septage or wastewater shall be discharged into the soil except in compliance with the requirements contained in these rules.

567—69.7(455B) Building sewers.

69.7(1) Location and construction.

a. The types of construction and distances as shown in Table II shall be maintained for the protection of water supplies. The distances shall be considered minimum distances and shall be increased where possible to provide better protection.

Table II

Sewer Construction	Distance in Feet From Well Water Supply	
	Private	Public
1. Schedule 40 plastic pipe (or SDR 26 or stronger) with approved-type joints or cast-iron soil pipe (extra heavy or centrifugally cast) with joints of preformed gaskets.	10	25
2. Sewer pipe installed to remain watertight and root-proof.	50	75

b. Under no circumstances shall a well suction line pass under a building sewer line.

69.7(2) Requirements for building sewers.

a. *Type.* Building sewers used to conduct wastewater from a building to the primary treatment unit of a private sewage disposal system shall be constructed of Schedule 40 plastic pipe (or SDR 26 or stronger) with solvent-weld or bell-and-gasket-type joints or shall be constructed of cast iron with integral bell-and-gasket-type joints.

b. *Size.* Such building sewers shall not be less than 4 inches in diameter.

c. *Grade.* Such building sewers shall be laid to the following minimum grades:

- 4-inch sewer 12 inches per 100 feet
- 6-inch sewer 8 inches per 100 feet

69.7(3) Cleanouts.

a. *Spacing.* A cleanout shall be provided where the building sewer leaves the house and at least every 100 feet downstream to allow for rodding.

b. *Change of direction or grade.* An accessible cleanout shall be provided at each change of direction or grade if the change exceeds 45 degrees.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

69.7(4) Grease interceptors.

- a. Applicability.* Grease interceptors shall be provided for kitchen flows at restaurants, nursing homes, schools, hospitals and other facilities from which grease can be expected to be discharged.
- b. Installation.* Grease interceptors shall be installed on a separate building sewer serving kitchen flows into which the grease will be discharged. The discharge from the grease interceptor must flow to a properly designed septic tank or to a building sewer and then to the septic tank.

567—69.8(455B) Primary treatment—septic tanks.**69.8(1) General requirements.**

- a. Septic tank required.* Every private sewage disposal system shall have as a primary treatment unit a septic tank as described in this rule. All wastewater from the facility serviced shall discharge into the septic tank (except as noted in paragraph “d” below).
- b. Easements.* No septic tank shall be located upon property under ownership different from the ownership of that property or lot upon which the wastewater originates unless easements to that effect are legally recorded and approved by the proper administrative authority.
- c. Effluent discharge requirements.* All septic tank effluent shall discharge into a secondary treatment system in compliance with this chapter or into another system approved by the administrative authority according to rule 69.21(455B).
- d. Prohibited wastes.* Septic tanks shall not be used for the disposal of chemical wastes or grease in quantities which might be detrimental to the bacterial action in the tank or for the disposal of drainage from roof drains, foundation drains, or area drains.

69.8(2) Capacity.

- a. Minimum capacity.* The minimum liquid-holding capacity shall be as specified in the following table (capacity may be obtained by using one or more tanks):

Up to and including 3-bedroom homes	1,250 gal.
4-bedroom homes	1,500 gal.
5-bedroom homes	1,750 gal.
6-bedroom homes	2,000 gal.

- b. Other domestic waste systems.* In the event that an installation serves more than a 6-bedroom home or its equivalent, or serves a facility other than a house and serves the equivalent of fewer than 16 individuals on a continuing basis, approval of septic tank capacity and design must be obtained from the administrative authority. Minimum septic tank liquid-holding volume shall be two times the estimated daily sewage flow.

- c. Determination of flow rates.* For wastewater flow rates for nonresidential and commercial domestic waste applications serving the equivalent of fewer than 16 individuals on a continuing basis, refer to Appendix A.

- d. Minimum depth.* The minimum liquid-holding depth in any compartment shall be 40 inches.

- e. Maximum depth.* The maximum liquid-holding depth for calculating capacity of the tank shall not exceed 6½ feet.

- f. Dimensions.* The interior length of a septic tank should not be less than 5 feet and shall be at least 1½ times the width (larger length-to-width ratios are preferred). No tank or compartment shall have an inside width of less than 2 feet. The minimum inside diameter of a vertical cylindrical septic tank shall be 5 feet.

69.8(3) Construction details.

- a. Fill soil.* Any septic tank placed in fill soil shall be placed upon a level, stable base that will not settle.

- b. Compartmentalization.* Every septic tank shall be divided into two compartments as follows (compartmentalization may be obtained by using more than one tank):

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(1) The capacity of the influent compartment shall not be less than one-half nor more than two-thirds of the total tank capacity.

(2) The capacity of the effluent compartment shall not be less than one-third nor more than one-half of the total tank capacity.

c. Inlet/outlet. The invert of the inlet pipe shall be a minimum of 2 inches and a maximum of 4 inches higher than the invert of the outlet pipe.

d. Baffles.

(1) Four-inch-diameter Schedule 40 plastic pipe tees shall be used as inlet and outlet baffles. Inlet tees shall extend at least 6 inches above and 8 inches below the liquid level of the tank. The inlet tee shall extend below the liquid level no more than 20 percent of the liquid depth. The outlet tee shall extend above the liquid level a distance of at least 6 inches and below the liquid level a distance of at least 15 inches but no more than 30 percent of the liquid depth. A minimum 2-inch clearance between the top of the inlet and outlet tees and the bottom of the tank lid shall be provided. A horizontal separation of at least 36 inches shall be provided between the inlet baffle and the outlet baffle in each compartment. Outlet baffles shall be fitted with an effluent screen. All effluent screens shall be certified by an ANSI-accredited third-party certifier to meet National Sanitation Foundation Standard 46, including appendices, or other equivalent testing as determined by the department. Effluent screens require periodic inspection and cleaning to ensure their continued proper operation.

(2) A horizontal slot 4 inches by 6 inches, or two suitably spaced 4-inch-diameter holes in the tank partition, may be used instead of a tee or baffle. The top of the slot or holes shall be located below the water level a distance of one-third the liquid depth. A ventilation hole or slot, located at least 8 inches above the liquid level, shall be provided in the partition.

e. Access.

(1) Access necessary for adequate inspection, operation, and maintenance must be provided to all parts of septic tanks.

(2) An access opening shall be provided at each end of the tank over the inlet and outlet. These openings shall be at least 18 inches in the smallest dimension.

(3) Watertight risers shall be installed to bring the access openings to the ground surface. Risers shall be secured using stainless steel fasteners of sufficient complexity, locking devices, concrete lids of sufficient weight, or another device approved by the administrative authority to deter tampering.

69.8(4) Construction.

a. Materials. Tanks shall be constructed of watertight poured concrete, fiberglass or plastic resistant to corrosion or decay and shall be designed so that the tanks, whether full or empty, will not collapse or rupture when subjected to anticipated earth and hydrostatic pressures. Metal tanks are prohibited.

b. Watertight tanks. Tanks shall be watertight. Prior to approving a tank, the administrative authority may ask for proof that a tank is watertight.

c. Dividers. Tank divider walls and divider wall supports shall be constructed of heavy, durable plastic, fiberglass, concrete or other similar corrosion-resistant materials approved by the administrative authority.

d. Inlet and outlet ports. Inlet and outlet ports of pipe shall be constructed of heavy, durable Schedule 40 PVC plastic sanitary tees or other similar approved corrosion-resistant material.

69.8(5) Wall thickness. Minimum wall thickness for tanks shall conform to the following specifications:

Poured concrete	6 inches thick
Poured concrete, reinforced	4 inches thick
Special concrete mix, vibrated and reinforced	2.5 inches thick
Fiberglass or plastic	.25 inches thick

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

69.8(6) Concrete specifications. Concrete used in precast septic tank construction shall have a maximum water-to-cement ratio of 0.45. Cement content shall be at least 650 pounds per cubic yard. Minimum compressive strength (f_c) shall be 4,000 psi (28 Mpa) at 28 days of age. The use of ASTM C150 Type II cement or the addition of silica fume or Class F fly ash is recommended.

69.8(7) Tank bottoms. Septic tank bottoms shall conform to the specifications set forth in subrule 69.8(5) for septic tank walls, except that special mix concrete shall be at least 3 inches thick.

69.8(8) Tank tops. Concrete or masonry septic tank tops shall be a minimum of 4 inches in thickness and shall be reinforced with $\frac{3}{8}$ -inch reinforcing rods in a 6-inch grid or equivalent. Fiberglass or plastic tank tops shall be a minimum of $\frac{1}{4}$ inch in thickness and shall have reinforcing and be of ribbed construction.

69.8(9) Reinforcing steel placement. The concrete cover for reinforcing bars, mats, or fabric shall not be less than 1 inch.

69.8(10) Bedding. Fiberglass or plastic tanks shall be bedded according to the manufacturer's specifications. Provisions should be made to prevent flotation of the tanks when they are empty.

69.8(11) Connecting pipes.

a. *Minimum diameter.* The pipes connecting septic tanks installed in series and at least the first 5 feet of pipe on the effluent side of the last tank shall be a minimum of 4-inch-diameter Schedule 40 plastic.

b. *Tank connections.* All inlet and outlet connections at the septic tanks shall be made by self-sealing gaskets cast into the concrete or formed into the plastic or fiberglass.

c. *Joints.* All joints in connecting Schedule 40 plastic pipe shall be approved plastic pipe connections such as solvent-welded or compression-type gaskets.

d. *Pipe in unstable ground.* Schedule 40 plastic pipe shall be used extending across excavations or unstable ground to at least 2 feet beyond the point where the original ground has not been disturbed in septic tank installations. If the excavation spanned is more than 2 feet wide, it must be filled with sand or compacted fill to provide a firm bed for the pipe. The first 12 inches of backfill over the pipe shall be applied in thin layers, using material free from stones, boulders, large frozen chunks of earth or any similar material that would damage or break the pipe.

567—69.9(455B) Secondary treatment—subsurface soil absorption systems. Subsurface soil absorption systems are the best available treatment technology and shall always be used where possible.

69.9(1) General requirements.

a. *Locations.* All subsurface soil absorption systems shall be located on the property to maximize the vertical separation distance from the bottom of the absorption trench to the seasonal high groundwater level, bedrock, hardpan or other confining layer, but under no circumstances shall this vertical separation be less than 3 feet.

b. *Soil evaluation.* A percolation test or professional soil analysis is required before any soil absorption system is installed.

(1) Percolation test. The percolation test procedure is outlined in Appendix B.

(2) Alternative analysis. If a professional soil analysis is performed, soil characteristics such as soil content, color, texture, and structure shall be used to determine a loading rate.

(3) Acceptable percolation rate. An area is deemed suitable for conventional soil absorption if the average percolation rate is 60 minutes per inch or less and greater than 1 minute per inch. However, if an alternative soil absorption system is proposed (e.g., mound system), then the percolation test should be extended to determine whether a percolation rate of 120 minutes per inch is achieved.

(4) Confining layer determination. An additional test hole 6 feet in depth or to rock, whichever occurs first, shall be provided in the center of the proposed absorption area to determine the location of groundwater, rock formations or other confining layers. This 6-foot test hole may be augered the same size as the percolation test holes or may be made with a soil probe.

c. *Groundwater.* If the seasonal high groundwater level is present within 3 feet of the trench bottom final grade and cannot be successfully lowered by subsurface tile drainage, the area shall be

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

classified as unsuitable for the installation of a standard subsurface soil absorption system. Consult the administrative authority for an acceptable alternative method of wastewater treatment.

d. Site limitations. In situations where specific location or site characteristics would appear to prohibit installation of a soil absorption system, design modifications which could overcome such limitations may be approved by the administrative authority. Examples of such modifications could be the installation of subsurface drainage, use of shallow or at-grade trenches, drip irrigation, or mound systems or use of pretreated effluent.

e. Prohibited drainage. Roof, foundation and storm drains shall not discharge into or upon subsurface absorption systems. Nothing shall enter the subsurface absorption system which does not first pass through the septic tank.

f. Prohibited construction. There shall be no construction of any kind, including driveways, covering the septic tank, distribution box or absorption field of a private sewage disposal system. Vehicle access should be infrequent, primarily limited to vegetation maintenance.

g. Driveway crossings. Connecting lines under driveways shall be constructed of Schedule 40 plastic pipe or equivalent and shall be protected from freezing.

h. Easements. No wastewater shall be discharged upon any property under ownership different from the ownership of the property or lot upon which the wastewater originates unless easements to that effect are legally recorded and approved by the administrative authority.

69.9(2) Sizing requirements.

a. Percolation and soil loading charts. Table IIIa provides a correlation between percolation rates and soil loading rates. Table IIIb provides soil loading rates based upon soil texture and structure. Use Table IIIa and Table IIIb to determine the appropriate soil loading rate. Table IIIc specifies linear feet of lateral trenches required based upon the soil loading rate, wastewater flow rate, and trench width. Table IIId provides a method to determine the size of an absorption bed. Absorption beds (Table IIIe) shall not be used except when the lot size limitations preclude the installation of a lateral trench system. Further details concerning limitations of this alternative shall be obtained from the administrative authority before authorization for installation is requested.

b. Unsuitable absorption. Conventional subsurface soil absorption trenches shall not be installed in soils that have a percolation rate less than 1 minute per inch or greater than 60 minutes per inch. Plans for an alternative method of wastewater treatment shall be submitted to the administrative authority for approval prior to construction.

Table IIIa
Maximum Soil Application Rates Based Upon Percolation Rates

Percolation Rate (minutes per inch)	Monthly Averages	
	Septic Tank Effluent ⁽¹⁾ BOD ₅ 30 mg/L - 220 mg/L TSS 30 mg/L - 150 mg/L (gals/sq ft/day) ⁽²⁾	Pretreated Effluent BOD ₅ ≤ 30 mg/L TSS ≤ 30 mg/L (gals/sq ft/day)
0 to 5	1.2	1.6
Fine sands	0.5	0.9
6 to 10	0.8 – 0.6	1.2
11 to 29	0.6 – 0.5	0.9
30 to 45	0.5 – 0.4	0.7
46 to 60	0.4 – 0.2	0.5
61 to 120	0.0	0.3
Greater than 120	0.0	0.0

NOTE: "BOD" means biochemical oxygen demand. "TSS" means total suspended solids.

⁽¹⁾ Typical waste strengths for domestic waste. Pretreatment should be considered for waste of higher strength.

⁽²⁾ Percolation rates and soil loading rates do not precisely correlate; therefore, a range is provided.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Table IIIb

Maximum Soil Loading Rates Based Upon Soil Evaluations in Gallons per Square Foot per Day (gal/ft²/day) for Septic Tank Effluent. Values in () are for secondary treated effluent.

Soil Texture	Single Grain	Massive	Structure Granular, Blocky, or Prismatic			Platy	
			Weak	Moderate	Strong	Weak	Moderate to Strong
Coarse sand and gravel	1.2 (1.6)	X	1.2 (1.6)	X	X	1.2 (1.6)	X
Medium sands	0.7 (1.4)	X	0.7 (1.4)	X	X	0.7 (1.4)	X
Fine sands	0.5 (0.9)	X	0.5 (0.9)	X	X	0.5 (0.9)	X
Very fine sands*	0.3 (0.5)	X	0.3 (0.5)	X	X	0.3 (0.5)	X
Sandy loam	X	0.3 (0.5)	0.45 (0.7)	0.6 (1.1)	0.65 (1.2)	0.4 (0.6)	0.3 (0.5)
Loam	X	0.4 (0.6)	0.45 (0.7)	0.5 (0.8)	0.55 (0.8)	0.4 (0.6)	0.3 (0.5)
Silty loam	X	NS	0.4 (0.6)	0.5 (0.8)	0.5 (0.8)	0.3 (0.5)	0.2 (0.3)
Clay loam	X	NS	0.2 (0.3)	0.45 (0.7)	0.45 (0.7)	0.1 (0.2)	0.1 (0.2)
Silty clay loam	X	NS	0.2 (0.3)	0.45 (0.7)	0.45 (0.7)	NS	NS

NOTE: "X" means not found in nature. "NS" means not suitable for soil absorption.

* Flow rates are difficult to determine for some very fine sands; experience may provide better information and flow rates.

Table IIIc**Minimum Length of Absorption Trenches in Feet**

	2 bedroom 300 gal.		3 bedroom 450 gal.		4 bedroom 600 gal.		5 bedroom 750 gal.		6 bedroom 900 gal.	
	2'	3'	2'	3'	2'	3'	2'	3'	2'	3'
Width of trench in feet	2'	3'	2'	3'	2'	3'	2'	3'	2'	3'
Soil loading rate gal/ft ²										
0.1	Not suitable for soil absorption trenches									
0.2	750	500	1125*	750	1500*	1000*	1875*	1250*	2250*	1500*
0.3	500	333	750	500	1000*	666	1250*	833*	1500*	1000*
0.4	375	250	562	375	750	500	938*	625	1125*	750
0.5	300	200	450	300	600	400	750	500	900*	600
0.6	250	167	375	250	500	333	625	417	750	500
0.7	214	143	321	214	428	286	536	357	643	429
0.8	188	125	281	188	375	250	469	312	562	375
0.9	167	111	250	167	333	222	417	278	500	333
1.0	150	100	225	150	300	200	375	250	450	300
1.1	136	91	205	136	273	182	341	227	409	273
1.2	125	84	188	125	250	167	313	208	375	250

* Requires pressure distribution (pump)

Table III d
Alternative Option for Use of Absorption Bed*

Percolation Rate min./inch	Absorption Area/Bedroom sq. ft.	Loading Rate/Day gal./sq. ft.
1 – 5	300	.5
6 – 15	400	.375
16 – 30	600	.25

*Absorption beds may only be used when site space restrictions require and shall not be used when the soil percolation rate exceeds 30 min./inch.

69.9(3) Construction details for all soil absorption trenches.

a. Depth. Soil absorption trenches shall not exceed 36 inches in depth unless authorized by the administrative authority, but a shallower trench bottom depth of 18 to 24 inches is recommended. Not less than 6 inches of porous soil shall be provided over the laterals. The minimum separation between trench bottom and groundwater, rock formation or other confining layers shall be 36 inches even if extra rock is used under the pipe.

b. Length. No soil absorption trench shall be greater than 100 feet long.

c. Separation distance. At least 6 feet of undisturbed soil shall be left between each trench edge on level sites. The steeper the slope of the ground, the greater the separation distance should be. Two feet of separation distance should be added for each 5 percent increase in slope from level.

d. Grade. The trench bottom should be constructed level from end to end. On sloping ground, the trench shall follow a uniform land contour to maintain a minimum soil cover of 6 inches and a level trench bottom.

e. Compaction. There shall be minimum use or traffic of heavy equipment on the area proposed for soil absorption. In addition, it is prohibited to use heavy equipment on the bottom of the trenches in the absorption area.

f. Fill soil. Soil absorption systems shall not be installed in fill soil. Disturbed soils which have stabilized for at least one year shall require a recent percolation test or soil analysis.

g. Bearing strength. Soil absorption systems shall be designed to carry loadings to meet AASHTO H-10 standards.

h. Soil smearing. Soils with significant clay content should not be worked when wet. If soil moisture causes sidewall smearing, the installation should be discontinued until conditions improve.

69.9(4) Gravel systems.

a. Gravel. A minimum of 6 inches of clean, washed river gravel, free of clay and clay coatings, shall be laid below the distribution pipe, and enough gravel shall be used to cover the pipe. This gravel shall be of such a size that 100 percent of the gravel will pass a 2½-inch screen and 100 percent will be retained on a ¾-inch screen. Limestone or crushed rock is not recommended for soil absorption systems; however, if used, it shall meet the following criteria:

(1) Abrasion loss. The percent wear, as determined in accordance with the AASHTO T 96, Grading C, shall not exceed 40 percent.

(2) Freeze and thaw loss. When gravel is subjected to the freezing and thawing test, Iowa DOT Materials Laboratory Test Method 211, Method A, the percentage loss shall not exceed 10 percent.

(3) Absorption. The percent absorption, determined in accordance with Iowa DOT Materials Laboratory Test Method 202, shall not exceed 3 percent.

b. Trench width. Soil absorption trenches for gravel systems shall be a minimum of 24 inches and a maximum of 36 inches in width at the bottom of the trench.

c. Grade. The distribution pipes shall be laid with a minimum grade of 2 inches per 100 feet of run and a maximum grade of 6 inches per 100 feet of run, with a preference given to the lesser slope.

d. Pipe. Distribution pipe shall be PVC rigid plastic meeting ASTM Standard 2729 or other suitable material approved by the administrative authority. The inside diameter shall be not less than 4 inches, with perforations at least ½ inch and no more than ¾ inch in diameter, spaced no more than 40

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

inches apart. Two rows of perforations shall be provided located 120 degrees apart along the bottom half of the tubing (each 60 degrees up from the bottom centerline). The end of the pipe in each trench shall be sealed with a watertight cap unless, on a level site, a footer is installed connecting the trenches together. Coiled perforated plastic pipe shall not be used.

e. Gravel cover. Unbacked, rolled, 3½-inch-thick fiberglass insulation, untreated building paper, synthetic drainage fabric, or other approved material shall be laid so as to separate the gravel from the soil backfill.

69.9(5) Gravelless pipe systems.

a. Application. Gravelless subsurface soil absorption systems may be used as an alternative to conventional 4-inch pipe placed in gravel-filled trenches. However, these systems cannot be used in areas where conventional systems would not be allowed due to poor permeability, high groundwater, or insufficient depth to bedrock.

b. Installation. The manufacturer's specifications and installation procedures shall be adhered to.

c. Material. The 10-inch I.D. corrugated polyethylene tubing used in gravelless systems shall meet the requirements of ASTM F667, Standard Specification for Large Diameter Corrugated Polyethylene Tubing.

d. Perforations. Two rows of perforations shall be located 120 degrees apart along the bottom half of the tubing (each 60 degrees up from the bottom centerline). Perforations shall be cleanly cut into each inner corrugation along the length of the tubing and should be staggered so that there is only one hole in each corrugation.

e. Top marking. The tubing should be visibly marked to indicate the top of the pipe.

f. Filter wrap. All gravelless drainfield pipe shall be encased, at the point of manufacture, with a geotextile filter wrap specific to this purpose.

g. Trench width. The trench width for the gravelless system shall be 24 inches. Gravelless pipe shall cover 90 percent of the width of the trench bottom.

h. Length of trench. The total length of absorption trench for a 10-inch gravelless pipe installation shall be the same as given in Table IIIc for a conventional soil absorption trench.

69.9(6) Chamber systems.

a. Application. Chamber systems may be used as an alternative to conventional 4-inch pipe placed in gravel-filled trenches. However, the chamber systems cannot be used in areas where conventional systems would not be allowed due to poor permeability, high groundwater, or insufficient depth to bedrock.

b. Installation. The manufacturer's specifications and installation procedures shall be adhered to.

c. Length of trench. The total length of soil absorption trench for chambers shall be the same as given in Table IIIc for a conventional soil absorption trench. The chambers shall cover 90 percent of the width of the trench bottom.

d. Sidewall. The chambers shall have at least 6 inches of sidewall effluent soil exposure height.

69.9(7) Expanded polystyrene (EPS) aggregate system.

a. Application. EPS aggregate systems may be used as an alternative to conventional 4-inch pipe placed in gravel-filled trenches. However, EPS aggregate systems cannot be used in areas where conventional systems would not be allowed due to poor permeability, high groundwater, or insufficient depth to bedrock.

b. Installation. The manufacturer's specifications and installation procedures shall be adhered to.

c. Length of trench. The total length of soil absorption trench for EPS aggregate shall be the same as given in Table IIIc. The EPS aggregate shall cover 90 percent of the width of the trench bottom.

d. Gravel cover. Unbacked, rolled, 3½-inch-thick fiberglass insulation, untreated building paper, synthetic drainage fabric, or other approved material shall be laid so as to separate the EPS aggregate from the soil backfill.

69.9(8) Gravity distribution. Dosing is always recommended and preferred to improve distribution, improve treatment and extend the life of the system.

a. On a hillside, septic tank effluent may be serially loaded to the soil absorption trenches by drop boxes or overflow piping (rigid sewer pipe). Otherwise, effluent shall be distributed evenly to all

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

trenches by use of a distribution box or commercial distribution regulator approved by the administrative authority.

b. Design. When a distribution box is used, it shall be of proper design and installed with separate watertight headers leading from the distribution box to each lateral. Header pipes shall be rigid PVC plastic pipe meeting ASTM Standard 2729 or equivalent.

c. Height of outlets. The distribution box shall have outlets at the same level at least 4 inches above the bottom of the box to provide a minimum of 4 inches of water retention in the box.

d. Baffles. There shall be a pipe tee or baffle at the inlet to break the water flow.

e. Unused outlets. All unused outlet holes in the box shall be securely closed.

f. Materials. All distribution boxes shall be constructed of corrosion-resistant rigid plastic materials.

g. Level outlets. All outlets of the distribution box shall be made level. A 4-inch cap with an offset hole approximately 2½ inches in diameter shall be installed on each outlet pipe. These caps shall be rotated until all outlets discharge at the same elevation. Equivalent leveling devices may be approved by the local authority.

h. Equal length required. The soil absorption area serviced by each outlet of the distribution box shall be equal.

69.9(9) Dosing systems.

a. Pump systems.

(1) Pump and pit requirements. In the event the effluent from the septic tank outlet cannot be discharged by gravity and the proper lateral depths still maintained, the effluent shall discharge into a watertight pump pit with an inside diameter of not less than 24 inches, equipped with a tight-fitting manhole cover at grade level. The pump shall be of a submersible type of corrosion-resistant material.

(2) Pump setting. The pump shall be installed in the pump pit in a manner that ensures ease of service and protection from frost and settled sludge. The pump shall be set to provide a dosing frequency of approximately four times a day based on the maximum design flow. No onsite electrical connections shall be located in the pump pit. These connections shall be located in an exterior weatherproof box.

(3) Pressure line size. The pressure line from the pump to the point of discharge shall not be smaller than the outlet of the pump it serves.

(4) Drainage. Pressure lines shall be installed to provide total drainage between dosing to prevent freezing or shall be buried below frost level up to the distribution box.

(5) High water alarm. Pump pits shall be equipped with a sensor set to detect if the water level rises above the design high water level when the pump fails. This sensor shall activate an auditory or visual alarm to alert the homeowner that repairs are required.

(6) Discharge point. The effluent shall discharge under pressure into a distribution box or may be distributed by small-diameter pipes throughout the entire absorption field.

b. Dosing siphons. Dosing siphons may also be used. The manufacturer's specifications shall be adhered to for installation. Similar dosing volumes and frequencies are recommended. Dosing siphons require periodic cleaning to ensure their continued proper operation.

c. Filtered pump vaults. A filtered pump vault is a device that is installed in a septic tank and houses a pump and screens effluent until it is pumped. Filtered pump vaults may be used when dosing volume is less than 50 gallons. Filtered pump vaults require periodic inspection and cleaning to ensure their continued proper operation.

567—69.10(455B) Mound systems.

69.10(1) General requirements.

a. Mound systems shall be permitted only after a thorough site evaluation has been made and landscaping, dwelling placement, effect on surface drainage, and general topography have been considered.

b. Mound systems shall not be utilized on sites subject to flooding with a ten-year or greater frequency.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

c. Mound systems shall not be utilized on soils where the high groundwater level, impermeable bedrock or soil strata having a percolation rate exceeding 120 minutes per inch occur within 12 inches of natural grade or where creviced bedrock occurs within 20 inches of natural grade.

d. Mound systems shall be constructed only upon undisturbed naturally occurring soils or where a soil analysis has determined the site is suitable.

e. Mound systems shall be located in accordance with the distances specified in Table I as measured from the outer edge of the sand in the mound.

f. No buildings, driveways or other surface or subsurface obstructions shall be permitted within 50 feet on the down-gradient side of the mound when the mound is constructed on a slope greater than 5 percent. No future construction shall be permitted in this effluent disposal area as long as the mound is in use.

g. Specifications given in these rules for mounds are minimal and may not be sufficient for all applications. Technical specifications are changing with experience and research. Other design information beyond the scope of these rules may be necessary to properly design a mound system.

69.10(2) Material for mound fill.

a. The mound shall be constructed using clean, medium-textured sand, sometimes referred to as concrete sand. The sand size shall be such that at least 25 percent by weight shall have a diameter between 2.0 and 0.25 mm; less than 35 percent by weight, a diameter between 0.25 and 0.05 mm; and less than 5 percent by weight, a diameter between 0.05 and 0.002 mm.

b. Rock fragments larger than 1/16 inch (2.0 mm) shall not exceed 15 percent by weight of the material used for mound fill.

69.10(3) Construction details.

a. There shall be a minimum of 3 feet of fill material and undisturbed naturally occurring soils between the bottom of the washed gravel and the highest elevation of the limiting conditions defined in paragraph 69.10(1) "c."

b. Gravel shall meet the requirements specified in paragraph 69.9(4) "a."

c. From 1 to 2 feet of medium-textured sand (depending upon the underlying soil depth, see paragraph 69.10(3) "a") must be placed between the bottom of the gravel and the top of the plowed surface of the naturally occurring soil.

d. Mound systems shall utilize an absorption bed distribution piping design. The bed shall be installed with the long dimension parallel to the land contour. Systems on steep slopes with slowly permeable soils should be narrow to reduce the possibility of toe seepage.

e. Minimum spacing between distribution pipes shall be 4 feet, and a minimum of 3 feet shall be maintained between any trench and the sidewall of the mound.

f. No soil under or up to 50 feet down gradient of the mound may be removed or disturbed except as specified herein.

g. Construction equipment which would cause undesirable compaction of the soil shall be kept off the base area. Construction or plowing shall not be initiated when the soil moisture content is high. If a sample of soil from approximately 9 inches below the surface can be easily rolled into a 1/8- to 1/4-inch-diameter wire 1 1/2 inches long or more, the soil moisture content is too high for construction purposes.

h. Aboveground vegetation shall be closely cut and removed from the ground surface throughout the area to be utilized for the placement of the fill material.

i. The area shall be plowed to a depth of 7 to 8 inches, parallel to the land contour, with the plow throwing the soil up slope to provide a proper interface between the fill and the natural soil. Tree stumps should be cut flush with the surface of the ground, and roots should not be pulled.

j. The base absorption area of the mound is to be calculated based on the results of the percolation rate test or soil analysis as indicated in Table IIIa or IIIb and the flow rate. The maximum width of the mound shall be 12 feet.

k. The area of the fill material shall be sufficient to extend 3 feet beyond the edge of the gravel area before the sides are shaped to at least a 4:1 slope (preferably 5:1).

l. Distribution system.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(1) The distribution pipe shall be rigid plastic pipe, Schedule 40 or 80, with a 1-inch nominal diameter or equivalent design that ensures proper distribution.

(2) The distribution pipe shall be provided with a single row of ¼-inch perforations in a straight line 30 inches on center along the length of the pipe or an equivalent design that ensures uniform distribution. All joints and connections shall be solvent-cemented.

(3) The distribution pipe shall be placed in the clean, washed gravel (or crushed limestone as described in paragraph 69.9(4)“a”), with holes downward. The gravel shall be a minimum of 9 inches in depth below the pipe and 3 inches in depth above the pipe.

(4) No perforations shall be permitted within 3 inches of the outer ends of any distribution pipe.

(5) The outer ends of all pressure distribution lines shall be turned up, with a long 90-degree elbow or two 45-degree elbows to allow for cleaning. The outer ends will have a screw-on cap and cover. The cover shall be accessible from the ground surface without excavation.

(6) The central pressure manifold should consist of 1½- or 2-inch solid plastic pipe using a tee for connecting the distribution lines or an equivalent design that ensures uniform distribution.

m. Construction should be initiated immediately after preparation of the soil interface by placing all of the sand fill material needed for the mound (to the top of the trench) to a minimum depth of 21 inches above the plowed surface. This depth will permit excavation of the trenches to accommodate the 9 inches of washed gravel or crushed stone necessary for the distribution piping.

n. The absorption trench or trenches shall be hand-excavated to a depth of 9 inches. The bottoms of the trenches shall be level.

o. Nine inches of gravel shall be placed in the trench and leveled. After the distribution pipe is placed, the pipe shall be covered with 3 inches of gravel.

p. The top of the gravel shall be covered with synthetic drainage fabric. Unbacked, rolled 3½-inch-thick fiberglass insulation, untreated building paper, or other suitable material may be used with approval of the administrative authority. Plastic or treated building paper shall not be used.

q. After installation of the distribution system, the distribution system shall be pressure-tested before it is covered with gravel. The entire mound is to be covered with topsoil native to the site or of similar characteristics to support vegetation found in the area. The entire mound shall be crowned by providing 12 inches of topsoil on the side slopes, with a minimum of 18 inches of topsoil over the center of the mound. The entire mound shall be seeded, sodded or otherwise provided with a grass cover to ensure stability of the installation.

r. The area surrounding the mound shall be graded to provide for diversion of surface runoff water.

69.10(4) Dosing.

a. Pump dosing shall be required for mound systems.

b. The dosing volume shall be three to ten times the distribution piping network volume, but not more than 25 percent of the design flow shall be applied to the soil in one dose.

c. The dosing pump shall be capable of maintaining a squirt height of 3 feet above the pipe at the outer ends of the distribution lines. All lines shall have an equal squirt height above the pipe to maintain equal distribution.

567—69.11(455B) At-grade systems.

69.11(1) General requirements.

a. At-grade systems shall be permitted only after a thorough site evaluation has been made and landscaping, dwelling placement, effect on surface drainage, and general topography have been considered.

b. At-grade systems shall not be utilized on sites subject to flooding with a ten-year or greater frequency.

c. At-grade systems shall not be utilized on soils where the high groundwater level, impermeable bedrock or soil strata having a percolation rate exceeding 60 minutes per inch occur within 36 inches of natural grade.

d. At-grade systems shall be constructed only upon undisturbed naturally occurring soils or where a soil analysis has determined the site is suitable.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

e. At-grade systems shall be located in accordance with the distances specified in Table I as measured from the outer edge of the gravel in the system.

f. No buildings, driveways or other surface or subsurface obstructions shall be permitted within 25 feet on the down-gradient side of the at-grade system when the at-grade system is constructed on a slope greater than 5 percent. No future construction shall be permitted in this effluent disposal area as long as the at-grade system is in use.

g. Specifications given in these rules for at-grade systems are minimal and may not be sufficient for all applications. Technical specifications are changing with experience and research. Other design information beyond the scope of these rules may be necessary to properly design an at-grade system.

69.11(2) Construction details.

a. There shall be a minimum of 3 feet of undisturbed naturally occurring soils between the bottom of the gravel in the at-grade system and the highest elevation of the limiting conditions defined in paragraph 69.11(1) "c."

b. An at-grade system may be installed up to 12 inches deep.

c. Gravel shall meet the requirements specified in paragraph 69.9(4) "a." Chambers or EPS aggregate are acceptable alternatives to gravel.

d. At-grade systems shall utilize an absorption bed distribution piping design. The bed shall be installed with the long dimension parallel to the land contour. Systems on steep slopes with slowly permeable soils should be narrow to reduce the possibility of toe seepage.

e. No soils under or within 15 feet of any at-grade system may be disturbed. On sloping sites, no soils shall be disturbed within 10 feet uphill of the system and within 15 feet downhill of the system plus an additional 5 feet for every 5 percent slope downhill.

f. Construction equipment which would cause undesirable compaction of the soil shall be kept off the base area. Construction or plowing shall not be initiated when the soil moisture content is high. If a sample of soil from approximately 9 inches below the surface can be easily rolled into a 1/8-inch diameter wire 1 1/2 inches long, the soil moisture content is too high for construction purposes.

g. Aboveground vegetation shall be closely cut and removed from the ground surface throughout the area to be utilized for the placement of the fill material.

h. The area shall be plowed to a minimum depth of 7 to 9 inches, parallel to the land contour, with the plow throwing the soil up slope to provide a proper interface between the fill and the natural soil. Chisel teeth on a backhoe bucket shall be at least as long as the depth of plowing. Tree stumps should be cut flush with the surface of the ground, and roots should not be pulled. All work shall be done from the uphill side of the at-grade system.

i. The gravel bed absorption area of the at-grade system is to be calculated based on the results of the percolation rate test or soil analysis as indicated in Table IIIa or IIIb and the flow rate. The maximum width of the at-grade system shall be 8 feet.

j. One foot of loamy cover material shall be installed over the rock bed. Cover shall extend at least 5 feet from the ends of the rock bed and be sloped to divert surface water. Side slopes shall not be steeper than 4:1. The upper 6 inches of the loamy soil cover must be topsoil borrow. Topsoil borrow must be of a quality that provides a good vegetative cover on the at-grade system.

k. Distribution system.

(1) The distribution pipe shall be rigid plastic pipe, Schedule 40 or 80 with a 1-inch nominal diameter or equivalent design that ensures proper distribution.

(2) The distribution pipe shall be provided with a single row of 1/4-inch perforations in a straight line 30 inches on center along the length of the pipe or an equivalent design that ensures uniform distribution. All joints and connections shall be solvent-cemented.

(3) The distribution pipe shall be placed in the clean, washed gravel (or crushed limestone as described in paragraph 69.9(4) "a"), with holes downward. The gravel shall be a minimum of 10 inches in depth below the pipe and 2 inches in depth above the pipe.

(4) Distribution pipe shall be installed in the center of the gravel bed on slopes less than 1 percent and on the upslope edge at the gravel bed absorption width on slopes 1 percent or greater.

(5) No perforations shall be permitted within 3 inches of the outer ends of any distribution pipe.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(6) The outer ends of all pressure distribution lines shall be turned up, with a long 90-degree elbow or two 45-degree elbows to allow for cleaning. The outer ends will have a screw-on cap and cover. The cover shall be accessible from the ground surface without excavation.

(7) The central pressure manifold should consist of 1½- or 2-inch solid plastic pipe using a tee for connecting the distribution lines or an equivalent design that ensures uniform distribution.

(8) The top of the gravel shall be covered with synthetic drainage fabric. Unbacked, rolled 3½-inch-thick fiberglass insulation, untreated building paper, or other suitable material may be used with approval of the administrative authority. Plastic or treated building paper shall not be used.

69.11(3) Dosing.

a. Pump dosing shall be required for at-grade systems.

b. The dosing volume shall be three to ten times the distribution piping network volume, but not more than 25 percent of the design flow shall be applied to the soil in one dose.

c. The dosing pump shall be capable of maintaining a squirt height of 3 feet above the pipe at the outer ends of the distribution lines. All lines shall have an equal squirt height above the pipe to maintain equal distribution.

567—69.12(455B) Drip irrigation.**69.12(1) General design.**

a. *Pretreatment required.* Drip irrigation systems must be preceded by a secondary treatment system discharging a treated, filtered effluent with BOD and TSS values less than 30 mg/L.

b. *Separation from groundwater.* Drip irrigation systems shall have a minimum vertical separation distance to high groundwater level or bedrock of 20 inches.

c. *Maximum hillside slope.* Drip irrigation systems shall not be installed on slopes of more than 25 percent.

d. *Additional specifications.* Specifications given in these rules for drip irrigation are minimal and may not be sufficient for all applications. Technical specifications are changing with experience and research. Other design information beyond the scope of these rules may be necessary to properly design a drip irrigation system.

69.12(2) Emitter layout.

a. *Discharge rate.* Systems shall be designed so that emitters discharge approximately 1 gpm at 12 psi or other rates suggested by the manufacturer and approved by the administrative authority.

b. *Grid size.* Drip lines shall be run in parallel lines 2 feet apart. Emitters shall be placed in the drip lines at 2-foot intervals, with emitters offset 1 foot between adjacent lines. Each emitter shall cover 4 square feet of absorption area.

c. *Field size.* The field shall be sized according to the application rate given in Table IV.

d. *Depth of drip lines.* Drip lines shall be laid on the contour, 6 to 12 inches deep, with a maximum line length of 100 feet. Lines may be of unequal length.

e. Interconnection.

(1) Drip lines shall all be connected to supply and return headers such that the entire system will automatically drain back to the dosing tank or pump pit upon completion of the pumping cycle. Vacuum breakers shall be positioned at the high point of the supply and return headers.

(2) The dosing tank shall have a high water audio/visual alarm.

Table IV
Length of Drip Line Required per Bedroom

Perc. Rate min./in.	Design Hyd. Loading gpd/sq. ft.	Length of Drip Line feet/bedroom
1 – 5	2.0	40
6 – 15	1.3	60
16 – 30	0.9	90
31 – 45	0.6	150
46 – 60	0.4	200
61 – 90	0.2	400
91 – 120	0.1	800

567—69.13(455B) Packed bed media filters.

69.13(1) Intermittent sand filters. The general requirements for intermittent sand filters are as follows:

a. Use. Intermittent sand filters may be used when the administrative authority determines the site is unacceptable for a soil absorption system.

b. Location. Intermittent sand filters shall be located in accordance with the distances specified in Table I.

c. Sampling port. A sampling port shall be available at the discharge point of the filter or shall be installed in the discharge line.

d. Effluent sampling. All intermittent sand filters having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4.

e. Prohibited construction. There shall be no construction, such as buildings or concrete driveways, covering any part of an intermittent sand filter.

69.13(2) Construction.

a. Number. An intermittent sand filter shall consist of one filtering bed or two or more filtering beds connected in series and separated by a minimum of 6 feet of undisturbed earth.

b. Pipelines. Each bed shall contain a horizontal set of collector lines. The collector lines shall be equivalent to SDR 35 PVC pipe, 10-inch-diameter gravelless drainpipe, EPS aggregate or other suitable materials.

(1) One collector line shall be provided for each 6 feet of width or fraction thereof. A minimum of two collector lines shall be provided.

(2) The collector lines shall be laid to a grade of 1 inch in 10 feet (or 0.5 to 1.0 percent).

(3) Each collector line shall be vented or connected to a common vent. Vents shall extend at least 12 inches above the ground surface with the outlet screened or provided with a perforated cap.

(4) Gravelless drainfield pipe with fiber wrap may be used for the collector lines. If fiber wrap is used, no gravel or pea gravel is required to cover the collector lines and the pipe shall be bedded in filter sand.

(5) If 4-inch plastic pipe with perforations is used for the collector lines, the lines shall be covered as follows:

1. Gravel $\frac{3}{4}$ inch to $2\frac{1}{2}$ inches in size shall be placed around and over the lower collector lines until there is a minimum of 4 inches of gravel over the pipes.

2. The gravel shall be overlaid with a minimum of 3 inches of washed pea gravel $\frac{1}{8}$ -inch to $\frac{3}{8}$ -inch size interfacing with the filter media. A layer of fabric filter may be used in place of the pea gravel. Fabric filters must be 30 by 50 mesh with a percolation rate of at least 5 gal/sq.ft.

(6) A minimum of 24 inches of coarse washed sand shall be placed over the pea gravel or above the gravelless drainfield pipe. The sand shall meet the Iowa DOT standards for concrete sand: 100 percent of the sand shall pass a 9.5 mm screen, 90 to 100 percent shall pass a 4.75 mm screen, 70 to 100 percent

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

shall pass a 2.36 mm screen, 10 to 60 percent shall pass a 600 Tm screen, and 0 to 1.5 percent shall pass a 75 Tm screen.

(7) The discharge pipe that extends from the collection system shall be SDR 35 PVC pipe at a minimum.

69.13(3) Subsurface sand filters.

a. Distribution system and cover.

(1) Gravel base. Six inches of gravel $\frac{3}{4}$ inch to $2\frac{1}{2}$ inches in size shall be placed upon the sand in the bed.

(2) Distribution lines. Distribution lines shall be level and shall be horizontally spaced a maximum of 3 feet apart, center to center. Distribution lines shall be rigid perforated PVC pipe.

(3) Venting. Venting shall be placed on the downstream end of the distribution lines, with each distribution line being vented or connected to a common vent. Vents shall extend at least 12 inches above the ground surface with the outlet screened or provided with a perforated cap.

(4) Gravel cover. Enough gravel shall be carefully placed to cover the distributors.

(5) Separation layer. A layer of material such as unbacked, rolled $3\frac{1}{2}$ -inch-thick fiberglass insulation, untreated building paper of 40- to 60-pound weight or synthetic drainage fabric shall be placed upon the top of the upper layer of gravel.

(6) Soil cover. A minimum of 12 inches of soil backfill shall be provided over the beds.

(7) Distribution boxes. A distribution box shall be provided for each filter bed where gravity distribution is used. The distribution boxes shall be placed upon undisturbed earth outside the filter bed. Separate watertight lines shall be provided leading from the distribution boxes to each of the distributor lines in the beds.

(8) As an alternative to gravel and rigid PVC pipe, EPS aggregate may be used for the distribution system. The EPS aggregate shall cover the entire surface of the sand filter, and a 3-foot separation between distribution pipes shall be maintained.

(9) Pressure distribution. Pressure dosing is recommended to improve effluent distribution across the surface of the filter. Pressure distribution systems may use conventional rock and PVC pipe, chambers with small-diameter pipe, or EPS aggregate with small-diameter pipe.

b. Sizing of subsurface sand filters.

(1) Gravity flow. For residential systems, subsurface sand filters shall be sized at a rate of 240 square feet of surface area per bedroom.

(2) Siphon-dosed. For residential systems, subsurface sand filters dosed by a dosing siphon shall be sized at a rate of 180 square feet of surface area per bedroom.

(3) Pressure-dosed. For residential systems, subsurface sand filters dosed by a pump shall be sized at a rate of 150 square feet of surface area per bedroom.

(4) Nonhousehold. Effluent application rates for commercial systems treating domestic waste shall not exceed the following:

1. 1.0 gallon/square feet/day for single bed sand filters.

2. Total surface area for any subsurface sand filter system shall not be less than 200 square feet.

69.13(4) Free access sand filters.

a. Pretreatment required. These systems must be preceded by a secondary treatment system discharging a treated effluent with BOD and TSS values less than 30 mg/L.

b. Description. Media characteristics and underdrain systems for free access filters are similar to those for subsurface filters. Dosing of the filter should provide uniform distribution across the entire surface of the bed. Dosing frequency is usually greater than four times per day. For coarser media (greater than 0.5 mm), a dosing frequency greater than six times per day is desirable. Higher acceptable loadings on these filters as compared to subsurface filters relate primarily to the accessibility of the filter surface for maintenance. Gravel is not used on top of the sand media, and the distribution pipes are exposed above the surface.

c. Distribution. Distribution to the filter may be by perforated pipe laid on the surface, by pipelines discharging to splash plates located at the center or corners of the filter, or by spray distributors. Care must be taken to ensure that lines discharging directly to the filter surface do not erode the sand surface.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The use of curbs around the splash plates or large stones placed around the periphery of the plates will reduce the scour. A layer of washed pea gravel placed over the filter media may also be employed to avoid surface erosion. This practice will create maintenance difficulties, however, when it is time to rake or remove a portion of the media surface.

d. Covers. Free access filters shall be covered to protect against severe weather conditions and to avoid encroachment of weeds or animals. The cover also serves to reduce odors. Covers may be constructed of treated wooden planks, galvanized metal, or other suitable material. Screens or hardware cloth mounted on wooden frames may also serve to protect filter surfaces. Where weather conditions dictate, covers should be insulated. A space of 12 to 24 inches should be allowed between the insulated cover and sand surface. Free access filters may not be buried by soil or sod.

e. Loading. The hydraulic loading for free access sand filters shall be 5.0 gpd/sq.ft.

69.13(5) Dosing. Dosing for sand filters is strongly advised. Without dosing, the entire area of the sand filter is never effectively used. Dosing not only improves treatment effectiveness but also decreases the chance of premature failure.

a. Pumps. A pump shall be installed when adequate elevation is not available for the system to operate by gravity.

(1) The pump shall be of corrosion-resistant material.

(2) The pump shall be installed in a watertight pit.

(3) The dosing system shall be designed to flood the entire filter during the dosing cycle. A dosing frequency of greater than two times per day is recommended.

(4) A high water alarm shall be installed.

b. Dosing siphons. When a dosing siphon is used where elevations permit, such siphon shall be installed as follows:

(1) Dosing siphons shall be installed between the septic tank and the sand filter bed.

(2) Dosing siphons shall be installed with strict adherence to the manufacturer's instructions.

c. Dosing tanks. The dosing tank shall be of such size that the siphon will distribute effluent over the entire filter during the dosing cycle. Smaller, more frequent doses are recommended.

d. Effluent sampling. A sampling port shall be available at the discharge point of the filter or shall be installed in the discharge line. All free access sand filters having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4.

69.13(6) Peat moss biofilter systems. General requirements for individual peat moss biofilter systems are as follows:

a. Use. Peat moss biofilter systems may be used when the administrative authority determines the site is unacceptable for a soil absorption system.

b. Certification. All peat moss biofilter systems shall be certified by an ANSI-accredited third-party certifier to meet National Sanitation Foundation Standard 40, Class I, including appendices (March 2008), or equivalent testing as determined by the department.

c. Installation and operation. All peat moss biofilter systems shall be preceded by a septic tank and installed, operated and maintained in accordance with the manufacturer's instructions and the requirements of the administrative authority. The septic tank shall be sized as specified in paragraph 69.8(2) "a" or larger if recommended by the manufacturer. Sizing of the system should be based on the manufacturer's specifications.

d. Maintenance contract. A maintenance contract for the proper monitoring and servicing of the entire treatment system shall be established between the owner and a certified technician for the life of the system. All monitoring and servicing shall be performed by a manufacturer's certified technician or person demonstrating knowledge of the system in accordance with the manufacturer's standards. Manufacturers are responsible for ensuring that an adequate number of maintenance providers are available to service all peat moss biofilters at the specified intervals. Maintenance contracts and responsibility waivers shall be recorded with the county recorder and in the abstract of title for the premises on which the system is installed. The maintenance provider shall perform the required maintenance and reporting to the owner and to the administrative authority. The maintenance provider shall also report any discontinuance of maintenance of the peat moss biofilter system to the

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

administrative authority. Peat moss biofilter systems shall be inspected annually by the maintenance provider. A copy of the maintenance contract shall be on file in the office of the administrative authority.

e. Effluent sampling. A sampling port shall be available at the discharge point of the filter or shall be installed in the discharge line. All peat moss biofilter systems having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4.

69.13(7) Recirculating textile filter systems. General requirements for recirculating textile filter systems are as follows:

a. Use. Recirculating textile filter systems may be used when the administrative authority determines the site is unacceptable for a soil absorption system.

b. Certification. All recirculating textile filter systems shall be certified by an ANSI-accredited third-party certifier to meet National Sanitation Foundation Standard 40, Class I, including appendices (March 2008), or equivalent testing as determined by the department.

c. Design. Recirculating textile filter systems shall be designed to prevent the passage of untreated waste during an equipment malfunction or power outage.

d. Installation and operation. Recirculating textile filter systems shall be preceded by a septic tank and installed, operated and maintained in accordance with the manufacturer's instructions and the requirements of the administrative authority. The septic tank shall be sized as specified in paragraph 69.8(2) "a" or larger if recommended by the manufacturer. Sizing of the system should be based on the manufacturer's specifications.

e. Maintenance contract. A maintenance contract for the proper monitoring and servicing of the entire treatment system shall be established between the owner and a certified technician for the life of the system. All monitoring and servicing shall be performed by a manufacturer's certified technician or person demonstrating knowledge of the system in accordance with the manufacturer's standards. Manufacturers are responsible for ensuring that an adequate number of maintenance providers are available to service all recirculating textile filters at the specified intervals. Maintenance contracts and responsibility waivers shall be recorded with the county recorder and in the abstract of title for the premises on which the system is installed. The maintenance provider shall perform the required maintenance and reporting to the owner and to the administrative authority. The maintenance provider shall also report any discontinuance of maintenance of the system to the administrative authority. Recirculating textile filter systems shall be inspected, at minimum, annually by the maintenance provider. A copy of the maintenance contract shall be on file in the office of the administrative authority.

f. Effluent sampling. A sampling port shall be available at the discharge point of the filter or shall be installed in the discharge line. All recirculating textile filter systems having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4.

567—69.14(455B) Aerobic treatment units. General requirements for aerobic treatment units are as follows:

69.14(1) Use. Aerobic treatment units may be used only when the administrative authority determines that the site is unacceptable for a soil absorption system. Because of the higher maintenance requirements of aerobic treatment units, preference should be given to packed bed media filters, where conditions allow.

69.14(2) Certification. All aerobic treatment units shall be certified by an ANSI-accredited third-party certifier to meet National Sanitation Foundation Standard 40, Class I, including appendices (March 2008), or equivalent testing as determined by the department.

69.14(3) Installation and operation. All aerobic treatment units shall be installed, operated and maintained in accordance with the manufacturer's instructions and the requirements of the administrative authority. The aerobic treatment units shall have a minimum treatment capacity of 150 gallons per bedroom per day or 500 gallons, whichever is greater.

69.14(4) Pre-tank required. All aerobic treatment units shall be preceded by a septic or trash tank with a minimum capacity of 500 gallons. The trash tank may be a single-compartment tank. A trash tank built in as part of the aerobic treatment unit's design satisfies this requirement.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

69.14(5) Effluent treatment. The effluent from aerobic treatment units shall receive additional treatment through the use of intermittent sand filters or soil absorption systems of a magnitude prescribed in subrule 69.9(2) for pretreated effluent.

69.14(6) Maintenance contract. A maintenance contract with a manufacturer-certified technician or equivalent, as determined by the department, shall be maintained at all times. The maintenance contract shall include the aerobic treatment unit and effluent disposal system. Manufacturers are responsible for ensuring that an adequate number of maintenance providers are available to service all aerobic treatment units at the specified intervals. Maintenance agreements and responsibility waivers shall be recorded with the county recorder and in the abstract of title for the premises on which aerobic treatment units are installed. Aerobic treatment units shall be inspected for proper operation at least twice a year on six-month intervals.

69.14(7) Effluent sampling. All aerobic treatment unit systems having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4.

567—69.15(455B) Constructed wetlands.**69.15(1) General site design.**

a. Application. Constructed wetlands shall only be used where soil percolation rates at the site exceed 120 minutes per inch. Because of the higher maintenance requirements of constructed wetland systems, preference should be given to packed bed media filters, where conditions allow.

b. Effluent treatment. The effluent from a constructed wetland shall receive additional treatment through the use of intermittent sand filters of a magnitude prescribed in subrule 69.9(2) for pretreated effluent.

c. Effluent sampling. All constructed wetland systems having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4.

d. Additional specifications. Specifications given in this rule for constructed wetlands are minimal and may not be sufficient for all applications. Technical specifications are changing with experience and research. Other design information beyond the scope of this rule may be necessary to properly design a constructed wetland system.

69.15(2) Wetland design.

a. Depth. The wetland shall be of a subsurface flow construction with a rock depth of 18 inches and a liquid depth of 12 inches.

b. Materials. Substrate shall be washed river gravel with a diameter of $\frac{3}{4}$ inch to $2\frac{1}{2}$ inches. If crushed quarried stone is used, it must meet the criteria listed in paragraph 69.9(4) "a."

c. Sizing and configuration. Detention time shall be a minimum of seven days.

(1) Dimensions. This may be accomplished with trenches 16 to 18 inches deep (12 inches of liquid), 3 feet wide, with 100 feet of length per bedroom. This may also be done with beds 16 to 18 inches deep, with at least 300 square feet of surface area per bedroom. The bottom of each trench or bed must be level within $\pm\frac{1}{2}$ inch.

(2) Configuration. Multiple trenches or beds in series should be used. Beds or trenches in series may be stepped down in elevation to fit a hillside application. If the system is on one elevation, it should still be divided into units by earthen berms at about 50 and 75 percent of the total length.

(3) Unit connections. Each subunit shall be connected to the next with an overflow pipe (rigid sewer pipe) that maintains the water level in the first section. Protection from freezing may be necessary.

d. Liner. Wetlands shall be lined with a synthetic PVC or PE plastic liner 20 to 30 mils thick.

e. Inlet pipe. Effluent shall enter the wetland by a 4-inch pipe sealed into the liner. With beds, a header pipe shall be installed along the inlet side to distribute the waste.

f. Protective berms. Wetland system sites shall be bermed to prevent surface water from entering the trenches or beds.

69.15(3) Vegetation.

a. Setting plants. Vegetation shall be established on the wetlands at the time of construction. Twelve inches of rock shall be placed in each unit, the plants set, and then the final 4 to 6 inches of rock placed.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

b. Plant species. Only indigenous plant species, preferably collected within a 100-mile radius of the site, shall be set. Multiple species in each system are recommended. Preferred species include, but are not limited to:

- (1) *Typha latifolia* – common cattail.
- (2) *Typha angustifolia* – narrow leaf cattail.
- (3) *Scirpus* spp. – bullrush.
- (4) *Phragmites communis* – reed.

c. Plant establishment. Transplantation is the recommended method of vegetation establishment. For transplanting, the propagule should be transplanted, at a minimum, on a 2-foot grid. The transplants should be fertilized, preferably with a controlled-release fertilizer such as Osmocote 18-5-11 for fall and winter planting, 18-6-12 for spring planting, and 19-6-12 for summer planting. Trenches or beds should be filled with fresh water immediately.

d. Plant management. In the late fall, the vegetation shall be mowed and the detritus left on the wetland surface as a temperature mulch. In the early spring, the mulch shall be removed and disposed of to allow for adequate bed aeration.

567—69.16(455B) Waste stabilization ponds.

69.16(1) General requirements. Waste stabilization ponds shall only be used for nonresidential applications and shall be designed by an Iowa-licensed engineer. Waste stabilization ponds may be used if designed and constructed in accordance with the following criteria and provided the effluent is discharged in accordance with the requirements of the NPDES general permit listed in rule 69.4(455B). A septic tank sized according to rule 69.8(455B) shall precede a waste stabilization pond.

69.16(2) Location. Waste stabilization ponds must meet the following separation distances:

a. 1,000 feet from the nearest inhabitable residence, commercial building, or other inhabitable structure. If the inhabitable or commercial building is the property of the owner of the proposed treatment facility or there is written agreement with the owner of the building, this separation criterion shall not apply. Any such written agreement shall be filed with the county recorder and recorded for abstract of title purposes, and a copy submitted to the department.

b. 1,000 feet from public shallow wells.

c. 400 feet from public deep wells.

d. 400 feet from private wells.

e. 400 feet from lakes and public impoundments.

f. 25 feet from property lines and rights-of-way.

69.16(3) Size.

a. Dimensions. Ponds shall have a length not exceeding three times the width.

b. Capacity. When domestic sewage from a septic tank is to be discharged to a waste stabilization pond, the capacity of the pond shall be equivalent to 180 times the average daily design flow.

c. Depth. The wastewater depth for a waste stabilization pond shall be 3 feet to 5 feet and shall be uniform.

d. Freeboard. A minimum freeboard of 2 feet shall be maintained at all times.

69.16(4) Embankments.

a. Seal. Embankments shall be constructed of impermeable materials and shall be compacted. The bottom of the waste stabilization pond shall be cleared and leveled to the required elevation and shall be lined with an impermeable natural or man-made material. Seepage loss through the sides and bottom shall be less than 1/16 inch per day.

b. Slopes. The ratio of inside embankment slopes shall be 3 horizontal to 1 vertical. The outside embankments slope ratio shall be at least 3:1.

c. Berm top. Berm tops shall be at least 4 feet wide.

d. Cover. Embankments shall be seeded from the outside toe to the inside high water line. From the high water line down the embankment diagonally, about 5 feet shall be ripped for erosion and vegetation control.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

69.16(5) Inlet and outlet structures.

a. Inlet. The inlet shall be placed no higher than 12 inches above the bottom of the pond. It shall discharge near the middle of the pond at a point opposite the overflow structure and onto a concrete splash plate at least 2 feet square.

b. Outlet. The outlet pipe shall withdraw water from a submerged depth of at least 1 foot. The intake for the outlet pipe shall be 3 to 5 feet from the embankment.

c. Separation. The inlet and outlet should be separated to the maximum extent possible, ideally by a berm or baffle constructed in the lagoon to prevent short-circuiting.

69.16(6) Drainage. All surface water shall be diverted away from the waste stabilization pond.

69.16(7) Effluent sampling. All waste stabilization ponds having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4.

69.16(8) Maintenance.

a. Fencing. All waste stabilization ponds are to be fenced adequately to prevent entrance of livestock and to discourage entrance by people into the area. Signs shall be posted warning of possible health and safety hazards.

b. Vegetation. Vegetation on the top and sides of the berm shall be mowed and the length maintained. No trees shall be allowed to become established.

567—69.17(455B) Requirements for impervious vault toilets. All impervious vault toilets shall comply with the following requirements:

69.17(1) Location. Impervious vault toilets shall be located in accordance with the distances given in Table I in rule 69.3(455B) for the closed portion of the treatment system.

69.17(2) Construction. The vault shall be constructed of reinforced, impervious concrete at least 4 inches thick. The superstructure including floor slab, seat, seat cover, riser and building shall comply with good design and construction practices to provide permanent, safe, sanitary facilities. The vault shall be provided with a cleanout opening fitted with a fly-tight cover.

69.17(3) Wastewater disposal. Wastewater from impervious vault toilets shall be disposed of at a public sewage treatment facility.

567—69.18(455B) Requirements for portable toilets. All portable toilets shall be designed to receive and retain the wastes deposited in them and shall be located and maintained in a manner that will prevent the creation of any nuisance condition. Wastewater from portable toilets shall be disposed of at a public sewage treatment facility.

567—69.19(455B) Other methods of wastewater disposal. Other methods or types of private wastewater treatment and disposal systems shall be installed only after plans and specifications for each project have been approved by the administrative authority.

567—69.20(455B) Disposal of septage from private sewage disposal systems.

69.20(1) The collection, storage, transportation and disposal of all septage shall be carried out in accordance with the requirements in 567—Chapter 68.

69.20(2) Commercial septic tank cleaners. Individual administrative authorities shall enforce the licensing program for commercial septic tank cleaners in accordance with the requirements of 567—Chapter 68.

567—69.21(455B) Experimental private sewage disposal systems.

69.21(1) Design requirements. Experimental systems are to be designed and operated in accordance with approved standards and operating procedures established by individual administrative authorities.

a. Plans and specifications, meeting all applicable rule requirements, should be prepared and submitted to the administrative authorities by a licensed professional engineer. Included with the engineering submittal should be adequate supporting data relating to the effectiveness of the proposed system.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

b. For systems designed to discharge treated effluent into waters of the state, a Notice of Intent to be covered under the requirements of NPDES General Permit No. 4 shall be obtained. The administrative authority is responsible for determining that the requirements of the permit, including the monitoring program, are met.

c. Administrative authorities should prepare for signature an enforceable agreement to be placed on record which would require that present and future system owners meet all applicable rule requirements. In the event of noncompliance, the administrative authority shall require that adequate steps be taken by the system owner to bring the system into compliance or that the system owner replace the system with a system prescribed in these rules.

69.21(2) Reserved.

567—69.22(455B) Variances. Variances to these rules may be granted by the department of natural resources or the administrative authority provided sufficient information is submitted to substantiate the need for and propriety of such action. Applications for variances and justification shall be in writing and copies filed with the department.

These rules are intended to implement Iowa Code chapter 455B, division III, part 1.

Appendix A
Estimates of Nonhousehold Domestic Sewage Flow Rates

Source of use for sewage unit	(units)	Gallons per day per unit
Dwelling Units		
Hotels or luxury motels	(Each guest)	60
	(Add per employee)	13
or	(Per square foot)	0.3
Discount motels	(Each guest)	40
	(Add per employee)	13
or	(Per square foot)	0.46
Rooming house	(Each resident)	50
	(Add per nonresident meal)	4.0
Commercial/Industrial		
Retail stores	(Per square foot of sales area)	0.15
or	(Each customer)	5
	(Plus each employee)	15
or	(Each toilet room)	630
Offices	(Each employee)	18
or	(Per square foot)	0.25
Medical offices	(Per square foot)	1.6
Industrial buildings	(Each employee)	20
	(Does not include process ware or cafeteria)	
Construction camp	(Each employee)	20
Visitor center	(Each visitor)	20
Laundromat	(Each machine)	690
or	(Each load)	50
or	(Per square foot)	2.9
Barber shops	(Per chair)	80
Beauty shops	(Per station)	300

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Source of use for sewage unit	(units)	Gallons per day per unit
Car washes	(Per inside square foot)	10
	(Does not include car wash water)	
Eating and Drinking Establishments		
Restaurant	(Per meal)	4.0
	(Does not include bar or lounge)	
or	(Each seat)	40
	(Plus add for each employee)	13
Dining hall	(Per meal)	4.0
Coffee shop	(Each customer)	2.5
	(Add per employee)	13
Cafeteria	(Each customer)	2.5
	(Add per employee)	13
Drive-in	(Per car stall)	145
Bar or lounge	(Each customer)	5.5
	(Add per employee)	16
or	(Per seat)	40
Country clubs	(Per member) (no meals)	22
or	(Per member) (Meals and showers)	130
or	(Per member in residence)	100
Resorts		
Housekeeping cabin	(Per person)	50
Lodge	(Per person)	74
Parks/swimming pools	(Per guest)	13
Picnic parks with toilet only	(Per guest)	10
Movie theaters	(Per guest)	4.0
Drive-in theaters	(Per space)	5
Skating rink/dance hall	(Per customer)	10
Bowling lanes	(Per lane)	200
Transportation		
Airport, bus or rail depot	(Per passenger)	4
or	(Per square foot)	6.5
or	(Per public restroom)	630
Auto service station	(Each vehicle served)	13
	(Add per employee)	16
or	(Per inside square foot)	0.6
or	(Per public restroom)	630
Institutional		
Hospitals	(Each medical bed)	250
	(Add per employee)	16
Mental institution	(Each bed)	175
	(Add per employee)	16
Prison or jail	(Each inmate)	160

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Source of use for sewage unit	(units)	Gallons per day per unit
	(Add per employee)	16
Nursing home	(Each resident)	145
	(Add per employee)	16
Schools and Churches		
School	(Per student) (No gym, cafeteria or showers)	17
	(Per student) (Cafeteria only)	17
	(Per student) (Cafeteria, gym & showers)	30
Boarding school	(Per student)	115
Churches	(Per member)	2
	(Per member with kitchen)	5
Recreational		
Campground/with hookups	(Per person)	40
or	(Per site with central bath)	100
	(Per site)	75
	(Add for dump station w/ hookup)	16
Day camp (no meals)	(Per person)	16
Weekly overnight camp	(Per member)	33

Appendix B Percolation Test Procedure

1. At least three test holes distributed evenly over the proposed lateral field are required.
2. Percolation test holes shall be 4 to 12 inches in diameter and to the same depth as the proposed absorption trenches (not to exceed 36 inches in depth).
3. Sides and bottoms of the test holes shall be scratched or roughened to provide a natural surface. All loose material shall be removed from each hole.
4. The bottoms of the test holes shall be covered with approximately 2 inches of rock to protect the bottom from scouring action when the water is added.
5. The hole shall be filled with at least 12 inches of clean water, and this depth shall be maintained for at least 4 hours and preferably overnight if clay soils are present. It is important that the soil be allowed to soak for a sufficiently long period of time to allow the soil to swell if accurate results are to be obtained. Failure to perform the presoak when required will invalidate the percolation test results.
6. In sandy soils with little or no clay, soaking is not necessary. If, after the hole has been filled twice with 12 inches of water, the water seeps completely away in less than 10 minutes, the test can proceed immediately.
7. Except for sandy soils, percolation rate measurements should be made at least 4 hours but no more than 24 hours after the soaking period began. Any soil that sloughed into the hole during the soaking period is removed, and the water level is adjusted to 6 inches above the gravel (or 8 inches above the bottom of the hole). At no time during the test is the water level allowed to rise more than 6 inches above the gravel.
8. Immediately after adjustment, the water level is measured from a fixed reference point to the nearest $\frac{1}{8}$ inch at 30-minute intervals. The test is continued until two successive water level drops do not vary by more than $\frac{1}{8}$ inch. At least three measurements are made.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

9. After each measurement, the water level is readjusted to the 6-inch level. The last water level drop is used to calculate the percolation rate.

10. In sandy soils or soils in which the first 6 inches of water added after the soaking period seeps away in less than 30 minutes, water level measurements are made at 10-minute intervals for a 1-hour period. The last water level drop is used to calculate the percolation rate.

11. The percolation rate is calculated for each test hole by dividing the time interval used between measurements by the magnitude of the last water level drop. This calculation results in a percolation rate in terms of minutes per inch. To determine the percolation rate for the area, the rates obtained from each hole are averaged. (If tests in the area vary by more than 20 minutes per inch, variations in soil type are indicated. Under these circumstances, percolation rates should not be averaged.) EXAMPLE: If the last measured drop in water level after 30 minutes is $\frac{5}{8}$ inch, the percolation rate = (30 minutes)/($\frac{5}{8}$ inch) = 48 minutes/inch.

ARC 7310B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.301A, 455B.302, 455B.310, and 455D.3 and Iowa Code Supplement section 455B.306 as amended by 2008 Iowa Acts, Senate File 2276, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 101, "Solid Waste Comprehensive Planning Requirements," Iowa Administrative Code.

These amendments are being proposed to aid in clarification and ease of use of these rules and in order to correct inconsistencies between the Code of Iowa and the Iowa Administrative Code.

The proposed amendments were written by the Department largely due to suggested revisions received from stakeholders throughout the most recent cycle of solid waste comprehensive plan submittals.

The following is a summary of the proposed revisions and clarifications to Chapter 101.

- Subrule 101.1(2) (Applicability). This subrule is not necessary because the Iowa Code sections being implemented are cited at the end of the chapter. Therefore, the Department is proposing to rescind this subrule.

- 567—101.2(455B,455D) Definitions. The Department is proposing to rescind the definition of "contaminated soil." A definition for contaminated soil will be developed as part of the revision of 567—Chapter 108. Additionally, the definition of "planning cycle" is amended so that the planning cycle remains as set (three years) for the next round of plan updates but changes to five years for subsequent rounds (starting with the seventh round). The Department is also proposing to amend the definition of "solid waste" to include wastes that have been exempted from federal hazardous waste regulation except to the extent that any such exempted substances are liquid wastes or wastewater.

- 567—101.3(455B,455D) Waste management hierarchy. The Department is proposing to revise this rule to be consistent with Iowa Code section 455B.301A. This proposed amendment moves combustion with energy recovery above other approved techniques of solid waste management.

- 567—101.7(455B,455D) Base year adjustment method. The Department proposes to remove the provision which states that the Department will perform a goal progress calculation 12 months prior to the due date of the comprehensive plan update for each planning cycle for planning purposes. It is unclear how beneficial this provision has been for the planning areas, and implementation of the provision takes

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

a great deal of staff time. When planning areas were asked to provide comments on the benefits gained by this provision, no comments were submitted.

- Paragraph 101.7(3)“c.” The Department proposes to rescind this paragraph, which allows for the exclusion of contaminated soil from goal progress calculations. In many cases, contaminated soil can be remediated to state and federal standards, at which time it becomes dirt, which is specifically exempted from the statutory definition of “solid waste.” If disposal of contaminated soil is the result of an exceptional event, a request for exemption from goal progress calculation may be made under the provisions of subrule 101.7(3). Therefore, separate provisions are unnecessary.

- 567—101.10(455B,455D) Municipal solid waste and recycling survey. The current rule allows for four options when completing the municipal solid waste and recycling survey outlined in subrules 101.10(1) through 101.10(4). The options outlined in subrules 101.10(1) and 101.10(4) state that the Department will enter the data into the online database. The proposed rescission of subrules 101.10(1) and 101.10(4) would remove the provision that the Department will enter the data. Completion of the previous round of comprehensive plans has fully populated the online database, resulting in the need to review and update only the submitted information. It is the planning area’s responsibility to ensure submitted data is accurate.

- 567—101.12(455B,455D) Solid waste comprehensive plan categories. The amendments to this rule are proposed to make the rule consistent with Iowa Code Supplement section 455B.306. Recent changes to Iowa Code Supplement section 455B.306 (2008 Iowa Acts, Senate File 2276) clarify language related to planning areas that choose to remain autonomous by closing all their landfills and using a transfer station to transfer waste to a facility in another planning area.

- 567—101.13(455B,455D) Types of comprehensive plan submittals to be filed. Recent changes to Iowa Code Supplement section 455B.306 (2008 Iowa Acts, Senate File 2276) remove the comprehensive planning requirement for nonmunicipal solid waste facilities. Therefore, the Department is proposing to remove language which delineates comprehensive planning requirements for nonmunicipal solid waste facilities.

- Subrule 101.13(2). The Department is proposing to revise the catchwords for this subrule to read as follows: “Comprehensive plan updates for municipal solid waste sanitary disposal projects.”

- Subrule 101.13(3). Because the provisions of this subrule are inconsistent with the Code of Iowa, the Department is proposing to rescind this subrule.

Iowa Code Supplement section 455B.306(1) specifies that a city, county, or private agency operating or planning to operate a municipal solid waste sanitary disposal project shall file a comprehensive plan. Solid waste transfer stations are sanitary disposal projects, as determined by the Iowa Supreme Court in the case of ABC Disposal Systems, Inc. v. Department of Natural Resources, 681 N.W.2d 596 (Iowa 2004). Iowa Code Supplement section 455B.306(7)“e” also states that a comprehensive plan must include a description of the geographic area to be served by the city, county, or private agency. Except in limited circumstances defined in statute, the comprehensive plan shall not include a planning area or service area, any part of which is included in another comprehensive plan. The impact of this requirement is that a city or county must choose one planning area for the disposal of the solid waste generated in the city or county and cannot be a part of more than one planning or service area. All waste generated within an entity’s comprehensive planning area must be deposited at a facility within the comprehensive plan; however, this does not preclude waste from being deposited at out-of-state facilities.

Subrule 101.13(3) allows transfer stations that take solid waste generated within Iowa and transport all the solid waste out of state for disposal to meet comprehensive planning requirements by filing an operational plan with the Department. Under current administrative rules, the Department requires any transfer station that uses an Iowa landfill to join the comprehensive plan established by the communities using that landfill and to only deliver waste collected within those communities. For transfer stations that haul all of their waste out of state, the Department has attempted to strike an appropriate balance between the goals of comprehensive solid waste planning and any burden those goals may be perceived to place on interstate commerce. The Department was requested by stakeholders to reevaluate its position in regard to transfer stations that deposit out of state all solid waste collected and to enforce the same

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

requirements for transfer stations that deposit all solid waste out of state as those for transfer stations that deposit solid waste at instate facilities. The Department has determined that this attempt to interpret Iowa Code Supplement section 455B.306(7)“e” so as to minimize potential impacts upon the interstate transportation of waste is not authorized by law.

Because the Department has concluded that subrule 101.13(3) is inconsistent with Iowa Code Supplement section 455B.306, the Department is proposing the rescission of this subrule. This would result in all transfer stations, regardless of final solid waste deposit location, falling under the same solid waste comprehensive planning requirements and would bring the Iowa Administrative Code into compliance with the Code of Iowa in respect to this matter.

- Subrules 101.13(4) through 101.13(6). Recent changes in Iowa Code Supplement section 455B.306 (2008 Iowa Acts, Senate File 2276) remove the comprehensive planning requirement for nonmunicipal solid waste facilities. Therefore, the Department is proposing to rescind these subrules.

- Subrule 101.14(2). The Department is proposing to revise paragraph 101.14(2)“a” to be consistent with Iowa Code section 455B.310(5). This revision is being proposed for purposes of clarification and in order to correct inconsistencies between the Code of Iowa and the Iowa Administrative Code pertaining to the exemption from tonnage fees for solid waste facilities disposing of construction and demolition (C&D) wastes. The Department is proposing to incorporate Iowa Code section 455B.310(5) verbatim so that the exemption from the tonnage fee is for sites dedicated wholly to the disposal of C&D wastes. Currently, there are four sanitary landfills that meet this exemption.

Iowa Code section 455B.310 specifies that the operator of a sanitary landfill shall pay a tonnage fee to the Department for each ton of solid waste received and disposed of at a sanitary landfill. Tonnage fees remitted to the Department are placed in the Groundwater Protection Fund for Department operations and support of statewide solid waste programs such as Solid Waste Alternatives Financial Assistance, Solid Waste Facility Permitting, Comprehensive Planning, Special Waste Authorization, Iowa Waste Reduction Center, Iowa Waste Exchange and Household Hazardous Waste Regional Collection Centers. A portion of the tonnage fee is also retained locally for waste management plan development and implementation and environmental protection activities. The base tonnage fee is \$4.25; however, based on a planning area’s progress toward state-mandated goals, each landfill pays slightly more or slightly less than the base amount. On average, \$2.78 per ton is remitted to the Department and \$1.47 per ton is retained locally.

Iowa Code section 455B.310(5) states in part, “Solid waste disposal facilities with special provisions which limit the site to disposal of construction and demolition waste . . . are exempt from the tonnage fees imposed under this section.” Furthermore, paragraph 101.14(2)“a” states in part, “The fees specified in subrule 101.14(3) do not apply to construction and demolition waste disposed of in an area of a sanitary landfill that has been designated exclusively for the disposal of construction and demolition waste based on plans and specifications approved by the department.”

Iowa Code section 455B.310(5) provides an exemption from the tonnage fee for sites limited to the disposal of C&D wastes only. Paragraph 101.14(2)“a” misinterprets the meaning of the term “site” as it is referred to in Iowa Code section 455B.310(5) and erroneously extends the tonnage fee exemption of Iowa Code section 455B.310(5) to individual disposal areas at municipal solid waste (MSW) landfills known as “MSWLF units.” The following examples are given to support the correct use of the term “site” as it pertains to sanitary landfills:

Iowa Code section 455B.304(5) uses “site” to refer to the entire landfill.

The siting provisions of Iowa Code section 455B.305A use “site” to refer to the entire location.

Iowa Code section 455B.307(2) uses “site” in a way that refers to the entire property in that it refers to the hydrologic and geologic conditions of the disposal site and to disposal at a site for which an application has been made.

Iowa Code section 455D.9A prohibits baling of solid waste except waste that is baled on site. The reference to “site” logically refers to the entire site.

Iowa Code section 455B.305(6) uses “cell” to refer to an individual landfill cell.

These statutory uses of the term “site” are consistent with the definition of “site” previously adopted by the Department at 567—100.2(455B,455D). Rule 567—100.2(455B,455D) defines “site”

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

as “any location, place or tract of land used for collection, storage, conversion, utilization, incineration or landfilling of solid waste, to include the landfill area, nonfill work areas, borrow areas plus a 100-foot-wide perimeter surrounding the working areas or the property line if it is closer than 100 feet to the working areas.” This administrative rule definition, while consistent with the use of the term “site” in the Iowa Code sections referenced above, is not consistent with current subrule 101.14(2).

- Implementation sentence at chapter’s end. The Department is proposing to update this sentence to include all applicable Iowa Code sections, including Iowa Code Supplement section 455B.306 as amended by 2008 Iowa Acts, Senate File 2276.

Any interested person may make written suggestions or comments pertaining to the proposed amendments until 4:30 p.m. on November 25, 2008. Such written materials should be directed to Chad Stobbe, Land Quality Bureau, Iowa Department of Natural Resources, 502 East Ninth Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-8646; or E-mail chad.stobbe@dnr.iowa.gov. Persons wishing to convey their views orally should contact Chad Stobbe at (515)242-5851.

When submitting comments, stakeholders are encouraged by the Department to utilize the following guidelines. These guidelines aid the Department in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments on behalf of a business, organization or as an individual.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language to improve the specific rule(s) and explain why.

A public hearing will be held on November 25, 2008, from 1 to 3 p.m. in the Fifth Floor East Conference Room of the Wallace State Office Building, 502 East Ninth Street, 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 related to hearing or mobility impairments, should contact the Department of Natural Resources to advise of specific needs.

These amendments are intended to implement Iowa Code sections 455B.301A, 455B.302, 455B.310, and 455D.3 and Iowa Code Supplement section 455B.306 as amended by 2008 Iowa Acts, Senate File 2276.

The following amendments are proposed.

ITEM 1. Amend rule 567—101.1(455B,455D) as follows:

567—101.1(455B,455D) Purpose and applicability.

~~101.1(1) Purpose.~~ The purpose of these rules is to provide general definitions and direction for comprehensive integrated solid waste management planning for every city and county of this state and to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill.

~~101.1(2) Applicability.~~ This chapter is intended to implement Iowa Code sections 455B.306, subsection 1 through subsection 5, and subsection 6, paragraph “e,” 455B.301A and 455D.3.

~~101.1(3) Authority.~~ Rescinded IAB 6/8/05, effective 7/13/05.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 2. Rescind the definition of “Contaminated soil” in rule **567—101.2(455B,455D)**.

ITEM 3. Amend rule **567—101.2(455B,455D)**, definitions of “Planning cycle” and “Solid waste,” as follows:

“*Planning cycle*” means the length of time between the due date for each comprehensive plan update submittal as approved by the department, which ~~is the same frequency as sanitary disposal project permitting~~ shall be five years effective March 1, 2011.

“*Solid waste*” ~~means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials including, but not limited to, such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles as defined by Iowa Code section 321.1, subsection 90. However, division IV of Iowa Code chapter 455B does not prohibit the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation or grading at places other than a sanitary disposal project. Solid waste does not include hazardous waste as defined in Iowa Code section 455B.411 or source, special nuclear, or by product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979, or petroleum contaminated soil which has been remediated to acceptable state or federal standards~~ has the same meaning as found in Iowa Code section 455B.301. Pursuant to Iowa Code section 455B.301 as amended by 2009 Iowa Acts, Senate File 2276, section 1, the department has determined that solid waste includes those wastes exempted from federal hazardous waste regulation pursuant to 40 CFR 261.4(b), as amended through [insert effective date of this amendment], except to the extent that any such exempted substances are liquid wastes or wastewater.

ITEM 4. Amend rule 567—101.3(455B,455D) as follows:

567—101.3(455B,455D) Waste management hierarchy. The state’s waste management hierarchy is listed in descending order of preference:

1. Volume reduction at the source;
2. Recycling and reuse, including composting;
3. Combustion with energy recovery;
- ~~3. 4.~~ Other approved techniques of solid waste management including, but not limited to, ~~combustion with energy recovery,~~ combustion for waste disposal, and disposal in sanitary landfills.

ITEM 5. Amend rule 567—101.7(455B,455D), introductory paragraph, as follows:

567—101.7(455B,455D) Base year adjustment method. ~~Using the base year adjustment method, the department will perform a goal progress calculation 12 months prior to the due date of the comprehensive plan update for each planning cycle. This goal progress calculation provided 12 months prior to the due date of the comprehensive plan update is for planning purposes only and is to be used to evaluate progress toward the state’s waste volume reduction and recycling goals. Planning agencies may request that the department complete a goal progress recalculation once per fiscal year to resolve any discrepancies and to further evaluate progress toward the state’s waste volume reduction and recycling goals. At the time of approval of a comprehensive plan or comprehensive plan update, the department will use the most current complete fiscal year data set available to complete goal progress calculations, which will be used to meet the requirements outlined in subrule 101.13(8) and rule 567—101.14(455B,455D).~~

ITEM 6. Rescind paragraph **101.7(3)“c.”**

ITEM 7. Rescind subrules **101.10(1)** and **101.10(4)**.

ITEM 8. Renumber subrules **101.10(2)** and **101.10(3)** as **101.10(1)** and **101.10(2)**.

ITEM 9. Amend rule 567—101.12(455B,455D) as follows:

567—101.12(455B,455D) Solid waste comprehensive plan categories types. ~~Public or private entities~~ A city, county, or private agency operating or planning to operate a municipal solid waste sanitary disposal project ~~in Iowa, in conjunction with all local governments using the sanitary disposal project,~~ shall file with the director one of two categories types of comprehensive plans detailing the method by which the ~~public or private entity, in conjunction with all local governments using the sanitary~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

~~disposal project, city, county, or private agency~~ will comply with solid waste comprehensive planning requirements. The first ~~category type~~ is a comprehensive plan in which ~~municipal~~ solid waste is disposed of in a sanitary landfill within the planning area. The second ~~category type~~ is a comprehensive plan in which all municipal solid waste is consolidated at, and transported from, a permitted transfer station for disposal at a sanitary landfill in another comprehensive planning area or state.

101.12(1) A planning area that closes all of the municipal solid waste sanitary landfills located in the planning area and chooses instead to use a municipal solid waste sanitary landfill in another planning area ~~that may choose to retain its autonomy as long as the sanitary landfill in the other planning area complies with all the requirements under Subtitle D of the federal Resource Conservation and Recovery Act, with of this chapter, and all solid waste generated within the planning area being closing its landfills is consolidated at, and transported from, a permitted transfer station, may elect to retain autonomy as a planning area and.~~ For purposes of this subrule, a planning area closing its own landfills that chooses to retain its autonomy shall not be required to join the planning area ~~where the~~ that contains the landfill ~~being used it is using for final disposal of its solid waste is located.~~

101.12(2) If a planning area ~~makes the election~~ chooses to retain autonomy ~~under subrule 101.12(1) pursuant to this rule,~~ the planning area receiving ~~the~~ solid waste from the planning area ~~making the election sending it~~ shall not be required to include the ~~planning area making the election in a sending planning area in its~~ comprehensive plan provided that no services other than the acceptance of solid waste for disposal are shared between the two planning areas ~~other than the acceptance of solid waste for sanitary landfill disposal.~~ The ~~A~~ planning area receiving the solid waste shall only be responsible for the permitting, planning, and waste reduction and diversion programs ~~in the planning area receiving the solid waste within that planning area.~~

101.12(3) If the department determines that solid waste cannot reasonably be consolidated and transported from a particular transfer station (e.g., asbestos or bulky construction and demolition waste), the department may establish permit conditions to address the transport and disposal of the solid waste. ~~An election may be made under this subrule~~ A planning area sending solid waste for disposal in another planning area may retain autonomy pursuant to subrule 101.12(1) only if the two both comprehensive planning areas enter into an agreement, pursuant to Iowa Code chapter 28E, that includes, at a minimum, all both of the following:

a. and b. No change.

ITEM 10. Amend rule ~~567—101.13(455B,455D)~~, second unnumbered paragraph, as follows:

If it is demonstrated to the department that any of the provisions outlined in paragraphs “1” through “3” below will not impact the planning area significantly, then the department may consider accepting a comprehensive plan amendment. This chapter also provides the comprehensive planning requirements that apply to ~~composting, recycling, solid waste processing, monowaste, monogenerator, and transfer station, and medical waste incineration~~ facilities. If during the planning cycle a change occurs to an existing planning area, the submission of an initial comprehensive plan may be required. An initial comprehensive plan is needed if:

ITEM 11. Amend subrule 101.13(2), catchwords, as follows:

101.13(2) *Comprehensive plan updates: for ~~permitted~~ municipal solid waste landfills, construction and demolition waste disposal sites, and transfer stations sanitary disposal projects.*

ITEM 12. Rescind and reserve subrules **101.13(3)** to **101.13(6)**.

ITEM 13. Amend paragraph **101.14(2)“a”** as follows:

a. ~~The fees specified in subrule 101.14(3) do not apply to construction and demolition waste disposed of in an area of a sanitary landfill that has been designated exclusively for the disposal of construction and demolition waste based on plans and specifications approved by the department, or to solid waste disposal facilities with special permit provisions which limit the site to the management of landscape waste and to disposal of coal combustion waste, cement kiln dust, construction and demolition waste and foundry sand; or to solid waste materials approved by the department for lining or capping or constructing berms, dikes or roads in the project. Solid waste disposal facilities with special provisions~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

which limit the site to disposal of construction and demolition waste, landscape waste, coal combustion waste, cement kiln dust, foundry sand, and solid waste materials approved by the department for lining or capping, or for construction berms, dikes, or roads in a sanitary disposal project or sanitary landfill are exempt from the tonnage fees imposed under this rule.

ITEM 14. Amend **567—Chapter 101**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~455B.304, 455B.306, and 455D.7~~ 455B.301A, 455B.302, and 455D.3 and Iowa Code Supplement section 455B.306 as amended by 2008 Iowa Acts, Senate File 2276.

ARC 7294B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 16.52 and 17A.3(1)"b" and Iowa Code Supplement section 16.5(1)"r," the Iowa Finance Authority proposes to amend Chapter 12, "Low-Income Housing Tax Credits," Iowa Administrative Code.

This amendment replaces the current qualified allocation plan for the low-income housing tax credit program with the second amended 2009 qualified allocation plan, which is incorporated by reference in rule 265—12.1(16).

The second amended qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the second amended qualified allocation plan are available upon request from the Authority and are available electronically on the Authority's Web site at www.iowafinanceauthority.gov. It is the Authority's intent to incorporate the second amended 2009 qualified allocation plan by reference, which is consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers at 265—Chapter 18. The second amended qualified allocation plan is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.52.)

The Authority will receive written comments on the proposed amendment and on the qualified allocation plan until 4:30 p.m. on November 25, 2008. Comments may be addressed to Carla Pope, Affordable Rental Production Director, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Carla Pope at (515)725-4901 or E-mailed to carla.pope@iowa.gov.

The Authority anticipates that it may make changes to the 2009 second amended qualified allocation plan based on comments received from the public.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 7293B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code Supplement section 16.5(1)"r," Iowa Code sections 16.52, 17A.12, and 17A.16, and IRC Section 42.

ARC 7309B**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

This amendment is requested by the City of Burlington in Des Moines County to establish a five-mile-per-hour speed zone on the Mississippi River by placement of regulatory buoys in such a way as to define the speed zone area that will be located between the north city docks/boat ramp and the south city docks/boat ramp. The marker buoys will be placed no farther than 150 feet from the shoreline and approximately 150 feet from the west edge of the barge channel.

Any person may make written comments on this proposed amendment on or before November 25, 2008. Such comments and written material should be directed to the Law Enforcement Bureau, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034. Persons who wish to convey their comments orally should contact Steve Dermand of the Law Enforcement Bureau at (515)281-4515.

A public hearing will be held on November 25, 2008, at 9 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code sections 462A.17 and 462A.26.

The following amendment is proposed.

Adopt the following **new** rule 571—40.56(462A):

571—40.56(462A) Zoning of Mississippi River, Des Moines County, city of Burlington. All vessels shall be operated at a speed no greater than five miles per hour within the area designated by marker buoys or other approved uniform waterway markers beginning at the north city boat ramp and public dock and extending downstream to the south city boat ramp and public dock. The zoned area shall extend no farther than 150 feet from the shore and approximately 150 feet west of the west edge of the barge channel. The city of Burlington shall designate the five-mile-per-hour speed zone with buoys approved by the natural resource commission.

ARC 7325B**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Podiatry hereby gives Notice of Intended Action to amend Chapter 220, "Licensure of Podiatrists," Iowa Administrative Code.

These proposed amendments update Board rules in response to changes for residency programs made by the American Podiatric Medical Association's Council on Podiatric Medical Education, which become effective January 9, 2009.

Any interested person may make written comments on the proposed amendments no later than November 25, 2008, addressed to Roxanne Sparks, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail rsparks@idph.state.ia.us.

A public hearing will be held on November 25, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 149 and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 220.2(11) as follows:

220.2(11) An applicant who graduated from a podiatric college ~~on or after~~ from January 1, 1995, to December 31, 2008, shall present documentation of successful completion of, at a minimum of, a one-year residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education. An applicant who graduated from a podiatric college on or after January 1, 2009, shall present documentation of successful completion of, at a minimum, a two-year residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

ITEM 2. Amend subrule 220.7(3) as follows:

220.7(3) An applicant who graduated from a podiatric college ~~on or after~~ from January 1, 1995, ~~must~~ to December 31, 2008, shall present documentation of successful completion of, at a minimum, a one-year residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education. An applicant who graduated from a podiatric college on or after January 1, 2009, shall present documentation of successful completion of, at a minimum, a two-year residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

ARC 7328B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 105.4 (2007 Iowa Acts, chapter 198, section 4), the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 28, "Plumbing and Mechanical Systems Licensure Fees," Iowa Administrative Code.

This proposed rule describes the fees applicable to the various licenses issued by the Plumbing and Mechanical Systems Examining Board.

Any interested person may make written comments or suggestions on the proposed rule on or before December 4, 2008. Such written comments should be directed to Cindy Houlson, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)281-4529 or by E-mail to choulson@idph.state.ia.us.

There will be six public hearings for which the dates and locations are as follows:

November 25, 2008	11 a.m. to 1 p.m.	Public Library 529 Pierce Street Sioux City
November 26, 2008	11 a.m. to 1 p.m.	Public Library Room C 400 Willow Avenue Council Bluffs
December 1, 2008	10:30 a.m. to 12:30 p.m.	Public Library Room B 415 Commercial Street Waterloo
December 2, 2008	11 a.m. to 1 p.m.	Public Library 102 W. 4th Street Ottumwa
December 3, 2008	11 a.m. to 1 p.m.	Public Library 2950 Learning Campus Drive Bettendorf
December 4, 2008	1 to 3 p.m.	Lucas State Office Bldg. Room 517 & 518 321 E. 12th Street Des Moines

At the public hearings, persons may present their views either orally or in writing. Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Public Health and advise of specific needs.

This rule is intended to implement Iowa Code chapter 105.

The following amendment is proposed.

Adopt the following **new** 641—Chapter 28:

CHAPTER 28
PLUMBING AND MECHANICAL SYSTEMS LICENSURE FEES

641—28.1(105) Fees. All fees are nonrefundable.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

28.1(1) License fee for:

- a.* An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b.* A journey license as defined in 641—subrule 29.2(2) is \$100.
- c.* A master license as defined in 641—subrule 29.2(3) is \$250.
- d.* A combined license is the sum total of each of the separate license fees.
- e.* A medical gas pipe certificate as defined in 641—29.3(105) is \$50.
- f.* An inactive license as defined in 641—subrule 29.2(4) is \$50.

28.1(2) Reciprocal license fee for:

- a.* An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b.* A journey license as defined in 641—subrule 29.2(2) is \$100.
- c.* A master license as defined in 641—subrule 29.2(3) is \$250.
- d.* A combined license is the sum total of each of the separate license fees.
- e.* A medical gas pipe certificate as defined in 641—29.3(105) is \$50.

28.1(3) Renewal license fee for:

- a.* An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b.* A journey license as defined in 641—subrule 29.2(2) is \$100.
- c.* A master license as defined in 641—subrule 29.2(3) is \$250.
- d.* A combined license is the sum total of each of the separate license fees.
- e.* A medical gas pipe certificate as defined in 641—29.3(105) is \$50.
- f.* An inactive license as defined in 641—subrule 29.2(4) is \$50.

28.1(4) The examination application fee is \$35.**28.1(5)** A late fee for failure to renew before expiration is determined as follows:

- a.* A licensee who allows a license to lapse for one month or less may reinstate and renew the license without examination upon payment of a \$60 late fee and appropriate renewal of license fee.
- b.* A licensee who allows a license to lapse for more than one month but less than two months may reinstate and renew the license without examination upon payment of a late fee equivalent to the appropriate license fee and appropriate renewal of license fee.
- c.* A licensee who allows a license to lapse for more than two months is required to retake and pass the applicable licensing examination and pay the appropriate renewal of license fee in order to obtain reinstatement. A licensee whose license has lapsed continues to hold the privilege of licensure in Iowa, but may not work as a plumbing or mechanical professional in Iowa until the license is renewed. A licensee who works as a plumbing or mechanical professional in the state of Iowa with a lapsed license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

28.1(6) The duplicate or reissued license certificate or wallet card fee is \$20.**28.1(7)** The fee for written verification of licensee status is \$20.**28.1(8)** The returned check fee is \$25.**28.1(9)** The disciplinary hearing fee is a maximum of \$75.**28.1(10)** The paper application fee is \$25 plus the appropriate license fee.

This rule is intended to implement Iowa Code chapters 105 and 272C.

ARC 7330B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 105.4 (2007 Iowa Acts, chapter 198, section 4), the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 29, "Plumbing and Mechanical Systems Professionals—Application, Licensure, and Examination," Iowa Administrative Code.

These proposed rules describe the types of licenses and the requirements for licensure for plumbing and mechanical systems professionals. The rules provide guidelines for application for the initial license, for renewal, and for examination. The rules also outline procedures to follow when a license is denied.

Any interested person may make written comments or suggestions on the proposed rules on or before December 4, 2008. Such written comments should be directed to Cindy Houlson, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)281-4529 or by E-mail to choulson@idph.state.ia.us.

There will be six public hearings for which the dates and locations are as follows:

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December 3, 2008	11 a.m. to 1 p.m.	Public Library 2950 Learning Campus Drive Bettendorf
December 4, 2008	1 to 3 p.m.	Lucas State Office Bldg. Room 517 & 518 321 E. 12th Street Des Moines

At the public hearings, persons may present their views either orally or in writing. Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Public Health and advise of specific needs.

These rules are intended to implement Iowa Code chapter 105.

The following amendment is proposed.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Adopt the following **new** 641—Chapter 29:

CHAPTER 29
PLUMBING AND MECHANICAL SYSTEMS PROFESSIONALS—
APPLICATION, LICENSURE, AND EXAMINATION

641—29.1(105) Definitions. For purposes of these rules, the following definitions shall apply:

“Applicable” means having relevance; appropriate.

“Apprentice” means any person, other than a helper, journeyperson, or master, who, as a principal occupation, is engaged in working as an employee of a plumbing, HVAC, refrigeration, or hydronic systems contractor under the supervision of either a master or a journeyperson and is progressing toward completion of an apprenticeship training program registered by the Office of Apprenticeship of the United States Department of Labor while learning and assisting in the design, installation, and repair of plumbing, HVAC, refrigeration, or hydronic systems, as applicable.

“Board” means the plumbing and mechanical systems examining board.

“Corresponding” means the same discipline.

“Department” means the Iowa department of public health.

“HVAC” means heating, ventilation and air conditioning in ducted systems. “HVAC” includes all natural, propane, liquid propane, or other gas lines associated with any component of an HVAC system.

“Hydronic” means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigerated equipment in connection with chilled water systems, all steam piping, hot or chilled water piping together with all control devices and accessories, installed as part of, or in connection with, any comfort heating or comfort cooling system or appliance using a liquid water or steam as the heating or cooling media. “Hydronic” includes all low-pressure and high-pressure systems.

“Inactive license” means a license that is available for a plumbing, HVAC, refrigeration, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline, in cases such as a retirement, military deployment, or medical leave.

“Journeyperson” means any person, other than a master, who, as a principal occupation, is engaged as an employee of, or otherwise working under the direction of, a master in the design, installation, and repair of plumbing, HVAC, refrigeration, or hydronic systems, as applicable.

“Licensee” means a person licensed by the board as an apprentice, journeyperson, or master who provides services in the plumbing, HVAC, refrigeration, or hydronics disciplines.

“Master” means any person who works in the planning or superintending of the design, installation, or repair of plumbing, HVAC, refrigeration, or hydronic systems and is otherwise lawfully qualified to conduct the business of plumbing, HVAC, refrigeration, or hydronic systems, and who is familiar with the laws and rules governing the same.

“Mechanical systems” means HVAC, refrigeration, and hydronic systems.

“Medical gas system installer” means any person who installs or repairs medical gas piping, components, and vacuum systems, including brazers, who has been issued a valid certification from the National Inspection Testing Certification (NITC) Corporation, or an equivalent authority approved by the board.

“Plumbing” means all potable water building supply and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipes, and all building drains and building sewers, storm sewers, and storm drains, including their respective joints and connections, devices, receptors, and appurtenances within the property lines of the premises, and including the connection to sanitary sewer, storm sewer, and domestic water mains. “Plumbing” includes potable water piping, potable water treating or using equipment, medical gas piping systems, fuel gas piping, water heaters and vents, including all natural, propane, liquid propane, or other gas lines associated with any component of a plumbing system.

“Refrigeration” means any system of refrigeration regardless of the level of power, if such refrigeration is intended to be used for the purpose of food and product preservation and is not intended to be used for comfort systems.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*Routine maintenance*,” as the term applies in Iowa Code section 105.11(9), means the repair or replacement of existing plumbing, HVAC, refrigeration, or hydronic equipment of the same size and type for which no changes in original design or construction are made. “*Routine maintenance*” shall not be interpreted to allow the repair or replacement of furnaces, condensing units, boilers, chillers, ductwork systems, water pipe systems, waste and vent systems or similar work.

641—29.2(105) Requirements for licensure. For each discipline (plumbing, HVAC, refrigeration and hydronics), the following licenses will be available:

29.2(1) An applicant for an apprentice license shall:

- a. File an application in accordance with 641—29.5(105).
- b. Certify that the applicant will work under the supervision of a licensed journeyman or master in the applicable discipline by providing the department with the United States Department of Labor Office of Apprenticeship indenture number.
- c. Be enrolled in an applicable apprentice program which is registered with the United States Department of Labor Office of Apprenticeship and provide the department with the United States Department of Labor sponsorship agreement.

29.2(2) An applicant for a journeyman license shall:

- a. File an application and pay application fees as established by the board, which application shall establish that the applicant meets the minimum educational and experience requirements adopted by the board.
- b. Pass the state journeyman licensing examination in the applicable discipline.
- c. Provide the board with evidence of having completed at least four years of practical experience as an apprentice. Commencing January 1, 2010, the four years of practical experience required by this paragraph must be an apprenticeship training program registered by the United States Department of Labor Office of Apprenticeship. Documentation must be submitted on a form provided by the board.

29.2(3) An applicant for a master license shall:

- a. File an application and pay application fees as established by the board, which application shall establish that the applicant meets the minimum educational and experience requirements adopted by the board.
- b. Pass the state master licensing examination for the applicable discipline.
- c. Provide evidence to the examining board that the applicant has previously been a licensed journeyman for a minimum of two years in the applicable discipline or satisfies all requirements for licensure as a journeyman in the applicable discipline.

29.2(4) Inactive license. An applicant for an inactive license shall provide verifiable documentation that the applicant is not actively engaged in running a business or working in the business of plumbing, HVAC, refrigeration, or hydronic discipline, in cases such as a retirement, military deployment, or medical leave.

641—29.3(105) Medical gas piping certification. For the plumbing discipline, the following certification is required for a person who performs work as a medical gas system installer. An applicant for a medical gas certificate shall:

29.3(1) File an application and pay applicable fees.

29.3(2) Possess valid certification from the National Inspection Testing Certification (NITC) Corporation, or an equivalent authority approved by the board. Documentation must be submitted on a form provided by the board.

641—29.4(105) Minimum qualifications for licensure. The following minimum requirements shall apply to all licenses issued after July 1, 2008.

29.4(1) An applicant for any type of license must be at least 18 years old.

29.4(2) Effective January 1, 2010, all apprentice applicants must have completed a high school education or attained GED equivalent.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

29.4(3) An applicant shall have no record of felony conviction relating to the profession as determined by the board.

29.4(4) An applicant of any unit of state or local government, including but not limited to cities, counties, or school corporations, is exempt from licensing requirements if the applicant only performs routine maintenance on a mechanical system or plumbing system, which serves a state-owned facility, while acting within the scope of the state employee's employment. Any other type of work on a mechanical system or plumbing system requires licensing in the applicable discipline.

641—29.5(105) General requirements for application for licensure. The following criteria shall apply to application for licensure.

29.5(1) On-line or paper application.

a. An applicant shall complete a board-approved application either on-line or on a paper application according to instructions contained in the application.

b. Applications should be completed on-line since paper applications will incur an additional processing fee. However, paper applications are available to download at <http://www.idph.state.ia.us/eh/plumbing.asp> or to request from the board office by writing to: Plumbing and Mechanical Systems Examining Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

29.5(2) Fees. In order to be processed, each application must be accompanied by the appropriate fees as determined by the board. All fees are nonrefundable.

a. On-line application fees shall be paid by credit card only.

b. A paper application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Plumbing and Mechanical Systems Examining Board.

29.5(3) If the applicant is notified that the application is incomplete, the applicant must contact the board office within 90 days. The board may be contacted at: Plumbing and Mechanical Systems Examining Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319, or by calling 1-866-280-1521.

29.5(4) No application will be considered by the board without the appropriate verifiable documentation. An applicant must submit the following verifiable documentation:

a. A passing score for a discipline-appropriate examination provided by the testing vendor under contract with the board, when testing is required for a license.

b. Verification that the applicant has met the minimum requirements as defined in 641—29.4(105) and the established employment experience criteria for each type of license.

29.5(5) Complete applications shall be filed with the plumbing and mechanical systems examining board. Incomplete applications shall be considered invalid and after 90 days shall be destroyed.

641—29.6(105) Examination.

29.6(1) An applicant for licensure as a plumbing or mechanical system professional shall successfully pass the licensing examination for the discipline.

a. The examination will be administered by the board-approved vendor.

b. The board shall approve the specific examination to be used for each license type.

c. Through December 31, 2009, a waiver may be granted to a resident of the state of Iowa or a person employed by a plumbing, HVAC, refrigeration or hydronic business registered with the Iowa division of labor contractor registration program as of July 1, 2008, who meets one of the following conditions:

(1) The applicant has passed a discipline-appropriate examination provided or sponsored by a city, county or subdivision in Iowa and has completed at least eight classroom hours of continuing education in courses or seminars approved by the board within the two-year period immediately preceding the date of the applicant's license application; or

(2) The applicant can provide proof of five years of applicable experience, as determined by the board, between July 2, 1998, and July 1, 2008, the last two years of which have to be within the last five years, between July 2, 2003, and July 1, 2008.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

29.6(2) Examination requirements.

a. The examination will be written and proctored by a nationally recognized testing agency selected by the board through a competitive bid process.

b. The examination will be offered periodically during the year. The time and location will rotate between multiple sites in the state of Iowa, as determined by the department, with approval of the board.

c. The examination will not be subject to review by applicants. The testing vendor shall, upon request from an applicant, provide information about the sections that the applicant failed, but shall not provide an applicant access to actual examination questions or answers. Any fees associated with the review process will be assessed by and payable to the testing vendor. The applicant is responsible for paying all associated examination fees.

d. A score of 75 percent or better will be considered passing.

29.6(3) Examination application requirements.

a. An applicant shall complete and submit a board-approved examination application either on-line or on a paper application a minimum of 15 business days prior to taking an examination. An applicant shall complete the application form according to instructions contained in the application.

b. Examination applications should be completed on-line since paper applications will incur an additional processing fee. However, paper applications are available to download at <http://www.idph.state.ia.us/eh/plumbing.asp> or to request from the board office by writing to: Plumbing and Mechanical Systems Examining Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

c. Fees. In order to be processed, each application must be accompanied by the appropriate fees as determined by the board. All fees are nonrefundable.

(1) On-line examination application fees shall be paid by credit card only.

(2) A paper examination application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Plumbing and Mechanical Systems Examining Board.

d. No application will be considered by the board without the appropriate verifiable documentation.

e. The applicant will be notified and issued an examination entrance letter upon approval of the examination application.

f. If the applicant is notified that the application is incomplete, the applicant must contact the board office within 90 days. The board may be contacted at: Plumbing and Mechanical Systems Examining Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319, or by calling 1-866-280-1521.

g. Incomplete applications shall be considered invalid and after 90 days shall be destroyed.

h. Examination fees shall be payable directly to the board-approved testing vendor.

(1) All transactions shall be the responsibility of the applicant and testing vendor.

(2) The board shall not be held responsible for refunds from the testing vendor.

i. An applicant shall present current photo identification in order to sit for the examination.

j. An applicant for licensure by examination who does not pass the examination within one year from the original application date will be required to submit a new application.

k. A master applicant shall be licensed with the state of Iowa as a journeyman in the discipline for a minimum of two years prior to application for examination.

l. A journeyman examination applicant may apply to sit for the examination up to 60 days prior to completion of the 48 months of required apprentice credit which shall include the granting of advanced standing or credit for previously acquired experience, training, or skills. The application for licensure will not be processed until all required criteria are complete and the certificate of completion from the United States Department of Labor Office of Apprenticeship has been issued.

641—29.7(105) License renewal.

29.7(1) The period of licensure to practice as an apprentice, journeyman, or master in the plumbing, HVAC, refrigeration, or hydronics disciplines shall be biennial (every two years).

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.

b. The licensee is responsible for renewing the license prior to its expiration.

c. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

29.7(2) Specific renewal requirements.

a. A licensee seeking renewal shall:

(1) Meet the continuing education requirements, at least eight classroom hours of instruction during each two-year licensing term. A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

b. Failure to renew a license within a reasonable time after the expiration of the license shall not invalidate the license, but a reasonable penalty may be assessed as adopted by rule, in addition to the license renewal fee, to allow reinstatement of the license.

(1) A licensee who allows a license to lapse for one month or less may reinstate and renew the license without examination upon payment of a late fee and appropriate renewal of license fee as defined in 641—subrule 28.1(5).

(2) A licensee who allows a license to lapse for more than one month but less than two months may reinstate and renew the license without examination upon payment of a late fee equivalent to the appropriate license fee and appropriate renewal of license fee as defined in 641—subrule 28.1(5).

c. A licensee who allows a license to lapse for more than two months is required to retake and pass the applicable licensing examination and pay appropriate renewal of license fee as defined in 641—subrule 28.1(5) in order to obtain reinstatement and renewal of that person's license.

(1) A licensee who fails to renew the license by the end of the two-month period has a lapsed license.

(2) A licensee whose license is lapsed may not practice as a plumbing or mechanical professional until the license is reinstated and renewed.

(3) A licensee who practices as a plumbing or mechanical professional in the state of Iowa with a lapsed license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code chapter 105, criminal sanctions pursuant to Iowa Code chapter 105, and other available legal remedies.

641—29.8(105) Denial of license.

29.8(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

29.8(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

29.8(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C.

These rules are intended to implement Iowa Code chapter 105.

ARC 7312B**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 101A.5, the Fire Marshal hereby gives Notice of Intended Action to amend Chapter 5, "Fire Marshal Administration," and to adopt new Chapter 235, "Commercial Explosive Licensing," Iowa Administrative Code.

Iowa Code section 101A.2 establishes licensing of commercial explosives operations and users of explosives for commercial purposes. The rules for this program have been in the general rules of the Fire Marshal, 661—Chapter 5, and are now being moved to a separate chapter. This is part of a more general effort to reorganize and renumber the rules of the Department of Public Safety to make them more accessible and understandable to the public and to those subject to the provisions of the rules.

The rules proposed here differ significantly from those that are currently in effect, primarily in that the proposed rules provide for licensing of individual blasters as well as commercial explosive businesses. The statute authorizes the licensing of individual blasters, but this has not previously been implemented.

A public hearing on these proposed amendments will be held on December 9, 2008, at 8:30 a.m. in the First Floor Public Conference Room (Room 125) in the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Persons may present their views concerning these amendments at the public hearing orally or in writing. Persons who wish to make oral presentations at the hearing are requested to contact the Agency Rules Administrator, Iowa Department of Public Safety, 215 East 7th Street, Des Moines, Iowa 50319; or by telephone at (515)725-6185 at least one day prior to the hearing, although any person who appears at the hearing will be afforded an opportunity to speak.

Any interested persons may make oral or written comments concerning these proposed amendments to the Agency Rules Administrator by mail, by telephone, or in person at the above address by 4:30 p.m. on December 8, 2008. Comments may also be submitted by electronic mail to admrule@dps.state.ia.us by 4:30 p.m. on December 8, 2008.

These amendments are intended to implement Iowa Code chapter 101A.

The following amendments are proposed.

ITEM 1. Rescind and reserve rules **661—5.7(17A,101A)**, **661—5.851(101A)**, **661—5.865(101A,252J)** and **661—5.866(252J)**.

ITEM 2. Adopt the following **new** chapter:

CHAPTER 235

COMMERCIAL EXPLOSIVE LICENSING

661—235.1(101A) Licensing program established. A commercial explosive licensing program is hereby established in the fire marshal division. The program shall issue licenses to commercial explosive firms and to individual blasters as provided in this chapter.

235.1(1) The commercial explosive licensing program is located at the following address:

Commercial Explosive Licensing Program

Fire Marshal Division

Iowa Department of Public Safety

215 East 7th Street

Des Moines, Iowa 50319

The program may be contacted by mail or in person at this address.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

235.1(2) The program may be contacted by telephone at (515)725-6145, by fax at (515)725-6172, or by electronic mail at fminfo@dps.state.ia.us.

661—235.2(101A) Licenses required. Except as specifically exempted by another provision of state or federal law, any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment shall be required to hold a current commercial explosive business license issued pursuant to this chapter. Any individual, except as specifically exempted by another provision of law, who conducts blasting or is in charge of or responsible for the loading and firing of any explosive material shall be required to hold a current individual blaster license issued pursuant to this chapter. An individual blaster license shall not be required to authorize a person solely to transport explosives from one location to another, to assist a licensed blaster, to train under a licensed blaster, or to engage in the manufacture of explosives.

661—235.3(101A) License application process.

235.3(1) Anyone wishing to obtain an application for a commercial explosive business license or an individual blaster license may obtain a copy of the required application by contacting the commercial explosive licensing program as specified in rule 661—235.1(101A).

235.3(2) A completed application for a license shall be submitted to the commercial explosive licensing program at the address specified in subrule 235.1(1). All information requested on the application shall be provided prior to the processing of the application.

235.3(3) Each license application shall be accompanied by a \$60 fee, paid by check or money order made payable to the Iowa Department of Public Safety. If the application is being submitted later than January 31 of a given year, then the fee for each license shall be \$5 per month for each month remaining in the calendar year, including the month in which the application is submitted.

235.3(4) Each license issued shall expire on December 31 of the year in which it is issued, except that a license issued in December of any year shall expire on December 31 of the following year.

661—235.4(101A) Issuance of commercial explosive business license. A commercial explosive business license shall be issued only if all of the following conditions have been satisfied:

235.4(1) All items required on the application have been completed, and any items the fire marshal deems necessary to verify have been verified and found to be true.

235.4(2) No owner of the business for which commercial explosive licensure is sought nor any person who will have, at any time, possession of explosives in the course of employment with the prospective business licensee:

- a.* Has been convicted of a felony or any offense involving explosives or firearms;
- b.* Has been previously disqualified from being licensed to handle explosives in this or any other state. The fire marshal may grant a license to a person previously disqualified if the fire marshal is satisfied that the condition or conditions that led to the disqualification have been corrected;
- c.* Is an unlawful user of or is addicted to controlled substances;
- d.* Has been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder which impairs a person's capacity to function normally and safely, both toward themselves and others.

235.4(3) The business has at least one owner or employee licensed as an individual blaster.

661—235.5(101A) Issuance of individual blaster license. An individual blaster license shall be issued only if all of the following conditions have been satisfied:

235.5(1) The applicant is an employee of a licensed commercial explosive business. If, after an individual blaster license is issued, such employment ceases, the employing business and the individual blaster shall each notify the fire marshal that the employment has ceased within three business days of the final day of employment, and the individual blaster license shall be revoked and shall be returned to the fire marshal.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

235.5(2) All items required on the application have been completed and any items the fire marshal deems necessary to verify have been verified and found to be true.

235.5(3) The applicant is not or has not been:

- a.* Convicted of a felony or any offense involving explosives or firearms;
- b.* Previously disqualified from being licensed to handle explosives in this or any other state. The fire marshal may grant a license to a person previously disqualified if the fire marshal is satisfied that the condition or conditions that led to the disqualification have been corrected;
- c.* An unlawful user of or addicted to controlled substances;
- d.* Adjudged mentally incompetent at any time by any court or committed by any court to any mental institution, or has not received inpatient treatment for any mental illness in the past three years or received treatment by a health care professional for a serious mental illness or disorder which impairs a person's capacity to function normally and safely, both toward themselves and others.

235.5(4) The applicant has satisfactorily completed training approved by the fire marshal for the handling and use of explosives. The fire marshal may accept related job experience of 640 hours or more in lieu of training if the experience is documented by a sworn affidavit provided by the employing commercial explosive business licensee.

235.5(5) The applicant is 21 years of age or older.

661—235.6(101A) Inventory and records.

235.6(1) Each licensed commercial explosive business shall maintain records to show amounts of explosive material on hand at the beginning and end of each working day and quantities dispensed and to whom. The business shall conduct physical inventories at least once annually. Anytime a shortage appears that is in excess of limits established by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, the shortage shall be reported within 24 hours to the chief of police or sheriff having jurisdiction, who in turn shall cause a federal Form 4712 (Department of Treasury, Internal Revenue Service) to be completed, a copy of which shall be sent to the commercial explosive licensing program, as specified in rule 661—235.1(101A). Inventory records shall be retained for five years after the date for which the activity is recorded and shall be made available upon request of the fire marshal.

235.6(2) Each licensed individual blaster shall maintain a daily record of all explosive materials received and fired or otherwise disposed of by the individual blaster. Such records are the property of the business license holder, who shall retain them for five years and make them available to the fire marshal upon request.

235.6(3) Any loss, theft, or unlawful removal of explosive materials shall be reported within 24 hours to the Bureau of Alcohol, Tobacco, Firearms and Explosives, to the fire marshal and to the local law enforcement agency.

235.6(4) Any accident involving explosive materials that cause injury to persons or damage to property not contracted by the blasting operations, or to property for which the owner has not provided a written waiver to the blasting operation, shall be reported promptly to the fire marshal.

661—235.7(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals.

235.7(1) The fire marshal may refuse to issue a commercial license for the manufacture, importation, distribution, sale, and commercial use of explosives sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

- a.* Finding that the applicant or licensee is not of good moral character and sound judgment.
- b.* Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.
- c.* Finding that the applicant or licensee falsified information in the current or any previous license application.
- d.* Finding that the applicant or licensee has been adjudged mentally incompetent at any time by any court or committed by any court to any mental institution or has received inpatient treatment for any mental illness in the past three years or received treatment by a health care professional for a serious

PUBLIC SAFETY DEPARTMENT[661](cont'd)

mental illness or disorder which impairs a person's capacity to function normally and safely, both toward themselves and others.

e. Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A, this chapter, or 661—Chapter 231.

f. Receipt by the department of a certificate of noncompliance from the child support recovery unit of the Iowa department of human services, pursuant to the procedures set forth in Iowa Code chapter 252J.

235.7(2) An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked for a reason other than receipt of a certificate of noncompliance from the child support recovery unit may appeal that action pursuant to 661—Chapter 10, except that wherever “commissioner of public safety” or “department of public safety” appears, substitute “fire marshal.” Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit shall be subject to the provisions of rule 661—235.7(101A,252J). Procedures specified in 661—Chapter 10 for contesting department actions shall not apply in these cases.

235.7(3) The fire marshal shall notify the employing commercial explosive business licensee of the denial, suspension, or revocation of an individual blaster license.

661—235.8(252J) Child support collection procedures. The following procedures shall apply to actions taken by the fire marshal on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

235.8(1) The notice required by Iowa Code section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

235.8(2) The effective date of revocation or suspension of a license or denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the licensee or applicant.

235.8(3) Licensees and applicants for licensure shall keep the fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the department with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

235.8(4) All fees for applications, license renewal or reinstatement must be paid by the licensee or applicant before a license will be issued, renewed, or reinstated after the fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 252J.

235.8(5) In the event a licensee or applicant files a timely district court action following service of a department notice pursuant to Iowa Code sections 252J.8 and 252J.9, the fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the fire marshal to proceed. For the purpose of determining the effective date of revocation, suspension or denial of the issuance or renewal of a license, the fire marshal shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

These rules are intended to implement Iowa Code chapters 101A and 252J.

ARC 7334B**REVENUE DEPARTMENT[701]****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 chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Iowa Administrative Code.

Iowa Code section 421.7 requires the Director of Revenue to determine and publish the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes under Title XVI shall be 8 percent for the calendar year 2009 (0.7% per month). The Department shall also pay interest at the 8 percent rate on refunds. The rates for calendar year 2008 were 10 percent and 0.8%.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 8, 2008, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before November 25, 2008. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by November 26, 2008.

This amendment is intended to implement Iowa Code section 421.7.

The following amendment is proposed.

Adopt the following **new** subrule 10.2(28):

10.2(28) Calendar year 2009. The interest rate upon all unpaid taxes which are due as of January 1, 2009, will be 8 percent per annum (0.7% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2009. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2009. This interest rate of 8 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2009.

ARC 7331B**REVENUE DEPARTMENT[701]****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 chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 11, "Administration," Iowa Administrative Code.

This amendment to rule 701—11.10(422) is intended to implement Iowa Code section 423.35. The amendment serves several purposes, primarily to explain and enhance in several ways the department's current bonding requirement for delinquent sales tax permit holders. The amendment changes the bonding requirement to an optional action. The amendment clarifies that the term "delinquencies" applies to both timely payment of the sales tax and timely filing of the sales tax return. The amendment describes the Department's current practice of applying the bond toward any outstanding tax liability of the permit holder. The amendment allows sales tax permit holders who have maintained a good filing record for a period of two years to request a return of the bond; in addition, the amendment allows the Department to return the bond to the sales tax permit holder without a formal request. Finally, the amendment serves the secondary purpose of changing outdated references from Iowa Code chapter 422 to Iowa Code chapter 423.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 8, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before November 25, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by November 26, 2008.

This amendment is intended to implement Iowa Code section 423.35.

The following amendment is proposed.

Amend rule 701—11.10(422) as follows:

701—11.10(~~422~~ 423) Bonding procedure. The director may, when necessary and advisable in order to secure the collection of the tax, require any person subject to the tax to file with the department a bond in

REVENUE DEPARTMENT[701](cont'd)

an amount as the director may fix, or in lieu of the bond, securities approved by the director in an amount as the director may prescribe. Pursuant to the statutory authorization in Iowa Code section ~~422.52(3)~~ 423.35, the director has determined that the following procedures will be instituted with regard to bonds:

11.10(1) When required.

a. Classes of business. When the director determines, based on departmental records, other state or federal agency statistics or current economic conditions, that certain segments of the business community are experiencing above average financial failures such that the collection of the tax might be jeopardized, a bond or security ~~will~~ may be required from every retailer operating a business within this class unless it is shown to the director's satisfaction that a particular retailer within a designated class is solvent and that the retailer previously timely remitted the tax. If the director selects certain classes of business for posting a bond or security, rule making will be initiated to reflect a listing of the classes in the rules.

b. New applications for sales tax permits. Notwithstanding the provisions of paragraph "a" above, an applicant for a new sales tax permit ~~will~~ may be required to post a bond or security if (1) it is determined upon a complete investigation of the applicant's financial status that the applicant would be unable to timely remit the tax, or (2) the new applicant held a permit for a prior business and the remittance record of the tax under the prior permit falls within one of the conditions in paragraph "c" below, or (3) the department experienced collection problems while the applicant was engaged in business under the prior permit, or (4) the applicant is substantially similar to a person who would have been required to post a bond under the guidelines as set forth in paragraph "c" or the person had a previous sales tax permit which has been revoked. The applicant is "substantially similar" to the extent that said applicant is owned or controlled by persons who owned or controlled the previous permit holder. For example, X, a corporation, had a previous sales tax permit revoked. X is dissolved and its shareholders create a new corporation, Y, which applies for a sales tax permit. The persons or stockholders who controlled X now control Y. Therefore, Y will be requested to post a bond or security.

c. Existing permit holders. Existing permit holders ~~shall~~ may be required to post a bond or security under the following circumstances:

(1) ~~when~~ When they have had one or more delinquencies in remitting the sales tax or filing timely returns during the last 24 months if filing returns on an annual basis ~~or~~.

(2) ~~when~~ When they have had two or more delinquencies in remitting the sales tax or filing timely returns during the last 24 months if filing returns on a quarterly basis ~~or~~.

(3) When they have had four or more delinquencies in remitting the sales tax or filing timely deposits or returns during the last 24 months if filing returns on a monthly basis ~~or~~.

(4) When they have had eight or more delinquencies during the last 24 months if filing returns on a semimonthly basis.

The simultaneous late filing of the return and the late payment of the tax will count as one delinquency. See rule 701—13.7(422). However, the late filing of the return or the late payment of the tax will not count as a delinquency if the permit holder can satisfy one of the conditions set forth in Iowa Code section 421.27.

d. ~~Waiver~~ Return of bond. If a permit holder has been required to post a bond or security or if an applicant for a permit has been required to post a bond or security, upon the filing of the bond or security if the permit holder maintains a good filing record for a period of two years, the permit holder may request that the department ~~waive~~ return the ~~continued~~ bond or security ~~requirement~~. The department may elect to return the bond without a request from the permit holder.

e. Applying bond. The department may apply a bond to any existing tax liability of the permit holder at its discretion.

11.10(2) Type of security or bond. When it is determined that a permit holder or applicant for a sales tax permit is required to post collateral to secure the collection of the sales tax, the following types of collateral will be considered as sufficient: cash, surety bonds, securities or certificates of deposit. "Cash" means guaranteed funds including, but not limited to, the following: (1) cashier's check, (2) money order or (3) certified check. If cash is posted as a bond, the bond will not be considered filed until the final payment is made, if paid in installments. A certificate of deposit must have a maturity date of 24 months from the date of assignment to the department. An acknowledgement of assignment from the bank must

REVENUE DEPARTMENT[701](cont'd)

accompany the original certificate of deposit filed with the department. When a permit holder elects to post cash rather than a certificate of deposit as a bond, conversion to certificate of deposit will not be allowed. When the permit holder is a corporation, an officer of the corporation may assume personal liability as security for the payment of the sales tax. The officer will be evaluated as provided in ~~(4)~~ ~~above~~ subrule 11.10(1) as if the officer applied for a sales tax permit as an individual.

11.10(3) *Amount of bond or security.* When it is determined that a permit holder or applicant for a sales tax permit is required to post a bond or securities, the following guidelines will be used to determine the amount of the bond, unless the facts warrant a greater amount: If the permit holder or applicant will be or is a semimonthly depositor, a bond or securities in an amount sufficient to cover three months' sales tax liability will be required. If the permit holder or applicant will be or is a monthly depositor, a bond or securities in an amount sufficient to cover five months' sales tax liability will be required. If the applicant or permit holder will be or is a quarterly filer, the bond or securities which will be required is an amount sufficient to cover nine months or three quarters of tax liability. If the applicant or permit holder will be or is an annual filer, the bond or securities which will be required would be in the amount of one year's tax liability. The department does not accept bonds for less than \$100. If the bond amount is calculated to be less than \$100, a \$100 bond is required.

This rule is intended to implement Iowa Code section ~~422.52~~ 423.35.

ARC 7327B

REVENUE DEPARTMENT[701]

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 chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 32, "Receipts Exempt From Use Tax," and Chapter 33, "Receipts Subject to Use Tax Depending on Method of Transaction," Iowa Administrative Code.

These amendments are proposed as the result of 2008 Iowa Acts, House File 2700.

The proposed amendments to rules 701—32.3(423), 701—33.9(423) and 701—33.10(423) reflect the change in the exemption amount from 40 percent to 80 percent pursuant to 2008 Iowa Acts, House File 2700, section 64.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 8, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P. O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before November 25, 2008. Such written comments should be directed to the Policy Section, Taxpayer

REVENUE DEPARTMENT[701](cont'd)

Services and Policy Division, Department of Revenue, Hoover State Office Building, P. O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by November 26, 2008.

These amendments are intended to implement Iowa Code section 423.6(14) as amended by 2008 Iowa Acts, House File 2700, section 64.

The following amendments are proposed.

ITEM 1. Amend rule 701—32.3(423) as follows:

701—32.3(423) Mobile homes and manufactured housing. A use tax is not to be imposed on any mobile home or manufactured housing if the tax has been previously imposed pursuant to Iowa Code section 423.2 and paid. In order for the exemption to be allowed, the purchaser of the mobile home or manufactured housing has the responsibility to provide the county treasurer with documentation verifying that the Iowa use tax was previously paid. ~~At~~ On or after July 1, 2008, all taxable mobile homes or manufactured housing is subject to a use tax in an amount equal to 20 percent of the mobile home's or manufactured housing's purchase price (40 percent of the home's or housing's purchase price is exempt from use tax). ~~Prior to July 1, 2008, all taxable mobile homes or manufactured housing was subject to a use tax in an amount equal to 60 percent of the mobile home's or manufactured housing's purchase price (40 percent of the home's or housing's purchase price is exempt from use tax).~~ ~~In arriving at the purchase price upon which the use tax is to be computed, the~~ The trade-in allowance provided in Iowa Code section 423.1(6) "b" is considered a reduction in the purchase price if (1) the property traded for the mobile home or manufactured housing is a type of property normally sold in the regular course of business of the retailer selling the home or housing, and (2) the retailer intends ultimately to sell the traded property at retail or to use the traded property in the manufacture of a like item.

EXAMPLE 1: ~~A~~ In January of 2008, a manufactured housing dealer receives from the factory a new manufactured home that has a sales price of \$20,000. The dealer sells it and takes the purchaser's old manufactured home worth \$5,000 in trade. The dealer keeps the traded-in manufactured home as an office. The Iowa use tax is computed as follows:

Sales price	\$20,000
Less trade-in.	<u>\$ 5,000</u>
Buyer's price	\$15,000
Amount subject to tax	\$12,000
(\$20,000 × 60%)	
Use tax at 5%	\$ 600

The trade-in allowance does not apply since the traded-in manufactured home will not be ultimately sold at retail or used to manufacture a like item.

EXAMPLE 2: Same date and facts as given in Example 1 with the exception that the dealer lists the trade-in for sale.

Sales price	\$20,000
Less trade-in.	<u>\$ 5,000</u>
Buyer's price	\$15,000
Amount subject to tax	\$ 9,000
(\$15,000 × 60%)	
Use tax at 5%	\$ 450

REVENUE DEPARTMENT[701](cont'd)

The trade-in allowance applies since the traded-in manufactured home will be ultimately sold at retail.

EXAMPLE 3: In September of 2008, a manufactured housing dealer receives from the factory a new manufactured home that has a sales price of \$40,000. The dealer sells it and takes the purchaser's old manufactured home worth \$10,000 in trade. The dealer intends to resell the used manufactured home. The Iowa use tax is computed as follows:

Sales price	\$ 40,000
Less trade-in	\$ 10,000
Buyer's price	\$ 30,000
Amount subject to tax	\$ 6,000
(\$30,000 × 20%)	
Use tax at 5%	\$ 300

The trade-in allowance does apply since the traded-in manufactured home will be ultimately sold at retail or used to manufacture a like item. Because the transaction occurs after July 1, 2008, only 20 percent of the purchase price is subject to the 5 percent use tax.

This rule is intended to implement Iowa Code ~~sections 423.4(11) and 423.4(12)~~ section 423.6 as amended by ~~1999 Iowa Acts, chapter 188~~ 2008 Iowa Acts, House File 2700, section 64.

ITEM 2. Amend rule 701—33.9(423) as follows:

701—33.9(423) Sales of mobile homes, manufactured housing, and related property and services.

33.9(1) *Sales of mobile homes, manufactured housing, and related property and services for one package price.* ~~The following~~ This rule is applicable only to mobile homes and manufactured housing sold as tangible personal property rather than in the form of real property. If, at the time of the sale, a mobile home or manufactured housing is real property, this rule is not applicable to it. If a mobile home dealer buys a mobile home, incorporates that mobile home into real estate in the manner required by and described in Iowa Code section 435.26, and then sells the mobile home to a consumer, the sale of that mobile home, the sale of any services used to transform the mobile home from tangible personal property to real property, and the sale of any tangible personal property with the mobile home (such as furniture) are governed by 701—Chapter 19 which deals with building contracts and building contractors. Sales of manufactured housing in the form of real estate are governed by rule 701—33.10(423).

When a customer purchases a mobile home or manufactured housing from a dealer, it is usually the customer's wish that the dealer prepare the mobile home or manufactured housing so that it is ready for the customer to move into it. To render a mobile home or manufactured housing "ready to move into" a dealer will sell, with the home or housing, certain tangible personal property and will also perform or arrange for other parties to perform various services.

With respect to any one particular mobile home or manufactured house which a dealer may sell, a dealer may provide any combination of the following services or provide the following services and sell the below-listed property to any person purchasing the home or house:

1. Connect the electricity.
2. Connect the water.
3. Connect sewer system lines.
4. Sell and install skirting. Skirting is used to fill the space between the bottom of the mobile home or manufactured house and the ground. It gives the home or house an appearance more like a conventional home because it covers up this space.
5. Build and install steps for a door.
6. Build a deck.
7. Do minor repair.
8. Install and sell a foundation upon which to place the mobile home or manufactured housing.

REVENUE DEPARTMENT[701](cont'd)

9. Sell furniture or appliances (e.g., air conditioners, refrigerators, and stoves) for use in the mobile home or manufactured housing. Install the appliance (e.g., an air conditioner) if necessary.

A dealer selling a mobile home or manufactured housing on a “ready-to-move-into” basis usually sells that home or housing and the services and additional property necessary to render them livable for one “package price.” The dealer and customer do not bargain separately for the sale of the various articles of tangible personal property (e.g., the mobile home or manufactured house and appliances) or the services (e.g., electrical installation) which are part of this package price; nor is the dealer’s package price broken down to indicate any of the expenses which are components of the package price either in the dealer’s sales contract or on any sales invoice.

The package price of any one particular mobile home or manufactured house will vary depending upon how many services the dealer will provide, or how much tangible personal property the dealer will sell in addition to the home or house. In many cases, a dealer will contract with a third party to perform the services promised in the dealer’s contract to a customer. For example, the dealer will contract with a third party to hook up the home or house purchaser’s electricity, install window air conditioning or will contract with a third party to build a deck or perform minor repairs on the mobile home or manufactured house.

In the situation described above, the “purchase price” of a mobile home or manufactured house is the entire package price charged for the home or house, additional personal property for use in and around the home or house, and services performed to render the home or house livable. The entire amount of the package price, reduced by 40 percent prior to July 1, 2008, or by 80 percent on or after July 1, 2008, as explained in rule 701—32.3(423), is used to calculate the amount of use tax due resulting from the sale of the mobile home or manufactured house. No part of the package price is subject to Iowa sales tax; rather it is subject to Iowa use tax.

33.9(2) *Sales of property and rendition of service under separate contract.* If the personal property and services listed in subrule 33.9(1) are purchased under separate contract and not as part of one package price with a mobile home or manufactured house, either from a mobile home dealer or from another party, the price paid for those items of property or services will not be a part of the purchase price of the home or house. Because the price of the property or services is not part of the “purchase price” of a home or house, that price will not be reduced by 40 percent prior to July 1, 2008, or by 80 percent on or after July 1, 2008, as required under rule 701—32.3(423), in computing the use tax due upon the sale of a mobile home. Also, if sold in Iowa, the property would be subject to Iowa sales tax. The same is true of services rendered in Iowa.

If separately contracted for, the gross receipts from the following services sold are subject to Iowa sales tax under Iowa Code subsection 422.43(11):

- a. Electrical hookup and air conditioning installation (electrical installation).
- b. Water and sewer system hookup (plumbing).
- c. Skirting installation and building and installation of steps and decks (carpentry).
- d. Nearly all “minor repairs” would be taxable.

The sale, under separate contract, of skirting, steps, decks, furniture, appliances, and other tangible personal property to customers purchasing mobile homes or manufactured housing would be sales of tangible personal property, the gross receipts of which are subject to Iowa sales rather than use tax.

The installation of a concrete slab on which to place the mobile home or manufactured housing would not be a service taxable to the home or housing owner since this installation involves “new construction” and the service performed upon this new construction is thus exempt from tax. The person installing the concrete slab would be treated as a construction contractor and would pay sales tax upon any tangible personal property purchased and used in the construction of the slab.

33.9(3) No change.

This rule is intended to implement Iowa Code section 423.6 as amended by 2008 Iowa Acts, House File 2700, section 64.

REVENUE DEPARTMENT[701](cont'd)

ITEM 3. Amend paragraph **33.10(2)“c”** as follows:

c. ~~Only~~ Prior to July 1, 2008, only 60 percent of the purchase price of either a mobile home or manufactured housing is subject to use tax. On or after July 1, 2008, only 20 percent of the purchase price of either a mobile home or manufactured housing is subject to use tax. See rule 701—32.3(423). The use of manufactured housing previously subject to tax and upon which the tax has been paid is exempt from further tax.

ITEM 4. Amend paragraph **33.10(3)“a”** as follows:

a. When tax is due on the use of manufactured housing in the form of real estate, the basis for computing the tax is the “installed purchase price” of the manufactured housing. The “installed purchase price” is the amount charged by a building contractor to a homebuyer to convert manufactured housing from tangible personal property into real estate. ~~Use~~ Prior to July 1, 2008, use tax is due on 60 percent of the amount of the installed purchase price. On or after July 1, 2008, use tax is due on 20 percent of the amount of the installed purchase price. See rule 701—32.3(423).

ITEM 5. Amend rule **701—33.10(423)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~423.1, 423.2, 423.4, 423.6, and 423.7~~ section 423.6 as amended by ~~1999~~ 2008 Iowa Acts, ~~chapter 188~~ House File 2700, section 64.

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REVENUE DEPARTMENT[701]

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 chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 86, “Inheritance Tax,” Iowa Administrative Code.

The proposed amendments create new subrule 86.5(14) in order to implement 2008 Iowa Acts, House File 2673, section 2, and revise the implementation sentence of rule 701—86.5(450). Subrule 86.5(14) explains the exemption from inheritance tax for the value of any interest in a qualified school tuition plan as defined in Section 529 of the Internal Revenue Code.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that the proposed amendments will not have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 8, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on the proposed amendments on or before November 25, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

REVENUE DEPARTMENT[701](cont'd)

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by November 26, 2008.

These amendments are intended to implement Iowa Code Supplement section 450.4 as amended by 2008 Iowa Acts, House File 2673.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 86.5(14):

86.5(14) *Qualified tuition plans exempt.* Effective for estates of decedents dying on or after July 1, 2008, in the event that the decedent was the sole plan participant in a qualified school tuition plan, as defined in Section 529 of the Internal Revenue Code; or in the event that a named co-plan participant does not have a lineal relationship to the named beneficiary of the qualified tuition plan, the value of the decedent's interest in the qualified tuition plan is not subject to Iowa inheritance tax and therefore is not includable in the decedent's gross estate for tax purposes. This provision applies only to qualified tuition plans in existence on or after July 1, 1998.

ITEM 2. Amend rule **701—86.5(450)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.7(4), 450.2, 450.3 ~~as amended by 2003 Iowa Acts, chapter 95, section 3~~, 450.4(5), 450.8, 450.12, 450.37, 450.91, 633.699 and 633.703A and Iowa Code Supplement section 450.4 as amended by 2008 Iowa Acts, House File 2673, section 2.

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REVENUE DEPARTMENT[701]

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 chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 86, "Inheritance Tax," and Chapter 87, "Estate Tax," Iowa Administrative Code.

The proposed amendments are as follows:

- Item 1 amends Chapter 86 to create new rule 701—86.15(450).
- Item 2 renumbers subrules 87.1(1) and 87.1(2) as 87.1(2) and 87.1(3).
- Item 3 creates new subrule 87.1(1).
- Item 4 amends rule 701—87.6(451) to revise applicability dates.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2350, section 37, which repeals Iowa Code chapter 451, Iowa Estate Tax.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments will not have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 8, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules

REVENUE DEPARTMENT[701](cont'd)

Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before November 25, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by November 26, 2008.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2350, section 37.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 701—86.15(450):

701—86.15(450) Applicability. Any references made within Chapter 86 of these rules to Iowa Code chapter 451, Iowa Estate Tax; and to Chapter 87 of these rules, Iowa Estate Tax; are applicable only for deaths that occurred prior to July 1, 2008.

This rule is intended to implement 2008 Iowa Acts, Senate File 2350, section 37.

ITEM 2. Renumber subrules **87.1(1)** and **87.1(2)** as **87.1(2)** and **87.1(3)**.

ITEM 3. Adopt the following **new** subrule 87.1(1):

87.1(1) Applicability. This chapter is applicable only for dates of death occurring prior to July 1, 2008.

ITEM 4. Amend rule 701—87.6(451) as follows:

701—87.6(451) Applicable rules. Unless otherwise provided in this chapter, the rules found in 701—Chapter 86 apply to the administration of estate tax including, but not limited to, rules regarding statutes of limitations provided, however, that the estate tax is applicable only to deaths occurring prior to July 1, 2008.

This rule is intended to implement Iowa Code chapter 17A, ~~and sections~~ section 450.94 ~~and 451.12~~ and 2008 Iowa Acts, Senate File 2350, section 37.

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REVENUE DEPARTMENT[701]

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 chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to adopt new Chapter 153, "License Sanctions for Collection of Debts Owed the State of Iowa or a State Agency," Iowa Administrative Code.

This amendment is proposed as a result of 2008 Iowa Acts, Senate File 2428, sections 7 through 15.

The amendment adopts new Chapter 153 to describe the Department of Revenue's Centralized Collection Unit's role in processing professional license sanctions for collection of debt owed to the state of Iowa or to a state agency.

The proposed amendment may necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

REVENUE DEPARTMENT[701](cont'd)

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 8, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before November 25, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by November 26, 2008.

This amendment is intended to implement 2008 Iowa Acts, Senate File 2428, sections 7 to 15.

The following amendment is proposed.

Adopt the following **new** 701—Chapter 153:

CHAPTER 153
LICENSE SANCTIONS FOR COLLECTION OF DEBTS OWED
THE STATE OF IOWA OR A STATE AGENCY

701—153.1(272D) Definitions. For purposes of this chapter, the following definitions shall govern:

“Certificate of noncompliance” means a document provided by the unit certifying that the named person has outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

“Liability” means a debt or obligation placed with the unit for collection that is greater than \$1,000. For purposes of this chapter, “liability” does not include child support payments collected pursuant to Iowa Code chapter 252J.

“License” means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to a person by a licensing authority which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, industry, or recreation. “License” includes licenses for hunting and fishing or for other recreational activity.

“Licensee” means a person to whom a license has been issued, or who is seeking the issuance of a license.

“Licensing authority” means the supreme court, or an instrumentality, agency, board, commission, department, officer, organization, or any other entity of the state, which has authority within this state to suspend or revoke a license or to deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, profession, recreation, or industry.

“Obligor” means a person with a liability placed with the unit.

“Person” means a licensee.

“Unit” means the centralized collection unit of the department of revenue.

“Withdrawal of a certificate of noncompliance” means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of the person’s license.

REVENUE DEPARTMENT[701](cont'd)

701—153.2(272D) Purpose and use. The unit may use license sanctions as a process to help collect liabilities placed with the unit except for child support cases.

701—153.3(272D) Challenge to issuance of certificate of noncompliance. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to Iowa Code chapter 17A, and any resulting court hearing shall be an original hearing before the district court.

701—153.4(272D) Use of information. Information obtained by the unit and the licensing authority under this chapter shall be used solely for the purposes of this chapter. Information may be exchanged between the unit and the licensing authority.

701—153.5(272D) Notice to person of potential sanction of license. Before issuing a certificate of noncompliance, the unit must send a notice to the person by regular mail to the person's last-known address. The notice must include all of the following:

1. The address and telephone number of the unit and the person's unit account number.
2. A statement that the person may request a conference with the unit to contest the action.
3. A statement that if the person fails to contact the unit to schedule a conference within 20 days of the notice's mailing, the unit shall issue a certificate of noncompliance bearing the person's name, social security number, and unit account number to any appropriate licensing authority, certifying that the obligor has an outstanding liability placed with the unit.
4. A statement that in order to stay the issuance of a certificate of noncompliance, the unit must receive a written request for conference within 20 days of the notice's mailing to the person.
5. The names of the licensing authorities to which the unit intends to issue a certificate of noncompliance.
6. A statement that if the unit issues a certificate of noncompliance to an appropriate licensing authority, the licensing authority shall initiate proceedings to refuse to issue or renew, or to suspend or revoke the person's license, unless the unit provides the licensing authority with a withdrawal of a certificate of noncompliance.

701—153.6(272D) Conference. The person may request a conference with the unit to challenge the unit's issuance of a certificate of noncompliance following the mailing of the notice of potential license sanction or at any time after a licensing authority serves notice of suspension, revocation, denial of issuance, or nonrenewal of a license. The request for a conference shall be made in writing to the unit. If the conference is requested pursuant to and after the unit's mailing of a notice of potential license sanction under rule 701—153.5(272D), the request must be received by the unit within 20 days following the mailing or service of that notice.

153.6(1) Notification. The unit shall notify the person of the date, time, and location of the conference by regular mail, with the date of the conference to be no earlier than 10 days following the unit's issuance of the notice of the conference. If the person fails to appear at the conference, the unit shall issue a certificate of noncompliance.

153.6(2) Location. The conference may be conducted by telephone or in person at the location of the unit.

701—153.7(272D) Issuance of certificate of noncompliance. If the person fails to appear at the conference, the unit shall issue a certificate of noncompliance. If the person does not timely request a conference or pay the amount of liability owed within 20 days of the notice's mailing, the unit shall issue a certificate of noncompliance. However, the unit will not issue a certificate of noncompliance if:

1. The unit finds a mistake in the identity of the person;
2. The unit finds a mistake in determining the amount of the liability;
3. The unit determines the amount of the liability is less than \$1,000;
4. The obligor pays the amount due or enters into an acceptable payment plan;
5. The obligor is in bankruptcy; or

REVENUE DEPARTMENT[701](cont'd)

6. The unit finds additional time is required for the person to comply.

701—153.8(272D) Stay of certificate of noncompliance. The unit shall grant the person a stay of the issuance of a certificate of noncompliance upon receiving a timely written request for a conference.

701—153.9(272D) Written agreements. The obligor and the unit may enter into a written agreement for payment of the liability owed.

153.9(1) Criteria for written agreement. The written agreement shall take into consideration and include all of the following:

- a. Obligor's ability to pay.
- b. A statement that the obligor will not incur additional liabilities of any amount during the term of the payment plan.
- c. The method, amount, and dates of payments by the obligor.
- d. A statement that upon breach of the written agreement by the obligor, the unit shall issue a certificate of noncompliance to any appropriate licensing authority.

153.9(2) Other remedies. A written agreement entered into pursuant to this rule does not preclude any other remedy provided by law.

701—153.10(272D) Decision of the unit.

153.10(1) If the unit mails a notice to a person and the person requests a conference, the unit shall issue a written decision if any of the following conditions exist:

- a. The person fails to appear at a scheduled conference.
- b. A conference is held and the unit makes a decision based upon that conference.
- c. The obligor fails to comply with a written agreement entered into by the obligor and the unit.

153.10(2) Mailing of decision. The unit shall send a copy of the written decision to the person by regular mail at the person's most recent address of record. If the decision is made to issue a certificate of noncompliance or to withdraw the certificate of noncompliance, a copy of the certificate of noncompliance or of the withdrawal of the certificate of noncompliance shall be attached to the written decision.

153.10(3) Contents of decision. The written decision shall state all of the following:

- a. That the certificate of noncompliance or withdrawal of the certificate of noncompliance has been mailed to the licensing authorities named in the notice provided by the unit.
- b. That upon receipt of a certificate of noncompliance, the licensing authority shall initiate proceedings to suspend, revoke, deny issuance, or deny renewal of a license, unless the licensing authority receives a withdrawal of a certificate of noncompliance from the unit.
- c. That in order to obtain a withdrawal of a certificate of noncompliance from the unit, the obligor shall enter into a written agreement with the unit, comply with an existing written agreement with the unit, or pay the total amount of liability owed.
- d. That if the unit issues a written decision which includes a certificate of noncompliance, the person may request a hearing before the district court. The person may retain an attorney at the person's own expense to represent the person at the hearing. The district court's review shall be limited to mistakes of fact surrounding the amount of the liability owed or the identity of the person.

701—153.11(272D) Withdrawal of certificate of noncompliance. Once it has issued a certificate of noncompliance, the unit shall issue a withdrawal of the certificate of noncompliance only if any of the following applies:

1. The unit or the court finds a mistake in the identity of the person;
2. The unit or the court finds a mistake in the amount owed;
3. The obligor enters into a written agreement with the unit to pay the liability owed, the obligor complies with an existing written agreement, or the obligor pays the total amount of liability owed; or
4. The unit finds that a hardship exists, such as catastrophic illness or state or federally declared disasters.

REVENUE DEPARTMENT[701](cont'd)

701—153.12(272D) Certificate of noncompliance to licensing authority.

153.12(1) The unit shall issue a certificate of noncompliance to any appropriate licensing authority. The certificate of noncompliance shall contain the person's name and social security number and shall request that the licensing authority do the following:

- a. Initiate its procedures to revoke or suspend the person's license or to deny the issuance or renewal of a license; and
- b. Provide to the person notice of intent to suspend, revoke, deny issuance, or deny renewal of a license, including the effective date of the action.

153.12(2) The suspension, revocation, or denial shall be effective no sooner than 30 days following provision of notice to the person.

701—153.13(272D) Requirements of the licensing authority.

153.13(1) Records. A licensing authority shall collect and maintain records of its licensees. The records shall be made available to the unit so that the unit may match to the records the names of persons with any liabilities placed with the unit for collections. The records must be submitted in an electronic format and updated on a periodic basis and must include, at a minimum, the following:

- a. The licensee's first and last names.
- b. The licensee's current known address.
- c. The licensee's social security number.

153.13(2) Certificate of noncompliance. Upon receipt of a certificate of noncompliance, a licensing authority shall initiate its existing rules and procedures for the suspension, revocation, or denial of issuance or renewal of a license to a person.

153.13(3) Notice. The licensing authority shall provide to a person notice of intent to suspend, revoke, or deny issuance or renewal of a license under the provisions of 2008 Iowa Acts, Senate File 2428, sections 7 to 15. The notice shall be effective 30 days following the provision of notice to the person and shall state at a minimum all of the following:

- a. That the licensing authority has received a certificate of noncompliance from the unit and intends to suspend, revoke, or deny issuance or renewal of the person's license;
- b. That the person must contact the unit to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance;
- c. That the licensing authority will revoke, suspend or deny the person's license unless a withdrawal of certificate of noncompliance is received from the unit within 30 days from the date of the notice;
- d. That in the event the licensing authority's rules and procedures conflict with the additional rules and procedures under this chapter, the rules and procedures of this chapter shall apply;
- e. That mistakes of fact in the amount of the liability owed and the person's identity may not be contested to the licensing authority; and
- f. That the person may request a district court hearing as outlined in subrule 153.10(3) "d."

153.13(4) Withdrawal. Upon receipt of a withdrawal of a certificate of noncompliance from the unit, the licensing authority shall immediately reinstate, renew, or issue a license if the person is otherwise in compliance with the licensing authority's requirements.

701—153.14(272D) District court hearing. For purposes of this rule, "notice of intent" means a licensing agency's notice to a person of its intent to suspend, revoke, or deny renewal or issuance of a license under the provisions of 2008 Iowa Acts, Senate File 2428, sections 7 to 15.

153.14(1) Actions that may be reviewed. A person may file an application for review with the district court following:

- a. The issuance of a written decision and certificate of noncompliance by the unit; or
- b. The provision of a notice of intent by a licensing authority.

153.14(2) Application. A person may seek review of the actions listed in subrule 153.14(1) and request a hearing before the district court by filing an application with the district court in the county in which the majority of the liability was incurred. The person must send a copy of the application to the

REVENUE DEPARTMENT[701](cont'd)

unit by regular mail. The application must be filed no later than 30 days after the unit issues a written decision and certificate of noncompliance or the licensing authority issues its notice of intent.

153.14(3) Stay. The filing of an application for review and hearing before the district court will automatically stay any action by the licensing authority as outlined in the licensing authority's notice of intent.

153.14(4) Scheduling. The clerk of the district court shall schedule a hearing and mail a copy of the scheduling order to the person, the unit, and the licensing authority.

153.14(5) Certification prior to hearing. Upon receipt from the clerk of court of a copy of a scheduling order and prior to the hearing, the unit shall certify to the court a copy of its written decision and certificate of noncompliance indicating the date of issuance, and the licensing authority shall certify to the court a copy of its notice of intent.

153.14(6) Hearing. The hearing on the person's application shall be scheduled and held within 30 days of the application's being filed. However, if the person fails to appear at the scheduled hearing, the stay shall be lifted and the licensing authority shall continue its procedures pursuant to its notice of intent.

153.14(7) Scope of review. The district court's review shall be limited to demonstration of the amount of the liability owed or the identity of the person.

153.14(8) Findings. If the court finds the unit was in error either in issuing a certificate of noncompliance or in its failure to issue a withdrawal of certificate of noncompliance, the unit shall issue a withdrawal of certificate of noncompliance to the appropriate licensing authority. If the court finds the unit was justified in issuing a certificate of noncompliance or in not issuing a withdrawal of certificate of noncompliance, a stay imposed under subrule 153.14(3) shall be lifted and the licensing authority shall proceed with action as outlined in its notice of intent.

These rules are intended to implement 2008 Iowa Acts, Senate File 2428, sections 7 to 15.

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:

November 1, 2007 — November 30, 2007	6.50%
December 1, 2007 — December 31, 2007	6.50%
January 1, 2008 — January 31, 2008	6.25%
February 1, 2008 — February 29, 2008	6.00%
March 1, 2008 — March 31, 2008	5.75%
April 1, 2008 — April 30, 2008	5.75%
May 1, 2008 — May 31, 2008	5.50%
June 1, 2008 — June 30, 2008	5.75%
July 1, 2008 — July 31, 2008	6.00%
August 1, 2008 — August 31, 2008	6.00%
September 1, 2008 — September 30, 2008	6.00%
October 1, 2008 — October 31, 2008	6.00%
November 1, 2008 — November 30, 2008	5.75%

ARC 7314B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 23, "Iowa Community Development Block Grant Program," Iowa Administrative Code.

These amendments revise portions of the rules that impact the CDBG Contingency Fund. There are two other recent rule-making actions that impact the CDBG Contingency Fund rules: (1) Final amendments adopted by the Board on September 26, 2008. This rule making was part of the Department's annual update of the CDBG rules. These amendments were Adopted and Filed and published in the Iowa Administrative Bulletin on October 22, 2008, as **ARC 7276B** and will become effective on November 26, 2008. (2) An Adopted and Filed Emergency amendment was adopted by the Board on September 26, 2008, that authorized the transfer of \$5 million of Economic Development Set-Aside (EDSA) funds to the CDBG Contingency Fund for purposes of disaster recovery efforts. That amendment became effective on September 26, 2008. The amendment was published in the Iowa Administrative Bulletin on October 22, 2008, as **ARC 7275B**.

During the publication process for the two rule makings described above, editors in the Administrative Code Office identified other rules that apply to the CDBG Contingency Fund which were not consistent. The changes needed to make the rules consistent went beyond the normal, routine editing process. This new rule making rescinds and replaces subrules 23.4(4) and 23.4(5) with new language. A portion of rule 261—23.10(15) is rescinded and replaced with new language to make all rules governing the CDBG Contingency Fund consistent.

The Iowa Economic Development Board adopted these amendments on October 16, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because these amendments do not alter the substance of prior amendments; they just synchronize the CDBG rules that apply to the contingency fund so that the rules are consistent.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments be made effective upon filing with the Administrative Rules Coordinator on October 16, 2008. These amendments confer a benefit on the public by ensuring that the CDBG rules applicable to the reallocation and use of EDSA funds to the CDBG Contingency Fund for this federal fiscal year are consistent and clear.

These amendments became effective on October 16, 2008.

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

The following amendments are adopted.

ITEM 1. Rescind subrules 23.4(4) and 23.4(5) and adopt the following **new** subrules in lieu thereof:

23.4(4) Job creation, retention and enhancement fund. Twenty percent of the funds shall be reserved for a job creation, retention and enhancement fund to be for workforce development and to expand economic opportunities and job training for LMI persons. Job creation, retention and enhancement funds are awarded through three programs: the economic development set-aside (EDSA), the public facilities set-aside (PFSA), and career link. For CDBG federal program year 2008 only (October 1, 2007, through September 30, 2008), up to \$5 million of funding normally allocated to this job creation, retention and enhancement fund may be allocated by the department to the contingency fund established in subrule 23.4(5). If reallocated, the funds will be used for disaster recovery activities.

23.4(5) Contingency funds. IDED reserves the right to allocate up to 5 percent of the funds for projects that address threats to public health and safety, or for disaster recovery activities, or for sustainable community demonstration projects. No more than \$1 million may be utilized for sustainable community demonstration projects. For CDBG federal program year 2008 only (October 1, 2007, through September 30, 2008), an additional amount of up to \$5 million of funding normally allocated

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

to the job creation, retention and enhancement fund in subrule 23.4(4) may instead be allocated by the department to this contingency fund, and used for disaster recovery activities.

ITEM 2. Rescind the introductory paragraph in rule 261—23.10(15) and adopt the following **new** introductory paragraph in lieu thereof:

261—23.10(15) Requirements for the contingency fund. The contingency fund is reserved for communities experiencing a threat to public health, safety or welfare that necessitates immediate corrective action sooner than can be accomplished through normal community development block grant procedures, or for disaster recovery activities, or for communities developing a sustainable community demonstration project.

[Filed Emergency 10/16/08, effective 10/16/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7316B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 68, "High Quality Job Creation (HQJC) Program," Chapter 174, "Wage, Benefit, and Investment Requirements," and Chapter 175, "Application Review and Approval Procedures," Iowa Administrative Code.

These amendments update the rules that govern requests for wage waivers under the HQJC program, the IVF(2005) funding source, and the CEBA program. The amendments allow an applicant, under certain limited conditions, to request that the Iowa Economic Development Board waive wage and nonstatutory CEBA program requirements for businesses that have sustained substantial physical damage as a result of a natural disaster in a presidentially declared disaster area. The amendments update the HQJC program rules by rescinding references to the Board's ability to waive other eligibility requirements because the statutory section that authorized the waiver of other eligibility requirements, Iowa Code section 15.337, has been repealed.

The Iowa Economic Development Board adopted these amendments on October 16, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because there is an immediate need to have procedures in effect for processing waiver requests from businesses that are located in presidentially declared disaster areas and suffered substantial physical damage due to flooding or tornadoes.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and the amendments be made effective upon filing with the Administrative Rules Coordinator on October 16, 2008. These amendments confer a benefit on the public by ensuring that any business that wants to resume operations in a presidentially declared disaster area will be able to request a waiver of program requirements that are preventing the business from receiving needed assistance and resuming operations.

These amendments are also published herein under Notice of Intended Action as **ARC 7315B** to allow for public comment.

These amendments became effective on October 16, 2008.

These amendments are intended to implement Iowa Code chapters 15, 15E and 15G.

The following amendments are adopted.

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

ITEM 1. Amend subrule 68.2(6) as follows:

68.2(6) *Waiver of eligibility requirements average county wage calculations.* ~~The department may waive any of the requirements listed above when good cause is shown. A community may apply to the board for a project-specific waiver from the average county wage calculations as authorized by Iowa Code section 15.335A(3).~~ The waiver process is described in 261—Chapter 174 175.

ITEM 2. Amend subparagraph 68.4(7)“a”(1) as follows:

(1) No high quality jobs are created but economic activity is furthered by the qualifying investment. For purposes of this subparagraph, “economic activity” means a modernization project which will result in increased skills and wages for the current employees ~~or~~ a project involving retained jobs; or a project that involves a waiver, granted by the board pursuant to rule 261—175.1(15), of the average county wage calculation if the reason for the waiver is that damages were sustained as a result of a natural disaster in a presidentially declared disaster area.

1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 1 percent.
2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 1 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
3. \$500,000 or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 1 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.

ITEM 3. Rescind and reserve rule 261—174.4(15).

ITEM 4. Adopt the following **new** rule 261—175.4(15):

261—175.4(15) Procedures for waiver of wage and other program requirements.

175.4(1) *General information.* Within the parameters described in this rule, the board may, for good cause shown, waive qualifying wage requirements and some nonstatutory CEBA program requirements. Iowa Code section 15G.112 permits applicants to apply to the board for a waiver of the IVF (2005) qualifying wage requirement (130 percent of the average county wage). Iowa Code section 15.335A(3) allows a community to apply to the board for a project-specific waiver from the average county wage calculations provided in the HQJC program in order for an eligible business to receive tax incentives. This rule also establishes a process for applicants to apply for a waiver of certain nonstatutory program requirements that the department has established by rule for the CEBA program. The waiver of CEBA nonstatutory program requirements is available only if the funding for the CEBA project is from program funds (“old money”). The meaning of “program funds (‘old money’)” is as described in subrule 175.2(3).

175.4(2) *Definition of “good cause.”* For purposes of this rule, “good cause” can include, but is not limited to, documentation of any of the following:

a. Economic distress. An applicant can establish good cause by demonstrating that the proposed project is located or plans to locate in an area that has experienced economic distress. Data that can be used to establish economic distress may be based on a combination of factors including, but not limited to:

- (1) A county family poverty rate significantly higher than the state average.
- (2) A county unemployment rate significantly higher than the state average.
- (3) A unique opportunity to use existing unutilized facilities in the community.
- (4) A significant downsizing or closure by one of the community’s major employers.
- (5) An immediate threat posed to the community’s workforce due to the downsizing or closure of a business.

b. Targeted industry project. An applicant can establish good cause by demonstrating that the proposed project meets all of the following criteria:

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

(1) The business is in one of the state's targeted industry clusters: life sciences, information solutions, and advanced manufacturing.

(2) All jobs created as a result of the project have a qualifying wage, not including benefits, equal to or greater than 100 percent of the average county wage.

(3) The business is headquartered in Iowa or, as a result of the proposed project, will be headquartered in Iowa. In lieu of the business's being headquartered in Iowa, the proposed project has unique aspects which will assist the department in meeting one or more of its strategic objectives.

c. Natural disaster—limited to presidentially declared disaster areas. An applicant can establish good cause by demonstrating that the proposed project is located or plans to locate in a presidentially declared disaster area. To qualify for a waiver on the basis of a natural disaster in a presidentially declared disaster area, an applicant shall meet all of the following criteria:

(1) The business must be located in a presidentially declared disaster area.

(2) The business must apply for a waiver within 12 months of the date of the presidential disaster declaration.

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

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

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

175.4(3) Request to waive HQJC average county wage calculation.

a. Iowa Code section 15.335A(3) authorizes a community to request a project-specific waiver from the average county wage calculations in order for an eligible business to receive tax incentives.

b. Upon a showing of good cause as defined in subrule 175.4(2), the board may grant a project-specific waiver from the average county wage calculations for the remainder of the calendar year based on average county or regional wage calculations brought forth by the applicant county including, but not limited to, any of the following:

(1) The average county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

(2) The average regional wage calculated without wage data from up to two adjacent counties.

(3) The average county wage calculated without wage data from the largest city in the county.

(4) A qualifying wage guideline for a specific project based upon unusual economic circumstances present in the city or county.

(5) The annualized, average hourly wage paid by all businesses in the county located outside the largest city of the county.

(6) The annualized, average hourly wage paid by all businesses other than the largest employer in the entire county.

175.4(4) Request to waive IVF (2005) qualifying wage requirement.

a. Iowa Code section 15G.112 allows applicants to apply to the board for a waiver of the IVF(2005) qualifying wage requirement.

b. Upon a showing of good cause as defined in subrule 175.4(2), the board may grant a project-specific waiver of the IVF (2005) qualifying wage requirement. The board may grant a waiver from the average county wage calculations based on average county or regional wage calculations brought forth by the applicant including, but not limited to, any of the following:

(1) The average county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

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

- (2) The average regional wage calculated without wage data from up to two adjacent counties.
- (3) The average county wage calculated without wage data from the largest city in the county.
- (4) A qualifying wage guideline for a specific project based upon unusual economic circumstances present in the city or county.
- (5) The annualized, average hourly wage paid by all businesses in the county located outside the largest city of the county.
- (6) The annualized, average hourly wage paid by all businesses other than the largest employer in the entire county.

c. The board will give extra consideration to wage waiver requests when the request is for a VAAPFAP project or for a project located in an economic enterprise area. "Economic enterprise area" means an area that shall consist of at least one county containing no city with a population of more than 23,500 and that shall meet at least three of the following criteria:

- (1) A per-capita income of 80 percent or less than the national average.
- (2) A household median income of 80 percent or less than the national average.
- (3) Twenty-five percent or more of the population of the economic enterprise area with an income level of 150 percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the U.S. Department of Health and Human Services.
- (4) A population density in the economic enterprise area of less than ten people per square mile.
- (5) A loss of population as shown by the 2000 certified federal census when compared with the 1990 certified federal census.
- (6) An unemployment rate greater than the national rate of unemployment.
- (7) More than 20 percent of the population of the economic enterprise area consists of people over the age of 65.

175.4(5) *Request to waive CEBA requirements for CEBA projects funded with program funds ("old money").*

a. CEBA projects may be funded by program funds ("old money"), IVF(FES) or IVF (2005). The definitions of IVF(FES) and IVF (2005) are located in 261—Chapter 173, "Standard Definitions." The meaning of "program funds ("old money")" is found in subrule 175.2(3).

b. The waiver provisions described in this rule are available only to CEBA projects funded with program funds ("old money").

c. An applicant may apply to the board to waive the CEBA qualifying wage requirement or any other nonstatutory program requirement that the department has established by rule for the CEBA program.

d. Upon a showing of good cause as defined in subrule 175.4(2), the board may grant a project-specific waiver of the CEBA qualifying wage requirement or any other nonstatutory program requirement established by IDED by rule. Examples of nonstatutory CEBA program requirements include requirements governing local match, the limitation on funding projects that have started (project initiation), and the \$500,000 limitation for forgivable loan awards.

175.4(6) *Waiver procedures and board action.*

a. Waiver requests shall be submitted in writing to the department when the business's application is submitted. The request shall include documentation of good cause as defined in subrule 175.4(2).

b. Waiver requests shall include all necessary documentation, including documentation from other sources confirming any statistical data cited in the request.

c. Waiver requests will be reviewed as part of the application review process and acted upon by the board. If a request for a waiver is approved, the board will proceed with a final decision on the application.

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

d. The board may approve, deny, or defer action on waiver requests. The board reserves the right to condition its approval upon terms and conditions the board deems appropriate for the specific project.

[Filed Emergency 10/16/08, effective 10/16/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7295B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 239B.4(6) and 249A.4, the Department of Human Services amends Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," Chapter 43, "Alternate Payees," Chapter 45, "Payment," Chapter 46, "Overpayment Recovery," Chapter 75, "Conditions of Eligibility," and Chapter 76, "Application and Investigation," Iowa Administrative Code.

These amendments:

- Specify that for Medicaid and the Family Investment Program (FIP), when both parents or a parent and a stepparent are in the home, either one may sign the application, the review forms, and the statement of citizenship form and attest to the information for the entire household. Currently, both are required to sign.
- Remove the requirement that the Medicaid or FIP applicant or participant sign Form 470-0169, Requirements of Support Enforcement. Because this is not an eligibility requirement and there has been no penalty for failing to sign the form, the requirement is unnecessary.
- Remove obsolete retrospective budgeting terms.
- Change the terms "county office" and "local office" to "department" or "income maintenance unit" to coordinate with implementation of the Income Maintenance Customer Call Center.
- Change the term "Medicaid recipient" to "Medicaid member" to reflect the philosophy of the Iowa Medicaid Enterprise.

These changes eliminate unnecessary paperwork and reduce delays in determining eligibility for Medicaid and FIP. They also align procedures across programs, as Food Assistance already allows one adult to sign forms and attest to information for the entire household. Requiring two signatures is unnecessary and is impracticable for applications completed and submitted electronically.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 27, 2008, as **ARC 7110B**. The Department received no comments on the Notice of Intended Action.

The Department has made several changes to the amendments as published under Notice of Intended Action.

- All proposed amendments striking references to the Combined PAER/FAIR form have been removed, because the data processing system changes to implement that change have been delayed. This change affects paragraph 40.22(5)"c," subrule 40.24(3), subrule 40.27(1), introductory paragraph and paragraph "b," subrule 40.27(3), paragraph 40.27(4)"b," subparagraph 41.27(9)"b"(1), and the definition of "procedural error" in rule 441—46.21(239B). Those amendments have been added to **ARC 7267B**, a Notice of Intended Action which was published on October 8, 2008.
- Subparagraph 41.27(9)"b"(2) is amended to change a reference to "the local office" to "the department."

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

The Council on Human Services adopted these amendments on October 8, 2008.

The Department finds that these amendments confer a benefit on FIP participants by reducing paperwork, confusion about reporting requirements, and delays in determining continuing eligibility.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code chapters 239B and 249A.

These amendments became effective on November 1, 2008.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to chs 40, 41, 43, 45, 46, 75, 76] is being omitted. Except for the changes noted above, these amendments are identical to those published under Notice as **ARC 7110B**, IAB 8/27/08.

[Filed Emergency After Notice 10/14/08, effective 11/1/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7298B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

These amendments provide for “continuous eligibility” for children under the age of 19 who are eligible for Medicaid under certain coverage groups. Once a child is determined eligible for Medicaid under one of these groups, the child’s eligibility continues for up to 12 months without regard to changes in family circumstances that make the rest of the household ineligible for Medicaid. This strategy is intended to promote continuity of health care coverage for children. Studies show that children with gaps in health care coverage have less access to services than do those with continuous coverage.

These amendments were previously Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6884B**. As originally adopted, the coverage extended only to children determined eligible under the Family Medical Assistance Program (FMAP), the Child Medical Assistance Program (CMAP), or the Mothers and Children (MAC) Program, as directed by 2008 Iowa Acts, House File 2539, section 3. Notice of Intended Action to solicit comments on that filing was published in the Iowa Administrative Bulletin on the same date as **ARC 6886B**.

The Department received no comments on the Notice of Intended Action. However, in the meantime, the Department submitted a Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services for approval. The response indicated that federal Medicaid statutes and regulations on continuous eligibility do not permit states to exclude any eligibility groups except newborns and children eligible as medically needy, and that the policy may not be applied only to changes in income.

Therefore, this policy has been rewritten to remove the limitation to FMAP, CMAP, and MAC coverage groups and to changes in income and family composition. Coverage will extend until the household’s annual eligibility review (up to 12 months from the beginning date) and will be terminated before then only if the child dies or moves out of Iowa. Since the policy is now a general requirement rather than an FMAP-related one, previously adopted subrule 75.54(4) in Division II of the chapter is rescinded and is replaced with new rule 441—75.19(249A) in Division I.

The extension of coverage for children in SSI-related groups is not expected to have a significant impact on the cost of implementing this policy, since children who are disabled rarely have earned income and are often eligible in their own right without reference to their family circumstances.

These amendments do not provide for waivers in specified situations because continued coverage is a benefit to the children affected. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments October 8, 2008.

The Department finds that these amendments confer a benefit on children eligible for Medicaid by extending eligibility without regard to most family circumstances. Therefore, these amendments are

HUMAN SERVICES DEPARTMENT[441](cont'd)

filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code Supplement section 249A.3 as amended by 2008 Iowa Acts, House File 2539.

These amendments became effective November 1, 2008.

The following amendments are adopted.

ITEM 1. Adopt the following **new** rule 441—75.19(249A):

441—75.19(249A) Continuous eligibility for children. A child under the age of 19 who is determined eligible for ongoing Medicaid shall retain that eligibility for up to 12 months regardless of changes in family circumstances except as described in this rule.

75.19(1) Exceptions to coverage. This rule does not apply to the following children:

a. Children whose eligibility was determined under the newborn coverage group described at subrule 75.1(20).

b. Children whose eligibility was determined under the medically needy coverage group described at subrule 75.1(35).

c. Children whose medical assistance is state-funded only.

75.19(2) Duration of coverage. Coverage under this rule shall extend through the earliest of the following months:

a. The month of the household’s annual eligibility review;

b. The month when the child reaches the age of 19; or

c. The month when the child moves out of Iowa.

75.19(3) Assignment of review date. Children entering an existing Medicaid household shall be assigned the same annual eligibility review date as that established for the household.

This rule is intended to implement Iowa Code Supplement section 249A.3 as amended by 2008 Iowa Acts, House File 2539.

ITEM 2. Rescind and reserve subrule **75.54(4)**.

[Filed Emergency After Notice 10/14/08, effective 11/1/08]

[Published 11/5/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7300B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4(9), the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

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

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 16, 2008, as **ARC 6929B**. The Department received one comment on the Notice of Intended Action, which noted that the legislation specifies that an LISW must hold a master’s degree.

To address this concern, the Department has modified subrule 77.26(3) to add the requirement that an LISW must hold a master’s or doctoral degree as approved by the Board of Social Work. The Department has also changed the reference to the licensing category cited in subrule 77.26(2) to read “an independent

HUMAN SERVICES DEPARTMENT[441](cont'd)

social worker” instead of “an independently practicing social worker” to conform to the term used in 645—Chapter 280. Additionally, the implementation sentence for rule 441—77.26(249A) has been modified since the Notice to include a reference to 2008 Iowa Acts, Senate File 2425, section 123.

These amendments do not provide for waivers in specified situations because the Department holds that all providers should be subject to the same standards. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on October 8, 2008.

The Department finds that these amendments confer a benefit on therapists and social workers and on Medicaid members in need of their services by providing Medicaid coverage for those services. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code chapter 249A as amended by 2008 Iowa Acts, Senate File 2425, section 123.

These amendments shall become effective on December 1, 2008.

The following amendments are adopted.

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

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

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

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

77.26(3) Licensed master social workers (LMSW).

a. A person licensed by the board of social work as a master social worker pursuant to 645—Chapter 280 is eligible to participate when the person:

- (1) Holds a master’s or doctoral degree as approved by the board of social work; and
- (2) Provides treatment under the supervision of an independent social worker licensed pursuant to 645—Chapter 280.

b. A master social worker in another state is eligible to participate when the person:

- (1) Is duly licensed to practice in that state; and
- (2) Provides treatment under the supervision of an independent social worker duly licensed in that state.

This rule is intended to implement Iowa Code chapter 249A as amended by 2008 Iowa Acts, Senate File 2425, section 123.

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

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

78.29(1) Limitations.

a. An assessment and a treatment plan are required.

b. Services provided by a licensed master social worker must be provided under the supervision of an independent social worker qualified to participate in the Medicaid program.

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

a. Services provided in a medical institution.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. Services performed without relationship to a specific condition, risk factor, symptom, or complaint.

c. Services provided for nonspecific conditions of distress such as job dissatisfaction or general unhappiness.

d. Sensitivity training, marriage enrichment, assertiveness training, and growth groups or marathons.

78.29(3) Payment.

a. Payment shall be made only for time spent in face-to-face consultation with the member.

b. A unit of service is 15 minutes. Time spent with members shall be rounded to the quarter hour, where applicable.

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

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

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

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

(39) Behavioral health services:

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

[Filed Emergency After Notice 10/14/08, effective 12/1/08]

[Published 11/5/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7293B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 16.52 and 17A.3(1)“b” and Iowa Code Supplement section 16.5(1)“r,” the Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

The purpose of this amendment is to implement Iowa Code Supplement section 16.5(1)“r,” Iowa Code section 16.52, and the Heartland Disaster Tax Relief Act of 2008, and to facilitate disaster relief to areas of the state damaged by natural disasters in 2008.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers at 265—Chapter 18.

The Authority finds, pursuant to Iowa Code section 17A.4(2), that notice and public participation are impracticable and contrary to the public interest in that the Heartland Disaster Tax Relief Act of 2008 was signed into law on October 3, 2008, and the normal notice and public participation process would delay implementation of aspects of the Heartland Disaster Tax Relief Act of 2008.

The Authority also finds that adoption of this amendment confers a benefit on developers and prospective tenants of low-income housing, in that the amendment eases the administration of an important program that facilitates the development of decent, affordable housing. The Authority finds that this amendment should be implemented as soon as feasible in order to implement the beneficial aspects of the Heartland Disaster Tax Relief Act of 2008, to provide housing assistance to areas affected by natural disasters as quickly as possible, and to avoid the expiration of 2008 tax credits made available

IOWA FINANCE AUTHORITY[265](cont'd)

under the Heartland Disaster Tax Relief Act of 2008. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 7294B** to allow for public comment.

The Authority adopted this amendment on October 14, 2008.

This amendment became effective October 14, 2008.

This amendment is intended to implement Iowa Code Supplement section 16.5(1)“r,” Iowa Code section 16.52, and the Heartland Disaster Tax Relief Act of 2008.

The following amendment is adopted.

Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 2009 ~~First~~ Second Amended Qualified Allocation Plan shall be the qualified allocation plan for the allocation of 2009 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The qualified allocation plan does not include any amendments or editions created subsequent to September 3, 2008.

[Filed Emergency 10/14/08, effective 10/14/08]

[Published 11/5/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7292B**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 8.6 as amended by 2008 Iowa Acts, Senate File 2400, section 29, the Department of Administrative Services hereby rescinds Chapter 10, "Customer Councils," Iowa Administrative Code.

The rescission reflects a change in statutory provisions that establish, by rule, a customer council to oversee departmental operations. Most notably, the customer council will now be established by the Department of Management, which has adopted rules herein (**ARC 7313B**) pertaining to the establishment and functions of the customer council.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on August 13, 2008, as **ARC 7064B**. No public comments were received during the public comment period, which ended September 2, 2008. This amendment is identical to the one published under Notice.

This amendment is intended to implement Iowa Code Supplement section 8.6 as amended by 2008 Iowa Acts, Senate File 2400, sections 29 and 36.

This amendment will become effective December 10, 2008.

The following amendment is adopted.

Rescind and reserve **11—Chapter 10**.

[Filed 10/12/08, effective 12/10/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7290B**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 8A.201 and 8A.204, the Department of Administrative Services hereby amends Chapter 20, "Information Technology Governance," Iowa Administrative Code.

The amendments align the rules with recent changes to the Code of Iowa, including provisions that allow the Technology Governance Board to elect a chairperson and vice chairperson on an annual basis, and detail an audit process by which the Board can review fees previously approved and make recommendations to the IOWAccess Advisory Council pursuant to Iowa Code section 8A.204.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 6982B**. No public comments were received during the public comment period, which ended August 19, 2008. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code sections 8A.201 and 8A.204.

These amendments will become effective December 10, 2008.

The following amendments are adopted.

ITEM 1. Amend rule 11—20.5(81GA,ch90) as follows:

11—20.5(81GA,ch90 8A) Officers of the board.

~~20.5(1) The director shall serve as the permanent chair of the board.~~ technology governance board annually shall elect a chairperson and a vice chairperson from among the members of the board, by majority vote, to serve one-year terms.

~~20.5(2) The technology governance board annually shall elect a vice chair from among the members of the board, by majority vote, to serve a one-year term.~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 2. Amend subrule 20.8(6) as follows:

20.8(6) Fees for electronic access. The board shall review fee proposals for value-added services from state agencies and other governmental entities that have been recommended to the board by the ~~lowAccess~~ IOWAccess advisory council, ~~and shall submit decisions regarding such fees approved by the board to the department of management.~~ The board shall also perform or cause to have performed periodic audits of approved fees. If at any time the findings from an audit cause the board to reconsider its approval of a fee, the board shall within five business days notify the IOWAccess advisory council and the state agency of its reconsideration of the fee and request the agency to resubmit the adjusted fee to the IOWAccess advisory council for the council's recommendation. In establishing ~~and auditing~~ the fees for value-added services, the board shall consider the reasonable ~~cost~~ costs of creating and organizing government information into a gateway for one-stop electronic access to government information and transactions, whether federal, state, or local. The board shall submit decisions regarding fees to the department of management and to the legislative services agency.

[Filed 10/12/08, effective 12/10/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7289B

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services hereby amends Chapter 25, "Information Technology Operational Standards," Iowa Administrative Code.

The amendments align the rules with recent changes to the Code of Iowa, including provisions that exempt certain departments and agencies from participation in the provisions of Iowa Code section 8A.201, and more closely detail the purposes of information technology operational standards.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 6983B**. No public comments were received during the public comment period, which ended August 19, 2008. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code sections 8A.201 and 8A.206.

These amendments will become effective December 10, 2008.

The following amendments are adopted.

ITEM 1. Amend rule ~~11—25.1(8A)~~, definition of "Participating agency," as follows:

"Participating agency" means all executive branch agencies except ~~the following:~~ those listed in Iowa Code section 8A.201(4), or as otherwise provided by law.

~~1. —The state board of regents and institutions operated under the authority of the state board of regents.~~

~~2. —The public broadcasting division of the department of education.~~

~~3. —The state department of transportation mobile radio network.~~

~~4. —The department of public safety law enforcement communications systems and security systems in use for the legislature.~~

~~5. —The Iowa telecommunications and technology commission, established in Iowa Code chapter 8D, with respect to information technology that is unique to the Iowa communications network.~~

~~6. —The Iowa lottery authority.~~

~~7. —A judicial district department of correctional services established pursuant to Iowa Code section 905.2.~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 2. Amend subrule 25.5(5) as follows:

25.5(5) Goals for information technology standards. The underlying purpose of operational standards involving information technology shall be one or more of the following:

- a. To promote consistency in the automation of ~~the state's common infrastructure~~ systems;
- b. To eliminate duplicative development efforts ~~by multiple state government entities~~;
- c. To ensure continuity of ongoing state operations;
- d. To promote administrative efficiencies relating to development and maintenance of ~~common data systems~~; and
- e. To enable the state to realize its full purchasing power from the use of a statewide, enterprise approach to the selection of technology solutions; and
- f. To enhance security of systems and protection of personal information.

[Filed 10/12/08, effective 12/10/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7291B

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services hereby amends Chapter 71, "Combined Charitable Campaign," Iowa Administrative Code.

The amendments delete requirements that are contrary to the provisions of the Iowa civil rights Act (Iowa Code chapter 216) and allow interested charities equal opportunities to participate.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on August 27, 2008, as **ARC 7088B**. No public comments were received during the public comment period, which ended September 16, 2008. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code section 8A.432.

These amendments will become effective December 10, 2008.

The following amendments are adopted.

ITEM 1. Amend paragraph **71.6(1)"f"** as follows:

f. Be providing or supporting services ~~or in the state of Iowa~~ that are readily accessible to residents of the state of Iowa, ~~except that agencies or federations of agencies engaged in any way in sectarian activities, including activities aimed at promoting the adoption or defeat of any one or more religious viewpoints, shall not be eligible to participate.~~

ITEM 2. Amend paragraph **71.6(1)"h"** as follows:

h. Operate without discrimination—~~religious, racial, or otherwise, both in employment and in~~ employment, in accordance with Iowa Code chapter 216, and in the delivery of services, as well as and the distribution of funds.

[Filed 10/12/08, effective 12/10/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7321B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

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

The amendment conforms the rule to current practice by requiring that practitioners who are adding an elementary or early childhood endorsement and have not student taught on the elementary or early childhood level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement. In addition, the amendment adds a secondary methods class to the requirements of practitioners holding the K-8 endorsement in the content area of the 5-12 endorsement area being added.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 16, 2008, as **ARC 6971B**. A public hearing on the amendment was held on Wednesday, August 6, 2008. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 10, 2008.

The following amendment is adopted.

Amend rule 282—14.106(272) as follows:

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

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

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

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

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

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

[Filed 10/17/08, effective 12/10/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7322B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

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

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 16, 2008, as **ARC 6977B**. A public hearing on the amendment was held on Wednesday, August 6, 2008. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 10, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [14.114] is being omitted. This amendment is identical to that published under Notice as **ARC 6977B**, IAB 7/16/08.

[Filed 10/17/08, effective 12/10/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7324B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

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

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 16, 2008, as **ARC 6973B**. A public hearing on the amendment was held on Wednesday, August 6, 2008. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 10, 2008.

The following amendment is adopted.

Amend subrule 14.120(1) as follows:

14.120(1) Two-year teacher exchange license.

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

- (1) The applicant has completed a state-approved teacher education program; and

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) The applicant holds a valid regular certificate or license in the state in which the preparation was completed; and

(3) The applicant is not subject to any pending disciplinary proceedings in any state; and

(4) The applicant complies with all requirements with regard to application processes and payments of licensure fees; and

(5) If the applicant has fewer than three years of teaching experience, the applicant must verify successful completion of mandated tests in the state in which the applicant is ~~current~~ currently licensed.

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

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

[Filed 10/17/08, effective 12/10/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7323B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

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

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 16, 2008, as **ARC 6978B**. A public hearing on the amendment was held on Wednesday, August 6, 2008. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 10, 2008.

The following amendment is adopted.

Amend subrule 15.1(2) as follows:

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

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

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level.

[Filed 10/17/08, effective 12/10/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7296B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 29C.20A, the Department of Human Services amends Chapter 58, "Emergency Assistance," Iowa Administrative Code.

These amendments make the following changes to the Iowa Disaster Aid Individual Assistance Grant Program:

- Require additional documentation from the applicant, including proof of income and identity, proof of vehicle registration and insurance, and a brief statement of how the disaster caused the loss being claimed. The purpose of these requirements is to facilitate application processing and deter fraudulent claims.
- Clarify how the program covers insurance deductibles. The program will not pay if the claim is higher than the deductible. For example, if a homeowner has a \$500 deductible and the cost to repair roof damage from a falling tree limb is \$450, the program will pay \$450. If the cost to repair the roof is \$3,000, the program will not pay toward the roof repair.
- Increase the limit for electrical or mechanical repairs from \$300 to \$1,000.
- Raise the reimbursement limit for home repair to \$5,000, commensurate with the higher benefit limit Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6878B**.
- Add reimbursement for debris removal, including trees, of up to \$1,000, based on the Department's experience of the kinds of losses suffered.
- Clarify that the program does not cover repairs on rental property.
- Clarify the respective roles of the county emergency management coordinator, the Homeland Security and Emergency Management Division of the Department of Public Defense, and the Department of Human Services in administering the program.
- Change the name of Division I of Chapter 58 to match the name used in the Iowa Code.

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

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6920B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 8, 2008.

These amendments are intended to implement Iowa Code Supplement section 29C.20A.

These amendments shall become effective December 10, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [58.3(2), 58.4(4), 58.5, 58.6] is being omitted. These amendments are identical to those published under Notice as **ARC 6920B**, IAB 7/2/08.

[Filed 10/14/08, effective 12/10/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7301B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

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

The amendment to subrule 78.50(1) affects Medicaid coverage for medical services provided by local education agencies (schools). Previous federal guidance provided a complex set of principles for transportation reimbursement that were interpreted to allow schools to claim all costs of transporting students who are served under the Individuals with Disabilities Education Act. Federal regulations have been adopted to eliminate coverage of transportation from home to school and back. However, Congress approved a moratorium on those regulations that delays the effective date until April 1, 2009.

No state Medicaid funding is allocated for local education agency expenses. The local education agency bills Medicaid for covered services and returns the nonfederal share of the Medicaid payment back to the state Medicaid program. This amendment specifies that Iowa Medicaid will not cover any local education agency expenses for a child's transportation from home to school and back if federal funding becomes unavailable due to federal regulation.

Whether or not the moratorium is extended, Medicaid will continue to reimburse for transportation of eligible children from school or home to a non-school-based direct medical service provider that bills under the Medicaid program and from a non-school-based provider to the child's home or school.

The other amendments make technical corrections to update the names of the licensing boards for dentists and optometrists.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 13, 2008, as **ARC 7058B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations because the federal regulations do not allow for waivers in claiming Medicaid federal matching funds, and the Department has no state funds available to cover these expenses.

The Council on Human Services adopted these amendments on October 8, 2008.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on January 1, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [78.6(6), 78.25(2)"e," 78.50(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 7058B**, IAB 8/13/08.

[Filed 10/14/08, effective 1/1/09]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7302B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments change the provisions for additional Medicaid reimbursement for nursing facilities related to the facility's performance as measured by ten indicators of quality care, as directed by 2008 Iowa Acts, Senate File 2425, section 33. This legislation requires the following changes:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- The amount used to calculate the accountability measure add-on is reduced to 80 percent of the sum of the direct care patient-day-weighted median and the non-direct care patient-day-weighted median (down from 100 percent).

- The additional payment for accountability measures will be withheld from the facility's weekly payment remittance and will instead be made through an add-on to each claim at the end of the state fiscal year (June 30).

- A facility's accountability measure add-on will be reduced by 25 percent for each deficiency cited resulting in actual harm to a resident at a scope and severity level of G pursuant to the federal certification guidelines. If the facility fails to cure any level G deficiency cited within the time required by the Department of Inspections and Appeals, the accountability measure add-on will be reduced to \$0.

- A facility will forfeit its accountability measure add-on if the facility receives a deficiency due to instances of actual harm or immediate jeopardy at a scope and severity level of H or higher pursuant to the federal certification guidelines.

In the Centers for Medicare and Medicaid Services' nursing home survey and certification system, a level G deficiency is an isolated instance of actual harm to a resident that does not constitute "immediate jeopardy" to the resident's health or safety. A level H deficiency is a pattern of incidents of actual harm of the same severity. Higher levels include I, widespread instances of actual harm but no immediate jeopardy; J, an isolated instance of immediate jeopardy to a resident's health or safety; K, a pattern of such instances; and L, widespread instances of immediate jeopardy. Survey findings at level F (widespread instances of deficiencies that caused no actual harm but had a potential to cause more than minimal harm) and levels H through L indicate a substandard quality of care if the requirement that is not met falls under federal regulations on resident behavior, quality of life, or quality of care.

In addition, these amendments make a technical change to subrule 81.36(5) to update the name of the Iowa Board of Nursing Home Administrators.

These amendments were previously Adopted and Filed Without Notice and published in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 7016B**. Notice of Intended Action to solicit comments on these amendments was published in the Iowa Administrative Bulletin on the same date as **ARC 7017B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Without Notice and published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations, since these are statutory provisions.

The Council on Human Services adopted these amendments October 8, 2008.

These amendments are intended to implement Iowa Code section 249A.4 and 2001 Iowa Acts, chapter 192, section 4, as amended by 2008 Iowa Acts, Senate File 2425, section 33.

These amendments shall become effective December 10, 2008, at which time the Adopted and Filed Without Notice rules are rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [81.6(16)"g," 81.36(5)] is being omitted. These amendments are identical to those published under Notice as **ARC 7017B** and Adopted and Filed Without Notice as **ARC 7016B**, IAB 7/30/08.

[Filed 10/14/08, effective 12/10/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7303B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 109, "Child Care Centers," and Chapter 110, "Child Development Homes," Iowa Administrative Code.

These amendments update child care training rules including training topic areas, approved training organizations, requirements for approved training, and a process and form for training approval requests from training organizations that are not already approved in rule. The amendments do not change the amount of training required. Professional development requirements are similar for both child development homes and child care centers. The amendments formalize processes that are currently in place.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 13, 2008, as **ARC 7061B**. The Department received 17 comments on the Notice of Intended Action. The comments and responses are available for inspection at: <http://www.dhs.state.ia.us/policyanalysis/RulesPages/phcomm.htm>. In response to these comments, the Department has made the following changes to the rules:

- The phrase "child development associate" has been removed from subparagraphs 109.7(2)"a"(3), 109.7(2)"b"(2), 109.7(2)"b"(3), and 109.7(9)"d"(4), paragraphs 110.5(11)"c" and 110.5(11)"d," and subparagraph 110.5(14)"d"(4), since this job title does not apply to every setting governed by the rules.

- The prohibition on using the same class to meet minimum training requirements in subparagraphs 109.7(2)"a"(4) and 109.7(2)"b"(2) and paragraphs 110.5(11)"c" and 110.5(11)"d" has been replaced with a minimum time of five years before repeating a class. Several comments reflected concerns that the number and availability of training opportunities, especially in rural areas, would make it very difficult for a provider to meet professional development requirements under the original provisions.

- Head Start agencies and the Head Start technical assistance system have been added to the lists of preapproved sources of training in paragraphs 109.7(7)"a" and 110.5(12)"a."

- The limit in paragraphs 109.7(7)"d" and 110.5(12)"d" on the number of hours of training approvable in a single day has been raised from six to eight to accommodate some of the training sessions offered by preapproved providers.

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

The Council on Human Services adopted these amendments on October 8, 2008.

These amendments are intended to implement Iowa Code section 232.69 and Iowa Code chapter 237A.

These amendments shall become effective on January 1, 2009.

The following amendments are adopted.

ITEM 1. Amend paragraph **109.2(6)"b"** as follows:

b. An applicant or licensee affected by an adverse action may request a hearing by means of a written request directed to the ~~county office or central office of the department~~ Department of Human Services, Appeals Section, 1305 E. Walnut Street, Fifth Floor, Des Moines, Iowa 50319-0114. The request shall be submitted within 30 days after the date the department mailed the official notice containing the nature of the denial, revocation, or suspension.

ITEM 2. Amend subrule 109.7(2) as follows:

109.7(2) *Staff employed 20 hours or more per week.*

a. During their first year of employment, all staff employed 20 hours or more per week shall receive the following training:

(1) and (2) No change.

(3) Ten contact hours of training from one or more of the following ~~topical content~~ areas: ~~child development, guidance and discipline, developmentally appropriate practices, nutrition, health and~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~safety, communication skills, professionalism, business practices, and cross-cultural competence. Training received for cardiopulmonary resuscitation (CPR), first aid, mandatory reporting of child abuse, and universal precautions shall not count toward the ten contact hours.~~

1. Planning a safe, healthy learning environment (includes nutrition).
2. Steps to advance children's physical and intellectual development.
3. Positive ways to support children's social and emotional development (includes guidance and discipline).
4. Strategies to establish productive relationships with families (includes communication skills and cross-cultural competence).
5. Strategies to manage an effective program operation (includes business practices).
6. Maintaining a commitment to professionalism.
7. Observing and recording children's behavior.
8. Principles of child growth and development.

(4) At least four hours of the ten contact hours of training shall be received in a ~~sponsored~~ group setting as defined in subrule 109.7(7). Six hours may be received in self-study using a training package approved by the department as defined in subrule 109.7(8). Training received for cardiopulmonary resuscitation (CPR), first aid, mandatory reporting of child abuse, and universal precautions shall not count toward the ten contact hours. A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every five years.

(5) Center directors and on-site supervisors shall receive all ten hours of training in a ~~sponsored~~ group setting as defined in subrule 109.7(7).

(6) No change.

b. Following their first year of employment, all staff who are employed 20 hours or more a week shall:

(1) No change.

(2) Receive six contact hours of training annually from one or more of the ~~following topical content~~ areas: ~~child development, guidance and discipline, developmentally appropriate practices, nutrition, health and safety, communication skills, professionalism, business practices, and cross-cultural competence.~~ At least two of the six contact hours shall be in a sponsored group setting listed in subparagraph 109.7(2) "a"(3). A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every five years.

(3) Center directors and on-site supervisors shall receive eight contact hours of training annually from one or more of the topical content areas listed in subparagraph 109.7(2) "a"(3). At least four of the eight contact hours shall be in a ~~sponsored~~ group setting as defined in subrule 109.7(7).

ITEM 3. Adopt the following **new** subrules 109.7(6) to 109.7(9):

109.7(6) Substitution. A provider who submits documentation from a child care resource and referral agency that the provider has completed the Iowa Program for Infant/Toddler Care (IA PITC), ChildNet, or Beyond Business Basics training series may use those hours to fulfill a maximum of two years' training requirements, not including first-aid and mandatory reporter training.

109.7(7) Group training. Training received in a group setting is not self-study, but is training received with other adults, either in or out of the child care center.

a. The training must be conducted by a trainer who is employed by or under contract with one of the following entities or who uses curriculum or training materials developed or obtained with the written permission of one of the following entities:

- (1) An accredited university or college.
- (2) A community college.
- (3) Iowa State University Extension.
- (4) A child care resource and referral agency.
- (5) An area education agency.
- (6) The regents' center for early developmental education at the University of Northern Iowa.
- (7) A hospital (for health and safety, first-aid, and CPR training).

HUMAN SERVICES DEPARTMENT[441](cont'd)

(8) The American Red Cross, the American Heart Association, the National Safety Council, or Medic First Aid (for first-aid and CPR training).

(9) An Iowa professional association, including the Iowa Association for the Education of Young Children (Iowa AEYC), the Iowa Family Child Care Association (IFCCA), the Iowa After School Alliance, and the Iowa Head Start Association.

(10) A national professional association, including the National Association for the Education of Young Children (NAEYC), the National Child Care Association (NCCA), the National Association for Family Child Care (NAFCC), the National After School Association, and the American Academy of Pediatrics.

(11) The Child and Adult Care Food Program and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

(12) The Iowa department of public health, department of education, or department of human services.

(13) Head Start agencies or the Head Start technical assistance system.

b. Training received in a group setting must follow a presentation format that incorporates a variety of adult learning methods. The material or content of the training must be obtained from one of the entities listed in paragraph "a" or an entity approved under paragraph "g." Approved training shall be made available to Iowa child care providers through the child care provider training registry beginning July 1, 2009.

c. Training received in a group setting may include distance learning opportunities such as training conducted over the Iowa communications network, on-line courses, or Web conferencing (webinars) if:

(1) The training meets the requirements in subrule 109.7(9);

(2) The training is taught by an instructor and requires interaction between the instructor and the participants, such as required chats or message boards; and

(3) The training organization meets the requirements listed in this subrule or is approved by the department.

d. The department will not approve more than eight hours of training delivered in a single day.

e. The department may randomly monitor any state-approved training for quality control purposes.

f. Training conducted with staff either during the hours of operation of the facility, staff lunch hours, or while children are resting must not diminish the required staff ratio coverage. Staff shall not be actively engaged in care and supervision and simultaneously participate in training.

g. A training organization not approved by the department may submit training for approval to the department on Form 470-4528, Request for Child Care Training Approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.

109.7(8) Self-study training.

a. Self-study training packages approved by the department include curriculum developed and materials distributed by:

(1) Department child care licensing consultants,

(2) Iowa State University Extension, or

(3) A child care resource and referral agency.

b. Self-study training materials not distributed by these entities may be submitted by the training organization to the department for approval on Form 470-4528, Request for Child Care Training Approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.

109.7(9) Approved training. Training provided to Iowa child care providers shall offer:

a. Instruction that is consistent with:

(1) Iowa child care regulatory standards;

(2) The Iowa early learning standards; and

(3) The philosophy of developmentally appropriate practice as defined by the National Association for the Education of Young Children, the Program for Infant/Toddler Care, and the National Health and Safety Performance Standards.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- b.* Content equal to at least one contact hour of training.
- c.* An opportunity for ongoing interaction and timely feedback, including questions and answers within the contact hours if training is delivered in a group setting.
- d.* A certificate of training for each participant that includes:
 - (1) The name of the participant.
 - (2) The title of the training.
 - (3) The dates of training.
 - (4) The content area addressed.
 - (5) The name of the training organization.
 - (6) The name of the instructor.
 - (7) The number of contact hours.
 - (8) An indication of whether the training was delivered through self-study or in a group setting.

ITEM 4. Rescind paragraph **110.5(2)“b”** and adopt the following **new** paragraph in lieu thereof:

- b.* Certificates or other documentation verifying required training as set forth in subrule 110.5(11).

ITEM 5. Adopt the following **new** subrules 110.5(11) to 110.5(14):

110.5(11) Professional development.

- a.* The provider shall receive two hours of Iowa’s training for mandatory reporting of child abuse:
 - (1) During the first three months of registration as a child development home; and
 - (2) Every five years thereafter.
- b.* The provider shall obtain first-aid training within the first three months of registration as a child development home.
 - (1) First-aid training shall be provided by a nationally recognized training organization, such as the American Red Cross, the American Heart Association, the National Safety Council, or Emergency Medical Planning (Medic First Aid) or by an equivalent trainer using curriculum approved by the department.
 - (2) First-aid training shall include certification in infant and child first aid that includes management of a blocked airway and mouth-to-mouth resuscitation.
 - (3) The provider shall maintain a valid certificate indicating the date of first-aid training and the expiration date.
- c.* During the first year of registration, the provider shall receive a minimum of 12 hours of training from one or more of the following content areas. The provider shall receive at least 6 of these hours in a group setting as defined in subrule 110.5(12), and 2 of the hours must be from the content area in subparagraph 110.5(11)“c”(1). A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every five years.
 - (1) Planning a safe, healthy learning environment (includes nutrition).
 - (2) Steps to advance children’s physical and intellectual development.
 - (3) Positive ways to support children’s social and emotional development (includes guidance and discipline).
 - (4) Strategies to establish productive relationships with families (includes communication skills and cross-cultural competence).
 - (5) Strategies to manage an effective program operation (includes business practices).
 - (6) Maintaining a commitment to professionalism.
 - (7) Observing and recording children’s behavior.
 - (8) Principles of child growth and development.
- d.* During the second year of registration and each succeeding year, the provider shall receive a minimum of 12 hours of training from one or more of the content areas as defined in paragraph “c.” The provider shall receive at least 6 of these hours in a group setting as defined in subrule 110.5(12). The provider may receive the remaining hours in self-study as defined in subrule 110.5(13). A provider shall not use a specific training or class to meet minimum continuing education requirements more than one time every five years.

HUMAN SERVICES DEPARTMENT[441](cont'd)

e. A provider who submits documentation from a child care resource and referral agency that the provider has completed the Iowa Program for Infant/Toddler Care (IA PITC), ChildNet, or Beyond Business Basics training series may use those hours to fulfill a maximum of two years' training requirements, not including first-aid and mandatory reporter training.

110.5(12) Group training. Training received in a group setting is not self-study, but is training received with other adults.

a. The training must be conducted by a trainer who is employed by or under contract with one of the following entities or who uses curriculum or training materials developed by or obtained with the written permission of one of the following entities:

- (1) An accredited university or college.
- (2) A community college.
- (3) Iowa State University Extension.
- (4) A child care resource and referral agency.
- (5) An area education agency.
- (6) The regents' center for early developmental education at the University of Northern Iowa.
- (7) A hospital (for health and safety, first-aid, and CPR training).
- (8) The American Red Cross, the American Heart Association, the National Safety Council, or Medic First Aid (for first-aid and CPR training).
- (9) An Iowa professional association, including the Iowa Association for the Education of Young Children (Iowa AEYC), the Iowa Family Child Care Association (IFCCA), the Iowa After School Alliance, and the Iowa Head Start Association.
- (10) A national professional association, including the National Association for the Education of Young Children (NAEYC), the National Child Care Association (NCCA), the National Association for Family Child Care (NAFCC), the National After School Association, and the American Academy of Pediatrics.
- (11) The Child and Adult Care Food Program and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).
- (12) The Iowa department of public health, department of education, or department of human services.
- (13) Head Start agencies or the Head Start technical assistance system.

b. Training received in a group setting must follow a presentation format that incorporates a variety of adult learning methods. The material or content of the training must be obtained from one of the entities listed in paragraph "a" or an entity approved under paragraph "g." Approved training shall be made available to Iowa child care providers through the child care provider training registry beginning July 1, 2009.

c. Training received in a group setting may include distance learning opportunities such as training conducted over the Iowa communications network, on-line courses, or Web conferencing (webinars) if:

- (1) The training meets the requirements in subrule 110.5(14);
- (2) The training is taught by an instructor and requires interaction between the instructor and the participants, such as required chats or message boards; and
- (3) The training organization meets the requirements listed in this subrule or is approved by the department.

d. The department will not approve more than eight hours of training delivered in a single day.

e. The department may randomly monitor any state-approved training for quality control purposes.

f. Training conducted with staff either during the hours of operation of the facility, staff lunch hours, or while children are resting must not diminish the required staff ratio coverage. Staff shall not be actively engaged in care and supervision and simultaneously participate in training.

g. A training organization not approved by the department may submit training for approval to the department on Form 470-4528, Request for Child Care Training Approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.

HUMAN SERVICES DEPARTMENT[441](cont'd)

110.5(13) Self-study training. Up to six hours of training may be received in self-study using a training package approved by the department.

a. Self-study training packages approved by the department include curriculum developed and materials distributed by:

- (1) Department child care licensing consultants,
- (2) Iowa State University Extension, or
- (3) A child care resource and referral agency.

b. Self-study training materials not distributed by these entities may be submitted by the training organization to the department for approval on Form 470-4528, Request for Child Care Training Approval. All approvals, unless otherwise specified, shall be valid for five years. The department shall issue its decision within 30 business days of receipt of a complete request.

110.5(14) Approved training. Training provided to Iowa child care providers shall offer:

a. Instruction that is consistent with:

- (1) Iowa child care regulatory standards;
- (2) The Iowa early learning standards; and
- (3) The philosophy of developmentally appropriate practice as defined by the National Association for the Education of Young Children, the Program for Infant/Toddler Care, and the National Health and Safety Performance Standards.

b. Content equal to at least one contact hour of training.

c. An opportunity for ongoing interaction and timely feedback, including questions and answers within the contact hours if training is delivered in a group setting.

d. A certificate of training for each participant that includes:

- (1) The name of the participant.
- (2) The title of the training.
- (3) The dates of training.
- (4) The content area addressed.
- (5) The name of the training organization.
- (6) The name of the instructor.
- (7) The number of contact hours.
- (8) An indication of whether the training was delivered through self-study or in a group setting.

[Filed 10/14/08, effective 1/1/09]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7317B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 508E.4 and 2008 Iowa Acts, Senate File 2392, section 19, the Insurance Division hereby amends Chapter 48, "Viatical and Life Settlements," Iowa Administrative Code.

The rules in Chapter 48 provide for the administration of viatical and life settlements in this state by providing rules under which viatical and life settlements may be made and safeguards by which viatical settlement providers may be monitored and remain in good standing. The amendments update the rules to reflect recent changes to Iowa Code chapter 508E as amended by 2008 Iowa Acts, Senate File 2392. The Division intends that Iowa viatical settlement brokers and providers will comply with these rules for all viatical settlement purchase agreements issued on or after August 20, 2008.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 10, 2008, as **ARC 7154B**. A public hearing was held on September 30, 2008, at the offices of the Iowa Insurance

INSURANCE DIVISION[191](cont'd)

Division, 330 Maple Street, Des Moines, Iowa. No comments were received. No changes were made to the Notice.

These amendments were also Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on September 10, 2008, as **ARC 7153B**. These amendments are identical to the amendments in **ARC 7153B**, which became effective on August 20, 2008.

These amendments are intended to implement Iowa Code chapter 508E as amended by 2008 Iowa Acts, Senate File 2392; Iowa Code chapters 252J and 261; and 2008 Iowa Acts, Senate File 2428.

These amendments will become effective December 10, 2008, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 48] is being omitted. These amendments are identical to those published under Notice as **ARC 7154B** and Adopted and Filed Emergency as **ARC 7153B**, IAB 9/10/08.

[Filed 10/16/08, effective 12/10/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7304B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby adopts new Chapter 98, "Annual Financial Reporting Requirements," Iowa Administrative Code.

This chapter improves the Iowa Insurance Division's surveillance of the financial condition of insurers by requiring an annual audit of financial statements by certified public accountants, Communication of Internal Control Related Matters Noted in an Audit, and Management's Report of Internal Control Over Financial Reporting.

Prior to January 1, 2010, insurance companies in Iowa must comply with rule 191—5.25(505); however, when the new chapter becomes effective on January 1, 2010, rule 191—5.25(505) will be rescinded.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 10, 2008, as **ARC 7124B**. Comments regarding this new chapter were to be received during the comment period and at the public hearing on September 30, 2008. The Division received comments regarding clarification of the rules and other comments detailing typographical errors. Both have been addressed and corrected as follows:

The introductory paragraph and paragraph "a" of subrule 98.2(2) have been changed to correct a cross reference and to add a cross reference in the introductory paragraph and to change the term "insured" to "insurer" in paragraph "a." The introductory paragraph and paragraph "a" now read as follows:

"98.2(2) Foreign or alien insurers filing the audited financial report in another state, pursuant to that state's requirement for filing of audited financial reports, which has been found by the commissioner to be substantially similar to the requirements herein, are exempt from rules 98.4(505) through 98.12(505) and 98.17(505) if:

"a. A copy of the audited financial report, Communication of Internal Control Related Matters Noted in an Audit, and the letter to the insurer with the accountant's qualifications that are filed with such other state are filed with the commissioner in accordance with the filing dates specified in rules 98.4(505), 98.11(505), and 98.17(505), respectively (Canadian insurers may submit accountants' reports as filed with the Office of the Superintendent of Financial Institutions Canada)."

In addition, the word "rule" has been changed to "chapter" in subrule 98.2(4) to be consistent with the language throughout Chapter 98; a reference to Section 202 rather than Section 201 of the Securities Exchange Act was corrected in the definition of "SOX compliant entity" in rule 98.3(505); and the date

INSURANCE DIVISION[191](cont'd)

specified for insurers not retaining an independent certified public accountant was changed from August 28, 1991, to January 1, 2010, in the introductory paragraph of rule 98.6(505).

This chapter does not provide for waivers.

These rules are intended to implement Iowa Code section 505.8.

These rules will become effective on January 1, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 98] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 7124B**, IAB 9/10/08.

[Filed 10/15/08, effective 1/1/10]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7318B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 523A.809, the Insurance Division hereby rescinds Chapter 100, "General Provisions," Chapter 101, "Trust Deposits and Trust Funds," Chapter 102, "Warehoused Merchandise," Chapter 103, "Licensing of Preneed Sellers and Sales Agents," Chapter 104, "Continuing Education for Sales Agents," Chapter 105, "Standards of Conduct and Prohibited Practices," and Chapter 106, "Disciplinary Procedures," Iowa Administrative Code, and adopts new Chapters 100 to 106 with the same titles.

The amendments that rescinded 191—Chapter 19 and that adopted existing 191—Chapters 100 to 106 were Adopted and Filed Emergency, were published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6333B**, and became effective September 28, 2007. Notice of Intended Action to solicit comments on that submission was published in the October 24, 2007, Iowa Administrative Bulletin as **ARC 6334B**. That Notice of Intended Action has expired.

A new Notice of Intended Action regarding Chapters 100 to 106 was published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6904B**. A public hearing was held on July 22, 2008, at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa. No comments were received.

Since publication of the Notice, paragraph 105.6(4)"c" has been revised to improve clarity. This paragraph now reads as follows:

"c. The licensee or license applicant has exhibited a pattern of writing bad checks or otherwise overdrawing a business or trust account as a result of insufficient funds."

The adopted amendments rescind Chapters 100 to 106 and adopt new Chapters 100 to 106 in lieu thereof. These chapters implement and administer the provisions of Iowa Code chapter 523A, 2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555, which regulate the sale of cemetery merchandise, funeral merchandise, funeral services and any combination of these items. Persons operating as preneed sellers and sales agents in Iowa must comply with these rules beginning December 10, 2008.

These rules will become effective December 10, 2008.

INSURANCE DIVISION[191](cont'd)

These rules are intended to implement Iowa Code chapter 523A, 2007 Iowa Acts, Senate File 559 [2007 Iowa Code Supplement chapter 523A], and 2008 Iowa Acts, Senate File 2349 and House File 2555.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 100 to 106] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 6904B**, IAB 7/2/08.

[Filed 10/16/08, effective 12/10/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7313B

MANAGEMENT DEPARTMENT[541]

Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 8.6 as amended by 2008 Iowa Acts, Senate File 2400, section 29, the Department of Management hereby adopts new Chapter 12, "DAS Customer Council," Iowa Administrative Code.

The purpose of new Chapter 12 is to establish a Customer Council to oversee the operation of and the fees charged by the Department of Administrative Services for services defined by the Department of Management as a utility service for state agencies. The rules establish the customer council as required by 2008 Iowa Acts, Senate File 2400, and define membership, method of appointment and organizational structure.

Notice of Intended Action was published in the July 30, 2008, Iowa Administrative Bulletin as **ARC 6996B**. A public hearing was held on September 5, 2008, at 10 a.m., at which time no comments were submitted orally or in writing.

Since the Notice of Intended Action was published, five changes have been made. Rule 12.3(82GA,SF2400) has been revised to remove a reference to entrepreneurial management. Rule 12.5(82GA,SF2400) has been clarified by stating that the Legislature may appoint two members of the DAS Customer Council, which is stated in the legislation. Subrule 12.6(1) has been amended to clarify that a union member is not part of the Council. Subrule 12.6(6) has been clarified by stating that DAS will assist the Department in providing administrative support to the chairperson. Subrule 12.7(3) has been clarified by stating that a majority of all voting council members shall approve the rates for the services that the Customer Council oversees.

This amendment is intended to implement Iowa Code Supplement section 8.6 as amended by 2008 Iowa Acts, Senate File 2400, section 29.

These rules will become effective December 10, 2008.

The following amendment is adopted.

Adopt the following **new** 541—Chapter 12:

CHAPTER 12 DAS CUSTOMER COUNCIL

541—12.1(82GA,SF2400) Definitions.

"DAS" means the department of administrative services created by Iowa Code chapter 8A.

"DAS customer council" means a group responsible for overseeing operations with regard to a service funded by fees paid by a governmental entity or subdivision receiving the service when the department and DAS have determined that DAS shall be the sole provider of that service.

"Department" or "DOM" means the department of management created by Iowa Code chapter 8.

MANAGEMENT DEPARTMENT[541](cont'd)

“Economies of scale” means mass purchasing of goods or services, which results in lower average costs.

“Large agency” means a state agency with more than 700 permanent employees.

“Leadership function” means a service provided by the department and funded by a general appropriation. Leadership functions typically relate to development of policy and standards and are appropriate when standardization is required and the ultimate customer is the taxpayer.

“Marketplace service” means a service that the department is authorized to provide, but which governmental entities may provide on their own or obtain from another provider of the service.

“Medium-sized agency” means a state agency with 70 to 700 permanent employees.

“Quorum” means the presence of no less than a simple majority (50 percent plus 1) of the members eligible to vote.

“Small agency” means a state agency with fewer than 70 permanent employees.

“Utility service” means a service funded by fees paid by the governmental entity receiving the service and for which DAS is the sole provider of the service.

541—12.2(82GA,SF2400) Purpose. The purpose of this chapter is to establish a customer council to oversee operations with regard to services provided when the department has determined that DAS shall be the sole provider of a service and to ensure that DAS meets the needs of affected governmental entities and subdivisions and those citizens served.

541—12.3(82GA,SF2400) Utility determination. Services for which the department has determined that DAS shall be the sole provider are designated “utilities” in Iowa state government. Customers may choose the amount of service they purchase, but must buy from the single source. Utilities are those services for which a monopoly structure makes sense due to economies of scale. The process for determining whether DAS shall be the sole provider of a service shall include consideration of economic factors, input from the customer council and input from upper levels of the executive branch.

541—12.4(82GA,SF2400) Customer council established. In order to ensure that DAS utilities provide effective, efficient, and high-quality services that benefit governmental entities and the citizens they serve, this chapter establishes a customer council for services identified as utilities.

541—12.5(82GA,SF2400) Customer council membership. Customer council membership shall consist of the chairperson and vice chairperson, 11 state agency representatives, a judicial branch representative overseeing DAS services provided to the judicial branch, two legislative branch representatives overseeing DAS services provided to the legislative branch, and nonvoting ex-officio members.

12.5(1) Method of appointment of members.

a. Executive branch agency representation. The customer council will include four members from large agencies, four members from medium-sized agencies and three members from small agencies.

(1) Selection. The individual nominated by an agency to become a customer council member shall be the individual the agency determines is most appropriate to provide guidance. Each agency may nominate one representative for the customer council. The department shall select customer council members from the representatives nominated by the agencies in that group.

(2) Review. The department shall review representation on the customer council prior to August 1 of each year for the terms ending August 31 of that year and select customer council members as in subparagraph (1) to fill vacancies caused by expired terms. The department will periodically review the definition of large, medium-sized and small agencies based on the number of permanent employees of the agencies in Iowa state government and make adjustments accordingly.

(3) Vacancies. If a vacancy occurs, the department shall fill the vacancy.

b. Legislative and judicial branch representation. If the service to be provided may also be provided to the judicial branch and legislative branch, then the chief justice of the supreme court may

MANAGEMENT DEPARTMENT[541](cont'd)

appoint one member to the customer council and the legislative council may appoint two members to the customer council, one representing the house of representatives and one representing the senate.

c. Ex-officio member(s). Ex-officio members shall not vote on the proceedings of the customer council, but shall provide input to the council based on their area of expertise. Each ex-officio member shall be approved by a majority of the voting members of the customer council. An ex-officio member may be recommended to the customer council by:

- (1) A group representing agencies using a service overseen by the customer council, and
- (2) Any other group approved by the customer council.

12.5(2) Membership changes. As utility services and customer groups change, the department may add members to provide for equitable representation.

12.5(3) Term of membership. Each member will serve a two-year term.

- a.* Initial appointments shall be for staggered terms of one or two years as set by the department.
- b.* Initial membership terms shall begin by August 1, 2008.

541—12.6(82GA,SF2400) Organization of customer council. The operations of the customer council shall be governed by a set of bylaws as adopted by the customer council. Bylaws shall address the following issues.

12.6(1) Member participation. Each member is expected to attend and actively participate in meetings. Participation will include requesting input and support from the group each member represents.

a. Substitutes for members and alternates absent from meetings will not be allowed; however, members may attend by telephone or other electronic means approved by the customer council.

b. Upon the approval of the customer council, an alternate member may be selected by an agency or group that provides a representative to the customer council to participate in customer council meetings and vote in place of the representative when the representative is unable to participate.

12.6(2) Voting. A quorum is required for a customer council vote.

a. Eligible members may vote on all issues brought before the group for a vote. Members may be present to vote during a meeting in person, by telephone or other electronic means approved by the customer council.

b. Each member, other than the chairperson, vice chairperson and ex-officio members, has one vote. Designated alternates may only vote in the absence of the representative from their organization. A simple majority of the members voting shall determine the outcome of the issue being voted upon.

c. Customer council bylaws may be amended by a simple majority vote of all members.

12.6(3) Officers. The officers of the customer council shall be the chairperson and vice chairperson. The director of the department of management will serve as chairperson and the director of the department of administrative services will serve as vice chairperson. The chairperson and vice chairperson shall not be voting members.

12.6(4) Duties of officers.

a. The chairperson shall preside at all meetings of the customer council.

b. The vice chairperson shall assist the chairperson in the discharge of the chairperson's duties as requested and, in the absence or inability of the chairperson to act, shall perform the chairperson's duties.

12.6(5) Committees.

a. The chairperson may authorize or dissolve committees as necessary to meet the needs of the customer council.

b. Members of the customer council and individuals who are not members of the customer council may be appointed by the chairperson to serve on committees.

c. Committees shall provide feedback to the chairperson and the customer council at the council's request.

d. Committees shall meet, discuss, study and resolve assigned issues as needed.

12.6(6) Administration. DAS will assist the department by providing staff support to assist the chairperson with the following administrative functions:

MANAGEMENT DEPARTMENT[541](cont'd)

- a. Keeping the official current and complete books and records of the decisions, members, actions and obligations of the customer council;
- b. Coordinating meeting notices and locations and keeping a record of names and addresses, including E-mail addresses, of the members of the customer council; and
- c. Taking notes at the meetings and producing minutes that will be distributed to all members.

12.6(7) *Open records.* Customer council books and records are subject to the open records law as specified in Iowa Code chapter 22.

12.6(8) *Meetings.* Customer council meetings are subject to the open meetings law as specified in Iowa Code chapter 21. The customer council is responsible for the following:

- a. Determining the frequency and time of council meetings.
- b. Soliciting agenda items from the members in advance of an upcoming meeting.
- c. Sending electronic notice of meetings, including date, time and location of the meeting, at least one week prior to the meeting date.
- d. Providing an agenda, including those items requiring action, at least two days prior to the meeting. The agenda should also include any information necessary for discussion at the upcoming meeting.
- e. Conducting meetings using the most recent version of Robert's Rules of Order, Revised.

541—12.7(82GA,SF2400) Powers and duties of customer council.

12.7(1) *Approval of business plans.* The customer council shall, on an annual basis, review and recommend action on business plans submitted by DAS for performance of the services the customer council oversees. Business plans shall include levels of service, service options, investment plans, and other information.

12.7(2) *Complaint resolution.* The customer council shall approve the internal procedure for resolution of complaints concerning the utility services provided by DAS. The procedure shall include, at a minimum, the following provisions:

- a. A definition of "complaint," which shall convey that this resolution process does not take the place of any other formal complaint, grievance or appeal process required by statute or rule.
- b. Receipt of complaints.
- c. Standards for prompt complaint resolution.
- d. Provisions to aggregate, analyze and communicate issues and outcomes in a manner that contributes to overall organizational improvement.
- e. Identification of the chairperson and vice chairperson's decision as the final step in the process.

12.7(3) *Rate setting.* A majority of all voting council members shall approve the rate methodology and the resulting rates for the services that the customer council oversees. Rates shall be established no later than September 1 of the year preceding the rate change. Established rates may be amended after September 1 upon recommendation by the department in consultation with DAS and upon affirmative vote by the customer council.

12.7(4) *Biennial review.* Every two years the customer council shall review the decision made by the department that DAS be the sole provider of a service and make recommendations regarding that decision.

541—12.8(82GA,SF2400) Customer input. The department shall establish procedures to provide for the acceptance of input from affected governmental entities. Input may take various forms, such as unsolicited comments, response to structured surveys, or an annual report on service requirements.

541—12.9(82GA,SF2400) Annual service listing. DAS shall annually prepare a listing separately identifying services determined by the department and DAS to be leadership functions, marketplace

MANAGEMENT DEPARTMENT[541](cont'd)

services, and utilities. The listing shall be completed no later than September 1 of the fiscal year preceding the proposed effective date of the change.

These rules are intended to implement Iowa Code Supplement section 8.6 as amended by 2008 Iowa Acts, Senate File 2400, section 29.

[Filed 10/16/08, effective 12/10/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7305B

MEDICINE BOARD[653]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 148E.7, the Board of Medicine hereby amends Chapter 24, "Complaints and Investigations," Iowa Administrative Code.

The amendments establish the following components of physical, mental and clinical competency evaluations that the Board may order on any licensee of the Board. A physical or mental evaluation may be ordered upon a showing of probable cause that the licensee suffers from a mental, neuropsychological, physical, physiological, psychiatric or psychological condition including, but not limited to, behavior which constitutes professional sexual misconduct as defined by 653—subrule 13.7(4), disruptive behavior as defined by 653—subrule 13.7(5), or substance abuse. A physical or mental health evaluation may include a disruptive behavior evaluation, neuropsychological evaluation, psychiatric evaluation, professional sexual misconduct evaluation, substance abuse evaluation, or screening for alcohol or drug abuse. A clinical competency evaluation may be ordered upon a showing of probable cause that the licensee is professionally incompetent. If the licensee objects to the order, the Board will hold a hearing if a timely request for hearing is made.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6739B**. No public comment was received. These amendments are identical to those published under Notice.

The Board approved the amendments during a meeting held via telephone conference call on June 12, 2008.

These amendments will become effective on December 10, 2008.

These amendments are intended to implement Iowa Code chapter 148 and Iowa Code sections 272C.3 and 272C.4.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [24.4, 24.4(3), 24.4(5)] is being omitted. These amendments are identical to those published under Notice as **ARC 6739B**, IAB 4/23/08.

[Filed 10/15/08, effective 12/10/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7297B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry hereby rescinds Chapter 179, "Administrative and Regulatory Authority for the Board of Optometry Examiners," amends Chapter 180, "Licensure of Optometrists," Chapter 181, "Continuing Education for Optometrists," and

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Chapter 183, "Discipline for Optometrists," and rescinds Chapter 184, "Fees," Iowa Administrative Code.

These amendments update requirements for optometry licensure and continuing education and remove language that has been added to the common chapter for the Bureau of Professional Licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 27, 2008, as **ARC 7113B**. A public hearing was held on September 16, 2008, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comment was received. The adopted amendments have been revised since the Notice of Intended Action as follows:

In the first sentence of subparagraph 181.3(2)"c"(1), a comma has been replaced with the word "or" and the phrase "or an equivalent organization" has been deleted. The first sentence of subparagraph 181.3(2)"c"(1) now reads as follows: "Current certification in CPR by the American Heart Association or the American Red Cross."

These amendments were adopted by the Iowa Board of Optometry on October 9, 2008.

These amendments will become effective December 10, 2008.

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

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [rescind Chs 179, 184; amend Chs 180, 181, 183] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7113B**, IAB 8/27/08.

[Filed 10/14/08, effective 12/10/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7320B**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Podiatry hereby rescinds Chapter 219, "Administrative and Regulatory Authority for the Board of Podiatry Examiners," amends Chapter 220, "Licensure of Podiatrists," rescinds Chapter 221, "Minimum Training Standards for Podiatry Assistants Engaging in Podiatric Radiography," amends Chapter 222, "Continuing Education for Podiatrists," and Chapter 224, "Discipline for Podiatrists," and rescinds Chapter 225, "Fees," Iowa Administrative Code.

These amendments change the name of the Board of Podiatry in response to 2007 Iowa Acts, Senate File 74, which renamed health-related examining boards as licensing boards, and remove duplicative chapters that have recently been placed in a common rules chapter(s).

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 13, 2008, as **ARC 7081B**. A public hearing was held on September 3, 2008, and public comments were allowed through that same date. No written or oral comments were received, and no one attended the hearing.

Since publication of the Notice, rules 645—222.4(149,272C) and 645—222.6(272C) have been rescinded. These rules, which address continuing education requirements, are now found in 645—Chapter 4. Additionally, several internal references have been updated.

These amendments were adopted by the Board of Podiatry on October 10, 2008.

These amendments will become effective December 10, 2008.

These amendments are intended to implement Iowa Code chapters 21, 147, 149 and 272C.

The following amendments are adopted.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- ITEM 1. Rescind and reserve **645—Chapter 219**.
- ITEM 2. Rescind and reserve rules **645—220.8(147)**, **645—220.12(147)**, **645—220.13(147)** and **645—220.14(17A,147,272C)**.
- ITEM 3. Strike the words “board of podiatry examiners” wherever they appear in **645—Chapter 220** and insert the words “board of podiatry” in lieu thereof.
- ITEM 4. Rescind and reserve **645—Chapter 221**.
- ITEM 5. Rescind and reserve rules **645—222.4(149,272C)**, **645—222.5(149,272C)**, **645—222.6(272C)** and **645—222.7(149,272C)**.
- ITEM 6. Strike the words “board of podiatry examiners” wherever they appear in **645—Chapter 222** and insert the words “board of podiatry” in lieu thereof.
- ITEM 7. Rescind and reserve rule **645—224.5(149)**.
- ITEM 8. Strike the words “board of podiatry examiners” wherever they appear in **645—Chapter 224** and insert the words “board of podiatry” in lieu thereof.
- ITEM 9. Rescind and reserve **645—Chapter 225**.

[Filed 10/17/08, effective 12/10/08]

[Published 11/5/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

ARC 7332B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 105.4 (2007 Iowa Acts, chapter 198, section 4), the Department of Public Health hereby adopts new Chapter 27, “Plumbing and Mechanical Systems Examining Board—Administrative and Regulatory Authority,” Iowa Administrative Code.

These rules describe the purpose and organization of the Plumbing and Mechanical Systems Examining Board. The rules also describe how this Board will conduct its business.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 10, 2008, as **ARC 7155B**. One person submitted comments. The changes suggested would require a change in statute. The adopted rules are identical to those published under Notice.

These rules were adopted by the Plumbing and Mechanical Systems Examining Board on October 15, 2008.

These rules will become effective on December 10, 2008.

These rules are intended to implement Iowa Code chapters 17A and 105 (2007 Iowa Acts, chapter 198, and 2008 Iowa Acts, House File 2390).

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 27] is being omitted. These rules are identical to those published under Notice as **ARC 7155B**, IAB 9/10/08.

[Filed 10/17/08, effective 12/10/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7288B**RACING AND GAMING COMMISSION[491]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby amends Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” Chapter 6, “Occupational and Vendor Licensing,” Chapter 10, “Thoroughbred and Quarter Horse Racing,” Chapter 11, “Gambling Games,” and Chapter 12, “Accounting and Cash Control,” Iowa Administrative Code.

The amendments are described below:

New subrule 5.4(7) sets forth the requirements for the video recording of gambling activities.

The amendments to paragraph “a” of subrule 5.4(8) are intended to improve its organization and to clarify that “year” means a calendar year.

The rescission of subrule 6.16(5) eliminates provisions for temporary licenses for horse owners.

New rule 491—6.28(99D) requires that the owner and the trainer be licensed by no later than the first post time of the race card for the day in which the horse is entered.

New paragraph “f” of subrule 10.6(2) prohibits a horse from being run on two consecutive calendar days.

New definitions of “discount rate,” “present value” and “reserve” are set forth in rule 491—11.1(99F).

The amendments to subrule 11.12(8) remove the requirements for trustees relating to wide area progressive jackpots and establish a reserve.

New paragraph “e” of subrule 12.3(1) requires that a facility have an internal control relating to surveillance coverage.

New subrule 12.15(5) requires that a facility maintain a log of updates to computer systems connected to each slot machine.

A public hearing was held on September 2, 2008. No comments were received. These adopted amendments are identical to those published under Notice of Intended Action in the August 13, 2008, Iowa Administrative Bulletin as **ARC 7060B**.

These amendments will become effective December 10, 2008.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 5, 6, 10 to 12] is being omitted. These amendments are identical to those published under Notice as **ARC 7060B**, IAB 8/13/08.

[Filed 10/10/08, effective 12/10/08]

[Published 11/5/08]

[For replacement pages for IAC, see IAC Supplement 11/5/08.]

ARC 7299B**REAL ESTATE COMMISSION[193E]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby amends Chapter 4, “Salesperson License,” and Chapter 16, “Prelicense Education and Continuing Education,” Iowa Administrative Code.

These amendments change the time period for completion of required education from 12 months prior to the date of examination to 12 months prior to the date of application. The amendments better reflect the original intent of the Commission with regard to the time period for completing education requirements for real estate licensure.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 7004B**. No public comment was received on these amendments.

These amendments were adopted by the Commission on October 9, 2008.

These amendments shall become effective December 10, 2008.

These amendments are intended to implement Iowa Code Supplement section 543B.15.

The following amendments are adopted.

ITEM 1. Amend subrule 4.1(10) as follows:

4.1(10) Beginning January 1, 2009, and thereafter, an applicant applying for an original salesperson license must provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. This education is in addition to the 60-hour salesperson prelicense course. The applicant must complete all the required education during the 12 months prior to ~~taking the examination~~ the date of application.

ITEM 2. Amend subrule 16.2(3) as follows:

16.2(3) Beginning January 1, 2009, and thereafter, an applicant applying for an original salesperson license must provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. This education is in addition to the 60-hour salesperson prelicense course. The applicant must complete all the required education during the 12 months prior to ~~taking the examination~~ the date of application.

[Filed 10/14/08, effective 12/10/08]

[Published 11/5/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/5/08.

AGENCY	RULE	DELAY
Environmental Protection Commission[567]	Amendments to Ch 135 [IAB 7/2/08, ARC 6892B]	Effective date of August 6, 2008, delayed 70 days by the Administrative Rules Review Committee at its meeting held July 8, 2008. [Pursuant to §17A.4(6)] At its meeting held October 14, 2008, the Committee voted to delay until adjournment of the 2009 Session of the General Assembly the following: 567—135.2(455B) , definition of “Sensitive area,” 135.9(4)“f,” 135.10(4)“a,” last sentence, 135.10(4)“b,” last sentence of first paragraph, 135.10(4)“f,” 135.10(11)“h.” [Pursuant to §17A.8(9)]
Insurance Division[191]	59.6(3), 59.6(5), 59.7(6) [IAB 8/13/08, ARC 7082B]	Effective date of September 17, 2008, delayed 70 days by the Administrative Rules Review Committee at its meeting held September 9, 2008. [Pursuant to §17A.4(6)] Delay Lifted: At its meeting held October 14, 2008, the Committee voted to lift the delay, effective October 15, 2008.
Public Health Department[641]	Ch 50 [IAB 7/30/08, ARC 7023B]	Effective date of September 3, 2008, delayed 70 days by the Administrative Rules Review Committee at its meeting held August 12, 2008. [Pursuant to §17A.4(6)] At its meeting held October 14, 2008, the Committee voted to delay until adjournment of the 2009 Session of the General Assembly 641—50.2(135) , definition of “Dental home.” [Pursuant to §17A.8(9)]