

# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Iowa Code Chapter 17A and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, regulatory flexibility analyses and agenda for monthly committee meetings.

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through~~ letters indicate deleted material.

**The ARC number which appears before each agency heading is assigned by the Administrative Rules Coordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.**

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to Iowa Code section 17A.6. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the administrative rules coordinator and published in the Bulletin.

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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Friday, August 21, 1987	September 9, 1987
7	Friday, September 4, 1987	September 23, 1987
8	Friday, September 18, 1987	October 7, 1987

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### SUBSCRIPTION INFORMATION

#### Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly as follows:

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## Schedule for Rule Making 1987

FILING DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 9	Jan. 28	Feb. 17	Mar. 4	Mar. 25	Apr. 29	July 27
Jan. 23	Feb. 11	Mar. 3	Mar. 18	Apr. 8	May 13	Aug. 10
Feb. 6	Feb. 25	Mar. 17	Apr. 1	Apr. 22	May 27	Aug. 24
Feb. 20	Mar. 11	Mar. 31	Apr. 15	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	July 15	Aug. 19	Nov. 16
May 15	June 3	June 23	July 8	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	Aug. 12	Sep. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 26	Sep. 30	Dec. 28
June 26	July 15	Aug. 4	Aug. 19	Sep. 9	Oct. 14	Jan. 11 '88
July 10	July 29	Aug. 18	Sep. 2	Sep. 23	Oct. 28	Jan. 25 '88
July 24	Aug. 12	Sep. 1	Sep. 16	Oct. 7	Nov. 11	Feb. 8 '88
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 21	Nov. 25	Feb. 22 '88
Aug. 21	Sep. 9	Sep. 29	Oct. 14	Nov. 4	Dec. 9	Mar. 7 '88
Sep. 4	Sep. 23	Oct. 13	Oct. 28	Nov. 18	Dec. 23	Mar. 21 '88
Sep. 18	Oct. 7	Oct. 27	Nov. 11	Dec. 2	Jan. 6 '88	Apr. 4 '88
Oct. 2	Oct. 21	Nov. 10	Nov. 25	Dec. 16	Jan. 20 '88	Apr. 18 '88
Oct. 16	Nov. 4	Nov. 24	Dec. 9	Dec. 30	Feb. 3 '88	May 2 '88
Oct. 30	Nov. 18	Dec. 8	Dec. 23	Jan. 13 '88	Feb. 17 '88	May 16 '88
Nov. 13	Dec. 2	Dec. 22	Jan. 6 '88	Jan. 27 '88	Mar. 2 '88	May 30 '88
Nov. 27	Dec. 16	Jan. 5 '88	Jan. 20 '88	Feb. 10 '88	Mar. 16 '88	June 13 '88
Dec. 11	Dec. 30	Jan. 19 '88	Feb. 3 '88	Feb. 24 '88	Mar. 30 '88	June 27 '88
Dec. 25	Jan. 13 '88	Feb. 2 '88	Feb. 17 '88	Mar. 9 '88	Apr. 13 '88	July 11 '88

20 days from the publication date is the **minimum** date for a public hearing or cutting off public comment.

35 days from the publication date is the **earliest** possible date for the agency to consider a noticed rule for adoption. It is the regular effective date for an adopted rule.

180 days See 17A.4(1)"b." If the agency does not adopt rules within this time frame, the Notice should be terminated.

## NOTICE

Beginning on June 14, 1985, the deadline for filing rules with the office of the Administrative Rules Coordinator will be **12 o'clock noon** rather than 4:30 p.m.

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.

## UNIFORM RULES OF STATE AGENCY PROCEDURE

Governor Terry E. Branstad appointed a nine-member Task Force in the summer of 1985 to draft uniform rules of agency procedure.

On December 5, 1986, the Task Force presented a report to the Governor. The Governor has accepted the Task Force recommendations on agency procedure for rule making which have been printed at the front of the Iowa Administrative Code for adoption by state agencies. [Green Tab — Uniform Rules]

The Administrative Rules Review Committee will hold its regular statutory meeting Tuesday, September 8, 1987, 10 a.m. and Wednesday, September 9, 1987, 9 a.m. in Committee Room 24, State Capitol. The following rules will be reviewed:

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## To All Agencies:

At its December meeting the Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)"b" by allowing the opportunity for oral presentation (hearing) to be held at least twenty days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>ATTORNEY GENERAL[61]</b> Consumer rental purchase agreement forms, ch 19 IAB 8/26/87 ARC 7869	Conference Room Second Floor Hoover State Office Bldg. Des Moines, Iowa	September 17, 1987 10 a.m.
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b> Satellite centers — allowable costs, 41.4, 41.7, 41.15 IAB 7/29/87 ARC 7782	Main Conference Room Economic Development Offices 200 East Grand Des Moines, Iowa	September 3, 1987 10 a.m.
<b>ENGINEERING AND LAND SURVEYING EXAMINING BOARD[390]</b> Property surveys, definitions, 2.1, 2.2 IAB 8/26/87 ARC 7853	Examining Board Offices 1918 S.E. Hulsizer Ave. Ankeny, Iowa	September 22, 1987 10 a.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION [567]</b> PCB maximum contaminant level, 143.6 IAB 8/12/87 ARC 7837	Conference Room Fifth Floor Wallace State Office Bldg. Des Moines, Iowa Conference Room Geological Survey Bureau 125 North Capitol Iowa City, Iowa Community Hall Room 205 South Main Council Bluffs, Iowa	September 8, 1987 3 p.m.  September 9, 1987 3 p.m.  September 10, 1987 3 p.m.
<b>IOWA FINANCE AUTHORITY [524]</b> Private activity bond allocation, ch 8 IAB 8/12/87 ARC 7836	Authority's Office 200 East Grand Des Moines, Iowa	September 1, 1987 10:30 a.m.
<b>LABOR SERVICES DIVISION[347]</b> Child labor, amendments to ch 32 IAB 7/29/87 ARC 7777 Contested case hearings, 1.6; Administrative hearings, ch 20 IAB 7/29/87 ARC 7778	Division of Labor Services 1000 East Grand Ave. Des Moines, Iowa Division of Labor Services 1000 East Grand Ave. Des Moines, Iowa	August 26, 1987 9 a.m. (If requested) August 26, 1987 9 a.m. (If requested)
<b>NATURAL RESOURCE COMMISSION[571]</b> State parks and recreation areas, 61.2, 61.3 IAB 8/26/87 ARC 7879	Conference Room Fourth Floor West Wallace State Office Bldg. Des Moines, Iowa	September 15, 1987 11 a.m.
State park user fees, amendments to ch 65 IAB 8/26/87 ARC 7876	Conference Room Fourth Floor West Wallace State Office Bldg. Des Moines, Iowa	September 15, 1987 10 a.m.
Fishing regulations, 81.1, 81.2 IAB 8/26/87 ARC 7878	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	September 15, 1987 10 a.m.
Water recreation access cost-share program, ch 30 IAB 8/26/87 ARC 7877	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	September 17, 1987 10 a.m.



**PUBLIC DEFENSE DEPARTMENT[650]**

State emergency response  
commission, chs 100, 101, 102  
IAB 7/29/87 ARC 7793  
(See also ARC 7792)

Office of Disaster Services  
Room A29  
Hoover State Office Bldg.  
Des Moines, Iowa

September 9, 1987  
9 a.m.  
(If requested)

**REAL ESTATE EXAMINING BOARD[700]**

Brokers and salespersons, ch 1  
IAB 8/26/87 ARC 7851

Examining Board Offices  
1918 S.E. Hulsizer Ave.  
Ankeny, Iowa

September 15, 1987  
10 a.m.

Administrative procedures, ch 2  
IAB 8/26/87 ARC 7852

Examining Board Offices  
1918 S.E. Hulsizer Ave.  
Ankeny, Iowa

September 15, 1987  
10 a.m.

**REGENTS BOARD[720]**

Personnel administration, ch 3  
IAB 8/26/87 ARC 7850

Conference Room  
Sixth Floor West  
Lucas State Office Bldg.  
Des Moines, Iowa

September 18, 1987  
10 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Aeronautics administration,  
ch 700  
IAB 7/15/87 ARC 7765

Department of  
Transportation Complex  
800 Lincoln Way  
Ames, Iowa

September 1, 1987

Iowa airport registration,  
ch 720  
IAB 7/15/87 ARC 7766

Department of  
Transportation Complex  
800 Lincoln Way  
Ames, Iowa

September 1, 1987

Driver licenses—  
physically handicapped, 600.16  
IAB 7/29/87 ARC 7767

Department of  
Transportation Complex  
800 Lincoln Way  
Ames, Iowa

September 18, 1987

Carrier regulations,  
520.1(2), 520.1(3)  
IAB 8/12/87 ARC 7839

Department of Transportation  
Complex  
800 Lincoln Way  
Ames, Iowa

October 20, 1987

Carrier safety regulations updated,  
520.1(1)"a"  
IAB 8/12/87 ARC 7840  
(See also ARC 7841)

Department of Transportation  
Complex  
800 Lincoln Way  
Ames, Iowa

October 20, 1987

## AGENCY IDENTIFICATION NUMBERS

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 agencies are included alphabetically in lowercase type at the left-hand margin, e.g., Beef Industry Council, Iowa [101].

Implementation of reorganization is continuing and the following list will be updated as changes occur:

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

### ATTORNEY GENERAL[61]

### AUDITOR OF STATE[81]

Beef Industry Council, Iowa[101]

### CAMPAIGN FINANCE DISCLOSURE COMMISSION[121]

### 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 Division[193]

Racing and Gaming Division[195]

Savings and Loan Division[197]

Utilities Division[199]

### CORRECTIONS DEPARTMENT[201]

### CULTURAL AFFAIRS DEPARTMENT[221]

Public Broadcasting Division[225]

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

### EDUCATION DEPARTMENT[281]

College Aid Commission[283]

Iowa Advance Funding Authority[285]

Professional Teaching Practices Commission[287]

School Budget Review Committee[289]

Egg Council[301]

### ELDER AFFAIRS DEPARTMENT[321]

### EMPLOYMENT SERVICES DEPARTMENT[341]

Industrial Services Division[343]

Job Service Division[345]

Labor Services Division[347]

### EXECUTIVE COUNCIL[361]

### GENERAL SERVICES DEPARTMENT[401]

### HUMAN RIGHTS DEPARTMENT[421]

Blind, Division for[423]

Children, Youth, and Families Division[425]

Community Action Agencies Division[427]

Deaf Services, Division of[429]

Persons With Disabilities Division[431]

Spanish-Speaking People Division[433]

Status of Women Division[435]

### HUMAN SERVICES DEPARTMENT[441]

### INSPECTIONS AND APPEALS DEPARTMENT[481]

Employment Appeal Board[486]

Foster Care Review Board[489]

LAW ENFORCEMENT ACADEMY[501]  
Livestock Health Advisory Council[521]  
MANAGEMENT DEPARTMENT[541]  
  Appeal Board, State[543]  
  City Finance Committee[545]  
  County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
  Energy and Geological Resources[565]  
  Environmental Protection Commission[567]  
  Natural Resource Commission[571]  
  Preserves, State Advisory Board[575]  
PERSONNEL DEPARTMENT[581]  
PUBLIC DEFENSE DEPARTMENT[601]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
  Substance Abuse[643]  
  Professional Licensure Division[645]  
  Dental Examiners[650]  
  Medical Examiners[653]  
  Nursing Board[655]  
  Pharmacy Examiners[657]  
PUBLIC SAFETY DEPARTMENT[661]  
REGENTS BOARD[681]  
REVENUE AND FINANCE DEPARTMENT[701]  
  Lottery Division[705]  
SECRETARY OF STATE[721]  
  Sheep and Wool Promotion Board, Iowa [741]  
TRANSPORTATION DEPARTMENT[761]  
  Railway Finance Authority, Iowa[765]  
TREASURER OF STATE[781]

## ARC 7857

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT [21]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 159.5(11), the Iowa Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend 30—Chapter 14, "Registration of Iowa-Foaled Horses and Iowa-Whelped Dogs," Iowa Administrative Code.

The present rules of the Department require clarification regarding the time by which the mare registration application must be submitted. These amendments will affect all three breeds involved in the Iowa Horse and Dog Breeders Fund by requiring the mare registration applications to be submitted to the Department prior to foaling.

Any interested person may make written suggestions or comments on these amendments prior to September 15, 1987. Such written materials should be submitted to Dale M. Cochran, Secretary of Agriculture, Henry A. Wallace Building, Des Moines, Iowa 50319.

Oral presentation may be requested as set forth in Iowa Code section 17A.4(1)"b".

These rules are intended to implement Iowa Code section 99D.22.

The following amendments are proposed:

ITEM 1. Amend subrule 14.15(3), paragraph "a," to read as follows:

a. A Thoroughbred Brood Mare Registration Application, Form M-4, must be submitted to the department *prior to foaling*. This registration will cover the mare her entire productive life as long as there is not a change of ownership and the thoroughbred mare meets the eligibility rules set forth in 14.15(2).

ITEM 2. Amend subrule 14.25(3), paragraph "a," as follows:

a. A Standardbred Brood Mare Registration Application, Form M-4, must be submitted to the department *prior to foaling*. This registration will cover the mare her entire productive life as long as there is not a change of ownership and the standardbred mare meets the eligibility rules set forth in 14.25(2).

ITEM 3. Amend subrule 14.35(3), paragraph "a," as follows:

a. A Quarterhorse Brood Mare Registration Application, Form M-4, must be submitted to the department *prior to foaling*. This registration will cover the mare her entire productive life as long as there is not a change of ownership and the quarterhorse mare meets the eligibility rules set forth in 14.35(2).

These rules are intended to implement Iowa Code section 99D.22.

## ARC 7856

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT [21]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 159.5(11), the Iowa Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend 30—Chapter 18, "Livestock Movement," Iowa Administrative Code.

The present rules of the Department require expansion so as to eliminate duplication of paperwork and lessen financial requirements for the livestock industry. The proposed amendment, which would permit use of the Postmovement Quarantine Form as a release for animals from a livestock market, could reduce the paperwork flow for market veterinarians by allowing them to use either that form or the Form M. Currently, if the animals being released from a market are under quarantine, both forms must accompany them.

The proposed amendment, adding an Affidavit of Slaughter as an official document, permits animals destined to go straight to slaughter to be released without brucellosis tests if there is an Affidavit of Slaughter. Currently, either the seller or purchaser of the animals must bear the expense of the brucellosis tests.

Any interested person may make written suggestions or comments on these amendments prior to September 15, 1987. Such written materials should be submitted to Dale M. Cochran, Secretary of Agriculture, Henry A. Wallace Building, Des Moines, Iowa 50319.

Oral presentation may be requested as set forth in Iowa Code section 17A.4(1)"b".

This rule is intended to implement Iowa Code chapters 163, 163A, 164, and 172B and Iowa Code section 163.12.

The following amendments are proposed:

Rule 30—18.11(163,172B) is amended to read as follows:

**30—18.11(163,172B) Movement of livestock within the state.** With the exception of nonquarantined livestock consigned for immediate slaughter, all livestock transported within Iowa, where a change of ownership is involved, must be accompanied by a standard transportation certificate or one of the following documents:

1. Certificate of Veterinary Inspection
2. Form M—Certificate of Inspection or *Postmovement Quarantine Form*
3. Form Q-LSM—Swine Quarantine
4. Form 1-27—Quarantine Livestock Consigned for Slaughter-
5. *Affidavit of Slaughter.*

All of the foregoing documents shall be properly executed by a licensed, accredited veterinarian of Iowa and shall indicate the following: destination of the livestock, purpose of the movement, number and description of the animals, point of origin, and name and address of the consignor.

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

Exception: Livestock classes that do not require individual identification may move intrastate on a bill of sale containing a stamped certification of veterinary inspection. The stamped certification shall contain the following statement:

"I certify as a licensed, accredited veterinarian, that these animals have been inspected by me and that they are not showing signs of infectious, contagious, or communicable diseases (except where noted)."

\_\_\_\_\_  
Signature

The stamped certification must be signed by the veterinarian or contain the veterinarian's stamped signature, applied and initialed by someone authorized by the veterinarian.

Market consignment records must be signed or initialed by the inspecting veterinarian as proof of inspection before the stamped certification can be applied to the bill of sale by an authorized person. Inspection records must be maintained by the market for at least two years.

This rule is intended to implement Iowa Code chapters 163, 163A, 164, and 172B and Iowa Code section 163.12.

File 585, sections 5 and 6. The purpose of this Notice is to solicit public comment on the rule.

Because the Administrator has concluded that the rule may have an impact on small business, the Administrator pursuant to Iowa Code section 17A.31 will consider the impact of the rule on small business.

The rule will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any interested person may make written suggestions or comments on the rule prior to September 17, 1987. Such written materials should be directed to: Linda Thomas Lowe, Assistant Attorney General, Office of Administrator of the Iowa Consumer Credit Code, Consumer Protection Division, Department of Justice, Hoover Building, Des Moines, Iowa 50319. There will be a public hearing on September 17, 1987, at 10 a.m. in the second floor conference room of the Hoover State Office Building. Persons may present their views orally or in writing at this hearing; however, persons wishing to make oral presentations should so advise the Administrator by contacting Linda Thomas Lowe at 515-281-5926 by 4:30 p.m., September 16, 1987.

This rule is intended to implement 1987 Iowa Acts, House File 585, sections 5 and 6.

The following Chapter 19 is proposed:

## CHAPTER 19

CONSUMER RENTAL PURCHASE  
AGREEMENTS FORMS

## ARC 7869

## ATTORNEY GENERAL[61]

DEPARTMENT OF JUSTICE

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 537.6117, and 1987 Iowa Acts, House File 585, sections 5 and 6, the Administrator of the Iowa Consumer Credit Code, as designee of the Attorney General, proposes to adopt Chapter 19, "Consumer Rental Purchase Agreements Forms," Iowa Administrative Code.

The proposed Chapter 19 contains a rule providing for model forms for consumer rental purchase agreements. The rule, in particular, provides for the order, conspicuousness, and initialing of the consumer rental purchase agreement disclosures required by 1987 Iowa Acts, House File 585, section 5.

The Administrator has the general authority to promulgate rules deemed reasonably necessary for the enforcement of the Iowa Consumer Credit Code, Iowa Code chapter 537, and the specific authority to adopt rules concerning the form of consumer rental purchase agreements or contracts. The Administrator will find rental purchase agreements using the proposed model form to be in compliance with 1987 Iowa Acts, House

61—19.1(537) Agreement forms. Pursuant to Iowa Code section 537.6117 and 1987 Iowa Acts, House File 585, sections 5 and 6, the administrator of the consumer credit code finds that consumer rental purchase agreements must be substantially in the form of the model agreement contained in this rule. The "Rental Purchase Disclosures" numbered 1 to 5 and the "Notice to Lessee" must appear on the face of the agreement. Uppercase 10-point type must be used for the heading or caption of each of the disclosures numbered 1 to 5. All other material must be in at least 8-point type except for the "Notice to Lessee" which must be in at least 10-point uppercase boldface type. All rental purchase disclosures must be adequately segregated so as to be clear and conspicuous. All payments and dollar amounts must be segregated on separate lines to the right-hand side of the contract.

Additional terms of the rental purchase agreement shall be printed on a separate page. The "Terms of Agreement" numbered 1 to 6 appearing in the model form of this rule must be included in the order set out in the model. Creditors may use and disclose permissible additional charges which are less than the statutory maximum charges disclosed on the model form. A creditor's form may include additional "Terms of Agreement" provided they do not detract from or contradict the required disclosures and terms; however, the creditor should avoid unduly lengthy terms of agreement. All terms must be written in plain English. All items appearing under "Terms of Agreement" must be in at least 8-point type with the title of each term appearing in boldface uppercase 10-point type.

Creditors using the following model form shall be deemed to be in compliance with 1987 Iowa Acts, House File 585, sections 5 and 6.

ATTORNEY GENERAL[61] (cont'd)

IOWA CONSUMER CREDIT CODE-MODEL FORM

IOWA CONSUMER RENTAL-PURCHASE AGREEMENT--Date: \_\_\_\_\_ Agreement No. \_\_\_\_\_

Name of Lessee(s) \_\_\_\_\_ Name of Lessor \_\_\_\_\_

Address \_\_\_\_\_ Address \_\_\_\_\_

RENTAL PURCHASE DISCLOSURES

The following disclosures are required by the Iowa Rental-Purchase Act to help you understand the terms of your rental purchase agreement.

1. DESCRIPTION OF LEASED PROPERTY

<u>ITEM</u>	<u>QTY</u>	<u>MODEL #</u>	<u>SERIAL #</u>	<u>YEAR</u>	<u>NEW</u> or <u>USED</u> (Check one)
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2. TOTAL OF SCHEDULED PAYMENTS.....  \$ \_\_\_\_\_  
Lessee Initial

The total of scheduled payments means the total dollar amount of lease payments you will have to make to own the property. This total does NOT include ADDITIONAL CHARGES which might be made during the agreement such as: LATE PAYMENT CHARGES, REINSTATEMENT FEES, OPTIONAL PAYMENT PICKUP CHARGES. See the remainder of the contract for an explanation of these charges.

If you rent monthly, you will make \_\_\_\_\_ monthly payments of....\$\_\_\_\_\_ per month  
If you rent weekly, you will make \_\_\_\_\_ weekly payments of.....\$\_\_\_\_\_ per week  
Payments will begin on the \_\_\_ of \_\_\_\_\_, 19\_\_ and each renewal will be due on the \_\_\_ of each \_\_\_\_\_.

3. INITIAL PAYMENTS

- A. Administrative fee.....\$ \_\_\_\_\_  
OR a
- B. Delivery charge.....\$ \_\_\_\_\_
- C. Security Deposit.....\$ \_\_\_\_\_

DEPOSIT WILL BE RETURNED UNDER THESE CONDITIONS:

D. Taxes or Official Fees (Itemize).....\$ \_\_\_\_\_

4. CASH PRICE.....  \$ \_\_\_\_\_  
Lessee Initial

This is the price at which we would sell the leased property listed above to a buyer on the date of this agreement.

5. YOU WILL NOT OWN THE PROPERTY UNTIL YOU HAVE MADE ALL OF THE PAYMENTS ABOVE (UNLESS YOU CHOOSE TO "BUY-OUT" EARLY AS EXPLAINED BELOW)

ATTORNEY GENERAL[61] (cont'd)

NOTICE TO LESSEE - READ BEFORE SIGNING:

1. DO NOT SIGN THIS AGREEMENT BEFORE YOU READ THE ENTIRE AGREEMENT INCLUDING ANY WRITING ON THE REVERSE SIDE OR ON ADDITIONAL PAGES, EVEN IF OTHERWISE ADVISED.
2. DO NOT SIGN THIS IF IT HAS ANY BLANK SPACES.
3. YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENT YOU SIGN.
4. ANYTIME AFTER YOU HAVE MADE YOUR FIRST WEEKLY/MONTHLY PAYMENT YOU HAVE THE RIGHT TO EXERCISE AN "EARLY BUY-OUT" OPTION AS PROVIDED IN THIS AGREEMENT. IF YOU CHOOSE THE EARLY BUY-OUT THIS OPTION MAY RESULT IN A REDUCTION OF YOUR TOTAL COST TO ACQUIRE OWNERSHIP. IF YOU BUY-OUT EARLY YOU WILL PAY: ("TOTAL OF PAYMENTS")-(AMOUNT YOU HAVE PAID ALREADY) = [creditors insert their own formula which must use a multiplier of 55% or less].
5. IF YOU CHOOSE TO MAKE WEEKLY RATHER THAN MONTHLY PAYMENTS AND YOU USE YOUR EARLY BUY-OUT OPTION, YOU MAY PAY MORE FOR THE LEASED PROPERTY.

I HAVE READ THIS RENTAL PURCHASE AGREEMENT AND I AGREE TO ITS TERMS.

Lessee:(Sign)\_\_\_\_\_

Lessor:(Sign)\_\_\_\_\_

Lessee:(Sign)\_\_\_\_\_

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

TERMS OF AGREEMENT

1. ADDITIONAL CHARGES: [Charges referred to below are maximums. Creditors may insert their own charges if they are less than the maximums.]

LATE PAYMENT CHARGES: A \$5.00 charge for monthly payments not made within five (5) business days of the date payment is due, or \$3.00 charge for weekly payments not made within three (3) business days of the date when payment is due. This charge may only be made when no "payment pick-up charge" has been made.

REINSTATEMENT FEES: A \$5.00 fee for the right to reinstate the Agreement after failing to make a timely rental payment.

DELIVERY FEES: A \$10.00 fee for delivery of up to five (5) items and a charge of \$25.00 for delivery of more than five (5) items.

ADMINISTRATIVE FEES: An initial fee of \$10.00 to cover administrative costs of the Agreement. But ONLY if there is no delivery charge.

OPTIONAL IN HOME PICK UP OF RENTAL PAYMENTS: Renewal rental payments must be made by mail or in person at the store on the due date or before for each term that you want to continue to lease the property. However, for a charge of \$7.00 per payment, we can pick up the payment at your home. In no event will this charge be assessed in excess of three (3) times in any three (3) month period if the agreement is weekly or three (3) times in any six (6) month period if the agreement is monthly. Sign here if you want to pay for this optional service:

\_\_\_\_\_

## ATTORNEY GENERAL[61] (cont'd)

**OPTIONAL PROPERTY INSURANCE:** You do not have to carry insurance on the property. If you want property insurance you may buy it from us or from someone else.

2. **YOUR REINSTATEMENT RIGHT:** If you fail to make a renewal rental payment you may have the right to reinstate this agreement by paying all rental payments past due, all applicable late charges, reinstatement fees and redelivery fees provided:

- 1) You voluntarily returned the property to us, if requested and
- 2) Not more than sixty (60) days have passed since you have returned the property.

3. **YOUR TERMINATION RIGHT:** You may terminate this agreement at any time without paying any charges other than those previously due. You must return the property to us and make all rental payments due through the date of the return of the property. The property must be returned in its present condition, fair wear and tear excepted.

4. **OUR TERMINATION RIGHT:** We may terminate this agreement for a default in payment or breach of any other material term of this Agreement. If termination occurs we shall be entitled to all rental payments up to the date of termination as well as the reasonable expenses of repossession of the property if you fail to surrender the property to us.

5. **WARRANTY:** A manufacturer's warranty in the property rented under this agreement will be passed on to you if you acquire ownership of the property, if the warranty is still in effect, and allows us to give it to you.

6. **DAMAGE OR LOSS:** You are fully responsible for the loss, theft, damage in excess of normal wear and tear or destruction of the rental property from all causes whatever. If such loss or damage occurs you are liable for the fair market value of the property.

7. **TITLE TO PROPERTY:** You understand that we own the property until you buy it as stated in this agreement. During the lease term you do not have any ownership interest in the property and you may not sell, mortgage, pawn, pledge or otherwise dispose of the property or assign any rights under this agreement.



## NOTICE — AGRICULTURAL CREDIT CORPORATION MAXIMUM LOAN RATE

In accordance with the provisions of Iowa Code section 535.12, the Superintendent of Banking has determined that the maximum rate of interest that may be charged on loans by Agricultural Credit Corporations as defined in Iowa Code section 535.12, subsection 4, shall be:

December 1, 1985 — December 31, 1985	14.60%
January 1, 1986 — January 31, 1986	14.60%
February 1, 1986 — February 28, 1986	14.75%
March 1, 1986 — March 31, 1986	14.95%
April 1, 1986 — April 30, 1986	14.95%
May 1, 1986 — May 31, 1986	14.90%
June 1, 1986 — June 30, 1986	14.85%
July 1, 1986 — July 31, 1986	11.90%
August 1, 1986 — August 31, 1986	11.70%
September 1, 1986 — September 30, 1986	11.25%
October 1, 1986 — October 31, 1986	11.20%
November 1, 1986 — November 30, 1986	11.20%
December 1, 1986 — December 31, 1986	11.20%
January 1, 1987 — January 31, 1987	10.90%
February 1, 1987 — February 28, 1987	10.90%
March 1, 1987 — March 31, 1987	10.90%
April 1, 1987 — April 30, 1987	10.90%
May 1, 1987 — May 31, 1987	10.90%
June 1, 1987 — June 30, 1987	10.90%
July 1, 1987 — July 31, 1987	10.90%
August 1, 1987 — August 31, 1987	10.90%

### ARC 7853

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD [390]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 114.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Minimum Standards for Property Surveys,” Iowa Administrative Code. The proposed rules clarify the scope and definition of “property survey” and remove exceptions.

Any interested person may make written suggestions or comments on these rules no later than September 21, 1987, to the Engineering and Land Surveying Examining Board, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. There will be a public hearing on September 22, 1987, at 10 a.m. at the above address. Persons may

present their views at this hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact Patricia Peters, 515/281-5602, at the above address prior to the date of the public hearing in order to be scheduled.

These rules are intended to implement Iowa Code section 114.2.

Rescind rules 390—2.1(114) and 390—2.2(114) in their entirety and insert in lieu thereof the following:

**390—2.1(114) Scope.** Except where prescribed by statute, administrative rule, or ordinance, the minimum standards of this rule shall apply to all property surveys performed in this state.

**390—2.2(114) Definition.** “Property survey” shall mean any survey performed for the purpose of describing, monumenting, locating boundary lines, subdividing, or platting one or more parcels of land.

### ARC 7848

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” appearing in the Iowa Administrative Code.

Current policy now states that election of officers for the Medical Assistance Advisory Council will take place in January.

The Medical Assistance Advisory Council does not always meet in January. Therefore, this amendment revises policy at the request of the Medical Assistance Advisory Council to provide that elections be held at the time of the first meeting after the beginning of the calendar year.

Consideration will be given to all written data, views, or arguments thereto received by the Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114 on or before September 16, 1987.

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

Rescind subrule 79.7(1), paragraph “a,” and insert the following in lieu thereof:

a. Elections will be held the first meeting after the beginning of the calendar year.

**ARC 7861****INSPECTIONS AND APPEALS  
DEPARTMENT[481]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 10A.104(5), the Iowa Department of Inspections and Appeals proposes to amend Chapter 58, "Intermediate Care Facilities," and Chapter 59, "Skilled Nursing Facilities," by adding a rule to allow aides and orderlies from other states to take an examination to prove knowledge and to demonstrate skills required of people who are granted an Iowa certificate. The examination will be given in academic institutions and by health care facilities which have been approved to teach the nurse's aide course.

Currently when someone not trained in Iowa wants to work in Iowa as a certified aide or orderly they must submit a schedule of courses they have taken. Department of Inspections and Appeals staff then reviews the courses to ensure that they are similar to those required in Iowa. This is a time-consuming process for staff, and often applicants are unable to find appropriate documentation of the courses taken.

These rules will decrease staff time spent in reviewing course lists and will improve the likelihood of aides and orderlies being competent before they are employed. Ability to pass a test and demonstrate skills is a better indicator of competency than a review of courses taken. The intent of these rules is to increase efficiency in ensuring competent employees in health care facilities.

Written comments concerning these rules will be considered by the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319 if they are received by September 15, 1987.

These rules are intended to implement Iowa Code section 135C.3.

**ITEM 1.** Amend subrule 58.11(1) by adding paragraph "k" as follows:

k. Nurse aides, orderlies or attendants in an intermediate care facility who have received training other than the Iowa state-approved program, must pass a challenge examination approved by the department of inspections and appeals. Evidence of prior formal training in a nursing aide, orderly, attendant, or other comparable program must be presented to the facility or institution conducting the challenge examination before the examination is given. The approved facility or institution, following department of inspections and appeals guidelines, shall make the determination of who is qualified to take the examination. Documentation of the challenge examinations administered shall be maintained.

**ITEM 2.** Amend subrule 59.13(1) by adding paragraph "k" as follows:

k. Nurse aides, orderlies or attendants in a skilled nursing facility who have received training other than the Iowa state-approved program, must pass a challenge

examination approved by the department of inspections and appeals. Evidence of prior formal training in a nursing aide, orderly, attendant, or other comparable program must be presented to the facility or institution conducting the challenge examination before the examination is given. The approved facility or institution, following department of inspections and appeals guidelines, shall make the determination of who is qualified to take the examination. Documentation of the challenge examinations administered shall be maintained.

**ARC 7874****INSURANCE DIVISION[191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 505.8 and 507B.12, the Iowa Division of Insurance hereby gives Notice of Intended Action to amend Chapter 15, "Unfair Trade Practices," Iowa Administrative Code.

This rule requires all insurers or their intermediaries to conduct analysis on behalf of all prospective purchasers to ensure that no duplication of coverage is involved.

Any person may make written comments not later than September 15, 1987, to Kevin F. Howe, Iowa Division of Insurance, Lucas State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 507B.12.

Amend 191—Chapter 15 by adding the following new rule:

**191—15.11(507B) Affidavit requirement.**

**15.11(1)** "Affidavit of nonduplication" means the document which contains and is limited to the language which is set forth in Appendix I to this section.

**15.11(2)** All insurers and their intermediaries shall obtain an affidavit of nonduplication with all applications for any type of health insurance sold to an individual who is eligible for Medicare coverage. This affidavit shall be obtained at the same time as the application and shall be submitted to the insurer with the application.

**15.11(3)** In order to obtain this affidavit, all insurers or their intermediaries shall offer to examine all health insurance policies owned by a prospective purchaser and advise such purchaser as to whether the purchase of the proposed policy will result in any duplication of benefits.

**15.11(4)** Insurers who do not use intermediaries shall implement a similar system of review at no cost to the proposed insured.

INSURANCE DIVISION[191] (cont'd)

15.11(5) Failure to obtain an affidavit of nondupli- cation shall be an unfair business practice under Iowa Code chapter 507B.

Appendix I

AFFIDAVIT OF NONDUPLICATION

PLEASE READ CAREFULLY BEFORE SIGNING

I, \_\_\_\_\_, certify that I have (Agent's Name) done the following:

1. Informed the undersigned applicant of the right to have all existing health insurance policies presently in force reviewed by me to determine whether any duplicate coverage will occur with the issuance of this policy.

2. Reviewed the following policies and have found that duplication WILL/WILL NOT occur with the issuance of the following policy. \_\_\_\_\_

COMPANY POLICY NUMBER TYPE OF POLICY

Table with 3 columns: COMPANY, POLICY NUMBER, TYPE OF POLICY. Contains several blank rows for data entry.

\_\_\_\_\_ Duplication will not occur because the following polic(y) (ies) will be replaced by the applied for policy.

\_\_\_\_\_ No health policies in force at this time.

\_\_\_\_\_ Applicant has elected not to have the polic(y) (ies) reviewed.

DATE AGENT

I certify that I have been informed of my right to have all of my existing health policies reviewed and:

\_\_\_\_\_ I have been informed that the policy for which I am applying WILL/WILL NOT result in duplicate coverage.

\_\_\_\_\_ I have elected not to have my policies reviewed.

DATE APPLICANT

This rule is intended to implement Iowa Code section 507B.12.

ARC 7872

INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 505.8 and 507B.12, the Iowa Division of Insurance hereby gives Notice of Intended Action to amend Chapter 16, "Replacement of Life Insurance and Annuities," Iowa Administrative Code.

Any person may make written comments not later than September 15, 1987, to Kevin F. Howe, Iowa Division of Insurance, Lucas State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 507B.12.

Amend subrule 16.7(1), paragraph "b," subparagraph (2), as follows:

(2) Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to subparagraph 16.7(1)"b"(1) and a policy summary or ledger statement containing policy data on the proposed life insurance as required by subrule 15.68(7) or, for an annuity, a summary as required by paragraph 16.7(2)"c." Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary or ledger statement. This written communication shall be made within five ten working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner.

ARC 7875

INSURANCE DIVISION [191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 1987 Iowa Acts, House File 614, section 16, the Insurance Division of Iowa hereby gives Notice of Intended Action to adopt a new Chapter 19, "Prearranged Funeral Contracts," Iowa Administrative Code.

The proposed rules implement the changes in the regulatory and reporting provisions of the Iowa Prearranged Funeral Contracts Act adopted by 1987 Iowa Acts, House File 614. House File 614 establishes two types of permits: establishment permits and sales permits. Prior to July 1, 1987, the reports were filed with the applicable County Recorder. After July 1, 1987, reports will be filed with the Securities Bureau of the Iowa Insurance Division. The adoption of Chapter 19 will bring the Insurance Division into compliance with the amendments contained in 1987 Iowa Acts, House File 614.

Any interested persons may make written suggestions or comments on these rules prior to September 30, 1987. Such written materials should be directed to Dennis N. Britson, Iowa Securities Bureau, Lucas State Office Building, Des Moines, Iowa 50319.

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

The following new chapter is proposed:

**CHAPTER 19  
PREARRANGED FUNERAL CONTRACTS**

**191—19.1 (523A) Purpose.** The following chapter is promulgated for the purpose of administering the provisions of 1987 Iowa Acts, House File 614, the Iowa prearranged funeral contracts Act, relating to sales of funeral services, funeral merchandise, or a combination of funeral services and merchandise, pursuant to a prearranged funeral contract.

**191—19.2 (523A) Definitions.** As used in the Act and this chapter, unless the context otherwise requires:

“Act” means 1987 Iowa Acts, House File 614, the Iowa prearranged funeral contracts Act.

“Beneficiary” means any natural person specified or included in a prearranged funeral contract, upon whose death funeral services, funeral merchandise, or a combination of funeral services and merchandise shall be performed, provided, or delivered.

“Commissioner” means the commissioner of insurance for the state of Iowa.

“Financial institution” means a state or federally insured bank, savings and loan association, or credit union authorized to do business in the state of Iowa.

“Funds” means money paid pursuant to a prearranged funeral contract.

“Funeral merchandise” means one or more types of personal property to be used at the time of the final disposition of a dead body, including but not limited to clothing, caskets, vaults, and interment receptacles.

“Funeral services” means one or more services to be provided at the time of the final disposition of a dead human body, including but not limited to services necessarily or customarily provided in connection with a funeral, or services necessarily or customarily provided in connection with the interment, entombment, or cremation of a dead human body, or a combination of such services.

“Insolvent” means the inability to pay debts, as they become due, in the usual course of business.

“Interest or income” shall mean, for the purpose of determining pursuant to Iowa Code section 523A.1, as amended by 1987 Iowa Acts, House File 614, the amount of interest or income earned on amounts deposited in trust, the aggregate of any payments received by the trust for the use of its money (interest earned on loans, bank deposits, etc.) and any income realized with respect to trust assets (gains from the sale of stock, dividends, etc.) net of losses and expenses and shall not include any appreciation or depreciation in the value of assets which does not affect the trust's current tax liability, which are commonly known as “paper” gains or losses.

“Person” means an individual, corporation, trust, partnership or association, or any other legal entity.

“Prearranged funeral contract” means an agreement to furnish, upon the future death of a person named or implied in the agreement, funeral services, funeral merchandise, or a combination of funeral services and merchandise.

“Purchaser” means any person (such person may or may not be a beneficiary) who purchases funeral services, funeral merchandise, or a combination of funeral services and merchandise, on a preneed basis.

“Seller” means any person residing in or doing business in the state of Iowa (which includes issuing or performing wholly or in part in the state of Iowa any incident of a prearranged funeral contract), who sells, promotes or offers funeral services, funeral merchandise, or a combination of funeral services and merchandise on a preneed basis.

“Trustee” means any state or federally insured bank, savings and loan, credit union, or trust department thereof, to the extent that such financial institution has been granted trust powers under the laws of this state or the United States, who holds funds pursuant to a trust agreement. The term “trustee” shall not include:

1. A seller; or
2. Anyone employed by or directly involved with the seller in the seller's business of selling prearranged funeral plans.

“Trust funds” means funds deposited by a seller in a financial institution.

“Trust instrument” means the document(s) pursuant to which a trustee receives, holds, invests, and disburses trust funds.

**191—19.3 (523A) Title.** The Act may be cited as the “Iowa prearranged funeral contracts Act.”

**191—19.4 (523A) Scope.** This chapter shall apply to any agreement made by any person to furnish, upon the future death of a person named or implied in the agreement, funeral services or funeral merchandise.

**191—19.5 (523A) Exemptions.** For purposes of the Act and this chapter:

19.5(1) “Funeral services” does not include perpetual care or maintenance.

19.5(2) “Merchandise” does not include real property, and does not include grave markers, tombstones, ornamental merchandise, and monuments.

19.6 to 19.9 Reserved.

**191—19.10 (523A) Administration.**

19.10(1) The Act shall be administered by the commissioner of insurance of the state of Iowa. As deputy administrator, the Iowa superintendent of securities shall be the principal operations officer responsible to the commissioner for the routine administration of the Act and management of the administrative staff of the Iowa securities bureau.

19.10(2) In the absence of the commissioner, whether because of vacancy in the office, by reason of absence, physical disability or other cause, the superintendent of securities shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the commissioner. The commissioner may from time to time delegate to the superintendent of securities any or all of the functions assigned to the commissioner in the Act.

19.10(3) The superintendent of securities shall employ officers, attorneys, accountants, investigators, and other employees as shall be needed for the administration of the Act.

19.10(4) Upon request and at such reasonable charges as may be prescribed, the commissioner may honor requests from interested persons for interpretative opinions.

**191—19.11 (523A) Misrepresentations of government approval.** It is unlawful for any permit holder under the Act to represent or imply in any manner

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

whatsoever that the permit holder has been sponsored, recommended, or approved or that the permit holder's abilities or qualifications have in any respect been passed upon by the Iowa securities bureau, the Iowa insurance division or the state of Iowa.

**191—19.12 (523A) Public access to hearings.** Every hearing in an administrative proceeding shall be open to the public.

**191—19.13 (523A) Public access to records.**

**19.13(1)** The commissioner shall keep a register of all applications for permits which are or have been effective under the Act and all denial, suspension, or revocation orders which have been entered under the Act. The register shall be open for public inspection.

**19.13(2)** Upon request and at such reasonable charges as may be prescribed, the commissioner shall furnish to any person photostatic or other copies, certified if requested, of any entry in the register or any document which is a matter of public record. In any administrative proceeding or prosecution under the Act, any copy so certified is prima facie evidence of the contents of the entry or document certified.

**19.13(3)** All records maintained by the commissioner pursuant to Iowa Code subsection 523A.2(1) as amended by 1987 Iowa Acts, House File 614, shall be confidential and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general.

**19.13(4)** The commissioner and the attorney general may keep confidential the information obtained in the course of an investigation or audit. However, if the commissioner or the attorney general determines that it is necessary or appropriate, in the public interest, the commissioner or the attorney general may share information with other administrators, regulatory authorities, or governmental agencies or may publish information concerning a violation of the Act, this chapter, or an order issued pursuant to the Act or this chapter.

**191—19.14 (523A) Procedure for public complaints.**

**19.14(1)** The Iowa attorney general shall receive and process each complaint made against any permit holder, or any unlicensed individual or entity, which alleges certain acts or practices which may constitute one or more violations of the provisions of Iowa Code chapter 523A as amended by 1987 Iowa Acts, House File 614, the Iowa prearranged funeral contracts Act. Any member of the public or the profession, or any federal, state, or local officials, may make and file a complaint with the attorney general. Complaints may be received from sources without the state of Iowa and processed in the same manner as those originating in Iowa.

**19.14(2)** Complaints should be mailed or delivered to the following address: Department of Justice, Consumer Protection Division, Hoover Bldg., Second Floor, 1300 East Walnut, Des Moines, Iowa 50319.

**19.14(3)** All complaints shall be made in writing and shall fully identify the complainant by name and address. If required by the consumer protection division, complaints shall be made on forms prescribed and provided by that division.

**19.14(4)** Oral or telephone communications will not be considered or processed as complaints. However, any member of the administrative staff of the Iowa attorney general may make and file a complaint based upon information and belief, in reliance upon oral, telephone,

or written communications received by the office of the Iowa attorney general.

**191—19.15 (523A) Compliance with other laws.**

**19.15(1)** All prearranged funeral contracts must conform to Iowa Code chapter 82, the door-to-door sales Act, as follows:

a. Contract. Every seller shall furnish the buyer with a fully completed receipt or copy of any contract pertaining to the sale of funeral merchandise or services at the time of its execution, which is in the same language as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer and in boldface type of a minimum size of ten points, a statement in substantially the following form:

"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

b. Cancellation. Every seller shall furnish each buyer, at the time the buyer signs the contract or otherwise agrees to buy services or merchandise from the seller, a completed form in duplicate, captioned "Notice of Cancellation", which shall be attached to the contract or receipt and easily detachable, and which shall contain in ten-point boldface type the following information and statements in the same language as that used in the contract:

#### NOTICE OF CANCELLATION

(Enter date of transaction)  
(Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do not agree to return the goods to the seller or if the seller does not pick them up within twenty days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to \_\_\_\_\_,

(Name of seller)

at \_\_\_\_\_ not later

(Address of seller's place of business)

than midnight of \_\_\_\_\_

(Date)

I hereby cancel this transaction. \_\_\_\_\_

(Date)

(Buyer's signature)

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c. Duties of seller. A seller shall:

(1) Furnish two copies of the notice of cancellation to the buyer, and complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

(2) Not include in any contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this chapter including specifically the right to cancel the sale in accordance with the provisions of this chapter.

(3) Inform each buyer orally, at the time the buyer signs the contract or purchases the services or merchandise, of the buyer's right to cancel.

(4) Not misrepresent in any manner the buyer's right to cancel.

(5) Honor any valid notice of cancellation by a buyer and within ten business days after the receipt of notice shall refund all payments made under the contract or sale, return any goods or property traded in, in substantially as good condition as when received by the seller, and cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

(6) Not negotiate, transfer, sell, or assign any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the seventh business day following the day the contract was signed or the goods or services were purchased.

(7) Within ten business days of receipt of the buyer's notice of cancellation notify the buyer whether the seller intends to repossess or to abandon any shipped or delivered goods.

d. Effect on indebtedness. Rescission of any contract pursuant to this chapter or the failure to provide a copy of the contract to the buyer as required by this chapter shall void any contract, note, instrument, or other evidence of indebtedness executed or entered into in connection with the contract and shall constitute a complete defense in any action based on the contract, note, instrument, or other evidence of indebtedness brought by the seller, the successors or assigns unless a successor or assignee of the seller after the seventh business day following the day the contract was signed has detrimentally relied upon a representation of the buyer that the contract has not been rescinded. This section shall not affect the rights of the holders in due course of checks made by the buyer.

19.15(2) In the event of a credit sale, a prearranged funeral contract must conform to Iowa Code chapter 537, the Iowa consumer credit code.

191-19.16 (523A) Fees. The following fees are hereby established by the commissioner:

- 1. Application packet .....\$ 5.00
- 2. Certification.....\$ 5.00
- 3. Duplicate permit fee .....\$ 5.00
- 4. Establishment permit fee.....\$ 50.00
- 5. Interpretative opinion .....\$ 50.00
- 6. Filing fee (Sellers annual report).....\$200.00-500.00
- 7. Filing fee (Sellers initial report).....\$ 25.00
- 8. Name change .....\$ 10.00

- 9. Photocopies of records (per page) .....\$ 0.50
- 10. Printout of permit holders .....\$ 10.00
- 11. Sales permit fee.....\$ 5.00

All fees are nonrefundable.

191-19.17 (523A) Forms.

19.17(1) Content. Copies of all necessary forms and instructions may be obtained from the Iowa Securities Bureau, Lucas State Office Building, Des Moines, Iowa 50319. The list which follows describes the forms which members of the public shall use when dealing with the bureau, unless waived by the commissioner, and computer-generated information may be accepted. Each direction shall be complied with and each question in the forms shall be answered in the same manner as if the forms and instructions were embodied in these rules.

FORM NUMBER	DESCRIPTION
P-1	Application For Establishment Permit. Used by applicants when filing for an establishment permit under the Act.
P-2	Application For Sales Permit. Used by applicants when filing for a sales permit under the Act.
P-3	Sellers Initial Report. Transitional report that must be filed before an application for an establishment permit under the Act.
P-4	Sellers Annual Report. Used by sellers when filing their annual report under the Act.
P-5	Financial Institutions Annual Report. Used by financial institutions when filing their annual report under the Act.
P-6	Surety Bond. Required form of surety bond that a seller may file with the commissioner in lieu of the trust fund required by Iowa Code sections 523A.1 and 523A.2 as amended by 1987 Iowa Acts, House File 614.
P-7	Establishment Permit.
P-8	Sales Permit.

19.17(2) Cost. The forms listed above shall be available upon request at such reasonable charges as may be prescribed by the commissioner. An application packet, containing one copy each of the Act, this chapter and all of the application and report forms, shall be available for a \$5.00 charge. Individual forms may be acquired as follows:

FORM NUMBER	QUANTITY	COST
P-1	10	\$1.00
P-2	10	\$1.00
P-3	10	\$1.00
P-4	10	\$1.00
P-5	10	\$1.00
P-6	10	\$1.00

19.18 and 19.19 Reserved.

191-19.20 (523A) Establishment permits. A person shall not engage in the business of selling, promoting, or otherwise entering into agreements to furnish, upon

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

the future death of a person named or implied in the agreement, funeral services, property for use in funeral services, or funeral merchandise until the person has procured an establishment permit from the Iowa securities bureau. A permit must be held for each location.

**191—19.21 (523A) Sales permits.** An individual (including anyone selling insurance) shall not offer, advertise, sell, promote, or otherwise engage in the solicitation of an agreement to furnish, upon the future death of a person named or implied in the agreement funeral services or funeral merchandise without a sales permit from the Iowa securities bureau.

**191—19.22 (523A) Denial, suspension or revocation of permits.**

**19.22(1) Denial of establishment permit.** The commissioner may refuse to issue an establishment permit if the commissioner finds that the applicant:

a. Has been convicted of a criminal offense involving dishonesty or false statement, or

b. Cannot provide the funeral services or funeral merchandise that the applicant purports to sell.

**19.22(2) Revocation of sales permit.** The commissioner may revoke a sales permit if the commissioner finds that the permit holder:

a. Is not an employee or agent of an establishment which holds a permit pursuant to the Act and which can provide the funeral services or funeral merchandise the establishment purports to sell, or

b. Has been convicted of a criminal offense involving dishonesty or false statement.

**19.22(3)** The commissioner may, pursuant to Iowa Code chapter 17A, the Iowa administrative procedure Act, suspend or revoke any permit issued pursuant to the Act if the commissioner finds any of the following:

a. The permit holder has violated any provisions of the Act or this chapter or any other state or federal law applicable to the conduct of the permit holder's business.

b. Any fact or condition exists which, if it had existed at the time of the original application for the permit, would have warranted the commissioner's refusing originally to issue the permit.

c. The permit holder is found upon investigation to be insolvent, in which case the permit shall be revoked immediately.

d. The permit holder, for the purpose of avoiding the trusting requirement for funeral services under Iowa Code section 523A.1, as amended, attributes amounts paid pursuant to the agreement to funeral merchandise that is delivered under section 523A.1, as amended, rather than to funeral services sold to the purchaser. The sale of funeral services at a lower price when the sale is made in conjunction with the sale of funeral merchandise to be delivered pursuant to section 523A.1, as amended, than the services are regularly and customarily sold for when not sold in conjunction with funeral merchandise is evidence that the permit holder is acting with the purpose of avoiding the trusting requirement for funeral services under section 523A.1.

**19.22(4) Temporary suspension.** The commissioner may, on good cause shown, suspend any permit for a period not exceeding 30 days, pending investigation.

**191—19.23 (523A) Permits not transferable.**

1. Permits shall not be transferable.

2. An establishment permit holder selling a business shall cancel the permit, and the purchaser of the business shall apply for a new permit in the purchaser's own name.

**19.24 to 19.29 Reserved.**

**191—19.30 (523A) Sale of business—records.** An establishment permit holder discontinuing business shall maintain records for a period of five years from the date of discontinuing the business, unless a release from such provision shall be given by the commissioner.

**191—19.31 (523A) Records.**

**19.31(1)** All sellers and trustees shall keep accurate accounts, books, and records concerning transactions regulated under the Act.

**19.31(2)** A seller's accounts, books, and records shall include:

a. Copies of all contracts;

b. The name and address of each purchaser;

c. The name of the contract beneficiary of each preneed contract;

d. The name and address of the trustee holding the trust funds received under each contract;

e. The dates and amounts of all receipts (including interest or earnings) and expenditures for each purchaser; and

f. The dates and amounts of any disbursements relating to funds held in trust.

**19.31(3)** A financial institution's accounts, books, and records shall include:

a. The name of the seller;

b. The amount and date of receipt of all funds received from the seller; and

c. A record of the amount and date of interest or income deposited in trust and all disbursements.

**19.31(4)** A seller shall retain all required accounts, books, and records pertaining to each prearranged funeral contract for at least two years after the date of performance or termination. The accounts, books, and records shall be available for inspection by purchasers during normal business hours at the seller's place of business.

**19.31(5)** All sellers and trustees shall make all accounts, books, and records concerning transactions regulated under the Act available to the commissioner or the attorney general upon request, for the purpose of examination.

**191—19.32 (523A) Initial reports.** All sellers shall, at least 60 days prior to filing their first establishment permit application, file an initial report with the Iowa securities bureau on the form prescribed by the commissioner.

**191—19.33 (523A) Annual reports.**

**19.33(1)** All holders of an establishment permit, trustees, and financial institutions shall, no later than March 1 of each year, file an annual report with the Iowa securities bureau on the forms prescribed by the commissioner. Any person holding more than one establishment permit, as the result of multiple locations, may elect to file only one annual report.

**19.33(2)** Every establishment filing an annual report shall pay a filing fee of \$10 per prearranged funeral contract sold during the year covered by the report, but the fee shall in no case be more than \$500 or less than \$200.

**19.34 to 19.39 Reserved.**



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

**191—19.40 (523A) Trust funds.** At least 80 percent of all funds shall be deposited in trust at a financial institution within 30 days of receipt under a trust agreement in the name of the depositor in trust for the designated beneficiary.

**191—19.41 (523A) Trust instruments.**

**19.41(1)** Each trust instrument shall specify:

- a. The trustee's duties in conformance with the provisions of the Act and this chapter;
- b. The basis for determining the trustee's fee (if any); and
- c. Any other appropriate terms of trusteeship.

**19.41(2)** Each trust instrument shall bind the trustee to make available at reasonable times and places, on request by a purchaser, the trustees' records of the trust account established pursuant to the purchaser's contract.

**19.41(3)** The commissioner may require alterations or additions to a trust agreement if it is not in accord with the provisions of this chapter.

**191—19.42 (523A) Investment of trust funds.**

**19.42(1)** A financial institution acting as a trustee of trust funds under this chapter shall invest such funds in accordance with applicable law. In so investing, such trustee shall exercise the judgment and care under the circumstances then prevailing, which people of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to the speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

**19.42(2)** Subject to contractual agreement between the parties, the trustee may receive a reasonable fee for services rendered as a trustee from the trust funds.

**191—19.43 (523A) Bond in lieu of trust fund.** A seller may, in lieu of the trust fund required by 1987 Iowa Acts, House File 614, file with the commissioner a surety bond that is issued by a surety company authorized to do business in this state and that is conditioned on the faithful performance by the seller of agreements subject to the Act.

**19.44 to 19.49** Reserved.

**191—19.50 (523A) Orders.** The commissioner may, by order, take actions which are necessary or appropriate for the protection of purchasers and to implement the purposes of the Act.

**191—19.51 (523A) Investigations and subpoenas.**

**19.51(1)** The commissioner or the attorney general may:

- a. Make private and public investigations within or outside of this state as the commissioner or the attorney general deems necessary to determine whether a person has violated or is about to violate any provision of the Act or any rule or order hereunder or to aid in the enforcement of the Act;
- b. Require or permit any person to file a statement, under oath or otherwise as the commissioner or the attorney general determines as to all the facts and circumstances concerning the matter to be investigated; and
- c. Publish information concerning any violation of the Act or any rule or order hereunder.

**19.51(2)** For the purpose of any investigation or proceeding under the Act, the commissioner, the attorney general, or any officer designated by the commissioner may administer oaths and affirmations, subpoena

witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

**191—19.52 (523A) Audits.**

**19.52(1)** The commissioner shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a permit holder, trustee or financial institution for the purpose of verifying compliance with the Act and this chapter. The right to examine records includes the right to examine copies of the permit holder's state and federal income tax returns. When a permit holder fails or refuses to produce the records for examination when requested by the commissioner, the commissioner shall have the authority to require, by a subpoena, the attendance of the permit holder, or its representatives, and any other witness(es) whom the commissioner deems necessary or expedient to examine and compel the permit holder and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to compliance with the Act or this chapter.

**19.52(2)** Unless waived by the commissioner, the audit shall be paid for by the seller(s), and a copy of the report of audit shall be delivered to the commissioner and to the seller(s). In the event of an audit involving more than one seller the cost shall be prorated among the sellers on any reasonable basis determined by the commissioner.

**ARC 7873****INSURANCE DIVISION [191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 514D.4, the Iowa Division of Insurance hereby gives Notice of Intended Action to amend Chapter 36, "Accident and Health—Minimum Standards," Iowa Administrative Code.

Changes are being made in order to prohibit the sale of Medicare supplement policies which provide coverage for Part B Medicare deductible and copayments only from being issued as limited benefit health insurance coverage.

Any person may make written comments not later than September 15, 1987, to Kevin F. Howe, Insurance Division of Iowa, Lucas State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 514D.4.

The following amendment is proposed:

Amend subrule 36.6(10) as follows:

**36.6(10)** "Limited benefit health insurance coverage" is any policy or contract which provides benefits that are less than the minimum standards for benefits required under 36.6(2) to 36.6(9)(7). Limited benefit policies or contracts may be delivered or issued for delivery in this state only if the outline of coverage



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

required by 36.7(12) is completed and delivered as required by 36.7(2). A policy covering a specified disease or combination of diseases shall meet the requirements of 36.6(8) and shall not be offered for sale as a "limited coverage." *A policy which is designed to supplement Medicare shall meet the requirements of 36.6(9) and shall not be offered for sale as a "limited coverage."*

**NOTICE — INSURANCE****NOTICE OF PUBLISHED MONTHLY AVERAGE FOR INTEREST RATES ON LIFE INSURANCE POLICY LOANS**

Pursuant to Iowa Code section 511.36, notice is hereby given that the Commissioner of Insurance has determined that "published monthly average" for May of 1987 is 9.82%. This rate corresponds to Moody's corporate bond yield average—monthly average corporates as published in Moody's Investors Services, Inc. This rate was effective August 1, 1987.

**NOTICE — INSURANCE****NOTICE OF PUBLISHED MONTHLY AVERAGE FOR INTEREST RATES ON LIFE INSURANCE POLICY LOANS**

Pursuant to Iowa Code section 511.36, notice is hereby given that the Commissioner of Insurance has determined that "published monthly average" for June of 1987 is 9.87%. This rate corresponds to Moody's corporate bond yield average—monthly average corporates as published in Moody's Investors Services, Inc. This rate will be effective September 1, 1987.

**ARC 7877****NATURAL RESOURCE COMMISSION [571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 107.24 and 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 30, "Water Recreation Access Cost-Share Program," Iowa Administrative Code.

These rules define procedures for cost-sharing between state and local public agencies to provide for the acquisition or development of public recreational accesses to Iowa waters. Minor changes in application procedures and project review procedures have been proposed.

Any interested person may make written suggestions or comments on these proposed rules prior to September 17, 1987. Such written materials should be directed to

the Water Access Coordinator, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Water Access Coordinator at 515/281-3449 or at the coordinator's office on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on September 17, 1987, at 10 a.m. in the conference room on the fourth floor 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 rule.

These rules are intended to implement Iowa Code section 324.79.

The following amendments are proposed:

ITEM 1. Amend rule 571—30.3(324) Items "10" and "14" as follows:

10. Fencing as needed to ~~direct recreational boaters on use and regulations of access areas establish boundaries, prevent encroachments and control trespass~~ (when incorporated as part of an initial development project).

14. Maintenance projects when they ~~conform with meet~~ all other criteria as ~~spelled out specified~~ in this rule.

ITEM 2. Amend 571—30.7(324), introductory paragraph, as follows:

571—30.7(324) **Establishing project priorities.** The director shall appoint a six-member water access committee representing a cross section of department responsibilities for purposes of reviewing and establishing priorities for cost-sharing. The committee shall maintain a list of high priority water access projects. Twice annually (~~March February and September August~~), district fisheries supervisors will be responsible for making recommendations to update project priority lists for their respective districts. Primary field contact personnel are the district fishery supervisors whose addresses are as follows:

ITEM 3. Rescind 571—30.8(324) and insert the following:

571—30.8(324) **Application procedures.** *Applications on forms provided by the agency must be received by the Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, no later than 4:30 p.m. on the last working day of January or July in order to be eligible for review at the next water access committee meeting.*

ITEM 4. Rescind 571—30.9(324) and renumber 571—30.10(324) as 571—30.9(324) and renumber remaining rules accordingly.

ITEM 5. Amend renumbered 571—30.9(324) to read as follows:

571—30.9(324) **Cost-sharing rates.** All projects approved for assistance will be cost-shared at a 75 percent state/25 percent local ratio. Those ranked as high priority (five new access areas and five improvement projects in each of the four districts) will be eligible for engineering assistance from the department's ~~engineering section construction services bureau~~. At the agency's option, necessary engineering services for high priority projects may be contracted, with marine fuel tax revenues used to pay for ~~them~~ 100 percent of approved

NATURAL RESOURCE COMMISSION[571] (cont'd)

engineering costs. For all other projects, engineering services will be cost-shared at the standard 75 percent state/25 percent local ratio.

Exceptions may occur under the following conditions:

1. Where a local public agency agrees under terms of a 28E long-term agreement to assume maintenance and operation of a state-owned department of natural resources water access facility, the approved development or improvements needed on that facility will be funded at 100 percent, prior to turning the area over to the cooperating agency for management.

2. Where feasible and practical, the department will provide funds to cover 100 percent of materials needed for a development project if the local subdivision agrees to provide 100 percent of the labor and equipment to complete that development.

3. When, at the discretion of the director, some alternate funding level is deemed appropriate.

ITEM 6. Renumbered rule 571-30.11(324) is amended as follows:

571-30.11(324) Control of project site. In order for a project site to be eligible for a development grant, it must be under the physical control of the grant applicant, either by fee title, lease, management agreement, or easement. The term of a lease, management agreement, or easement must be commensurate with the life expectancy of the proposed development. Twenty-five years is the minimum period which will generally be acceptable.

ITEM 7. Amend renumbered subrule 30.12(1) as follows:

30.12(1) A cooperative agreement approved by the director between the department and the local grant recipient describing the work to be accomplished and specifying the amount of the grant and the project completion date will be negotiated as soon as possible after a grant has been approved. Maximum time period for project completion shall be two years for acquisition or development projects. However, agreements covering land acquisition will be dependent upon receipt of a department-approved appraisal report since assistance will be based on the approved appraised valuation or the actual purchase price, whichever is the lesser. Approved development projects costing over \$25,000 must have plans certified by a registered engineer before an agreement will be issued.

ARC 7879

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 107.24 and 455A.5, the Natural Resource Commission hereby

gives Notice of Intended Action to amend Chapter 61, “State Parks and Recreation Areas,” Iowa Administrative Code.

The rules being amended establish fees for use of facilities in state parks and recreation areas.

Any interested person may make written comments or suggestions on these rules prior to September 15, 1987. Such written material should be directed to the Bureau Chief, Parks and Recreation Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally may present those views in the Wallace State Office Building, Fourth Floor West Conference Room on September 15, 1987, at 11 a.m. At the hearing, persons will be asked to confine their remarks to the subject of the rule.

These rules implement Iowa Code sections 111.35, 111.47 and 422.43 (2 and 11).

ITEM 1. Amend 61.2(111) by deleting the definitions for the words: “Handicapped,” “Blind” and “Senior citizen.”

ITEM 2. Rescind subrule 61.3(1) and insert the following in lieu thereof:

61.3(1) Camping.	Fee	Sales Tax	Total
a. Nonmodern areas	3.85	.15	4.00
b. Modern areas	5.76	.24	6.00
c. Per person over the basic unit of six	.48	.02	.50
d. Chaperoned, organized youth group per group	4.81	.19	5.00
e. Electricity	1.92	.08	2.00
This fee will be charged in addition to the camping fee on sites where electricity is available (whether it is used or not)			
f. Additional vehicle permitted under subrule 61.5(9)“c”	3.85	.15	4.00
g. Cable television hookup	.96	.04	1.00

Sales tax on the fee stated in “c” will be figured on the applicable total dollar amount collected by the person in charge of the camp area.

ITEM 3. Amend 61.3(2) by adding the following:

j. Wilson Island Recreation Area, Pottawattamie County	12.00	60.00
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ITEM 4. Amend 61.3(3) by adding the following paragraph at the end of the subrule:

In accordance with subrule 65.4(5), persons renting and attending functions at the lodge may be furnished a special permit to be displayed on their vehicles. This permit shall have the same force and be recognized as a daily park user permit for that specific date only. The fee for this special permit shall be:

a. Fifty persons or less	\$20
b. Over fifty persons	\$30

## NATURAL RESOURCE COMMISSION[571] (cont'd)

ITEM 5. Rescind subrule 61.3(5) and insert the following in lieu thereof:

## 61.3(5) Miscellaneous fees

	<u>Maximum Fee</u>
a. Vessel storage space (wet or dry)	
(1) Pontoon boats - six months or less	\$100
year-round	\$150
(2) Other boats - six months or less	\$ 80
year-round	\$130
b. Open shelter reservation	\$15 plus applicable tax.

ITEM 6. Amend subrule 61.4(1) by rescinding paragraph "c."

**ARC 7876**

## NATURAL RESOURCE COMMISSION[571]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 107.24 and 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 65, "State Park User Fees," Iowa Administrative Code.

The chapter being amended implements the park user permit law as passed by the legislature. The purpose of the amendments is to bring the Iowa Administrative Code into compliance with changes enacted by the legislature during the 1987 session.

Any interested person may make written comments or suggestions on this rule prior to September 15, 1987. Such written materials should be directed to the Bureau Chief, Parks and Recreation Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally may present those views in the Wallace State Office Building, Fourth Floor West Conference Room on September 15, 1987, at 10 a.m. At the hearing, persons will be asked to confine their remarks to the subject of the rule.

These rules implement Iowa Code section 111.85 as amended by 1987 Iowa Acts, House File 316.

ITEM 1. Delete all references in this chapter to the "1985 Iowa Code supplement" or "1985 Iowa Act" and insert "Iowa Code section 111.85, as amended by 1987 Iowa Acts, H.F. 316." The section and subsection references are to remain the same.

ITEM 2. Amend 65.2(111) by adding the following definitions in alphabetical order:

"First permit" means the annual permit sold for \$5.50.

"Household" means all persons related by any degree of affinity or consanguinity and residing together, or a person residing with another person other than a spouse or child who resides at the same address.

"Lodge" is as defined in 571-61.2(111) Iowa Administrative Code.

"Second vehicle permit" means the annual permit issued for the payment of a \$2 fee or issued as a replacement for a damaged permit.

ITEM 3. Amend 65.2(111), definition of "permit" to read as follows:

"Permit" means the annual decal or daily pass to be displayed in or on a vehicle as proof that the user fee required by 1985 Iowa Code supplement section 111.85 has been paid, or a permit obtained under the provisions of 1985 Iowa Code supplement section 111.85, subsection 5.

ITEM 4. Amend 65.3(111) by deleting the following areas:

Backbone State Park, Delaware County  
Galland School, Lee County  
Marble Beach Access Parking Area, Dickinson County  
Nobles Island Access, Allamakee County  
Ventura Access, Cerro Gordo County

ITEM 5. Amend 65.3(111) by adding the following areas in alphabetical order:

Okamanpedan State Park, Emmet County  
Templar Point Area, Dickinson County  
Wanata State Park, Clay County

ITEM 6. Rescind subrule 65.4(4) and insert the following in lieu thereof:

#### 65.4(4) Replacement permits.

a. Replacement permits shall be issued only by the Iowa Department of Natural Resources License Bureau, Wallace Office Building, Des Moines, Iowa 50319-0034 or by persons in charge of areas managed by the parks and recreation bureau of the department (park rangers).

b. Persons requesting replacement permits must surrender to the person issuing the replacement a verifiable remnant of a current year permit which includes all or a portion of the audit number; a recognizable portion of the design or logo; or any portion of a permit containing adequate printed material to be recognizable as a current permit.

c. The department shall utilize the second vehicle (\$2) permit as the replacement permit.

ITEM 7. Amend rule 65.4(111) by adding the following new subrule:

65.4(5) Lodge users. Persons using the lodge may be furnished a special permit which has been marked by department personnel to distinguish it from all other daily permits. The fee for these permits shall be incorporated into the rental fee for the facility.

ITEM 8. Amend 65.5(3), third sentence, by changing the word "are" to "is."

ITEM 9. Rescind rule 65.8(111) and insert the following: 571-65.8(111) Second vehicle permit purchase procedure.

65.8(1) The department shall furnish, upon purchase of a first permit, a "proof of purchase" which specific use shall be for the purchase of a second vehicle permit as provided in 1987 Iowa Acts, House File 316. This proof of purchase shall contain a space for the name and address of the purchaser.

65.8(2) When the second vehicle permit is purchased concurrently with the first permit, the purchaser shall relinquish the proof of purchase to the seller but need not complete the name and address information.

65.8(3) When the second vehicle permit is purchased separate from the first permit, the name and address

## NATURAL RESOURCE COMMISSION[571] (cont'd)

information must be completed on the first permit proof of purchase and it shall be relinquished to the seller of the second vehicle permit. The second vehicle permit purchaser must also produce evidence such as a driver's license that indicates the same address as on the first permit proof of purchase as proof of being in the same household.

## ARC 7878

NATURAL RESOURCE  
COMMISSION[571]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 107.24, 109.38, 109.39, 109.67 and 109.76, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 81, "Fishing Regulations," Iowa Administrative Code.

These rules establish season dates, territories, daily catch limits, possession limits and length limits for sport fishing.

Any interested person may make written suggestions or comments on these proposed rules prior to September 16, 1987. Such written materials should be directed to the Bureau of Fisheries, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Bureau of Fisheries at 515/281-5208 or at the fisheries offices on the fourth floor of the Wallace State Office Building. Also there will be a public hearing on September 15, 1987, at 10 a.m. in the conference room on the fourth floor 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 rule.

These rules are intended to implement the provisions of Iowa Code sections 109.38, 109.39, 109.67 and 109.76.

The following amendments are proposed.

ITEM 1. Rescind rule 571—81.1(109) and insert the following in lieu thereof:

## 571—81.1(109) Seasons, territories, daily catch limits, possession limits and length limits.

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS
	OPEN SEASON	DAILY CATCH LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Rock Sturgeon	Closed	0	0		Same as inland waters
Paddlefish*	Continuous	2	4	None °	Same as inland waters
Yellow Perch	Continuous	25	50	None	Same as inland waters except no catch or possession limit.
Trout	Continuous	5	10	None*	Same as inland waters
Catfish	Continuous	8 Lakes	30	None	Same as inland waters except no catch or possession limit.
		15 Streams			
Black Bass [Largemouth Bass] [Smallmouth Bass] [Spotted Bass]	Continuous	3	6	See below*	Continuous open season; aggregate daily catch limit 5, aggregate possession limit 10. See below*
		In Aggregate			
Combined Walleye, Sauger, and Saugeye	Continuous*	5*	10*	None*	Continuous open season; aggregate daily catch limit 10, aggregate possession limit 20.
Northern Pike	Continuous*	3	6	None	Continuous open season; daily catch limit 5; possession limit 10.
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	30"	Same as inland waters
All other fish species	Continuous	None	None	None	Same as inland waters
Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs (Rana Catesbeiana)	Continuous	12	12	None	Same as inland waters

\*Also see 81.2(109), Exceptions

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

**81.2(2) Black bass.** A 15-inch minimum length limit shall apply on black bass in all public lakes except as otherwise posted. *On federal flood control reservoirs a 15-inch minimum length limit shall apply on black bass at Coralville and Rathbun and a 12-inch minimum length limit shall apply at Saylorville and Red Rock.* A 12-inch minimum length limit shall apply on black bass in all interior streams, river impoundments, border rivers, and chutes and backwaters of border rivers where intermittent or constant flow from the border river occurs, except that no length limit shall apply to that portion of the Mississippi River in Iowa which borders Wisconsin. All black bass caught from that portion of the Middle Raccoon River, Guthrie County, extending from below Lennon Mills Dam to Panora as posted to the bridge on county blacktop P28 the following stream segments must be immediately released alive:

1. Middle Raccoon River, Guthrie County, extending from below Lennon Mills Dam at Panora as posted to the bridge on county blacktop P28,

2. Maquoketa River, Delaware County, extending from below Lake Delhi Dam as posted to the first county gravel road bridge.

## NATURAL RESOURCE COMMISSION[571] (cont'd)

ITEM 3. Rule 571—81.2(109) is amended by adopting a new subrule 81.2(8) as follows:

**81.2(8) General restriction.** Anglers must comply with the most restrictive set of regulations applicable to the water on which they are fishing.

These rules are intended to implement Iowa Code sections 109.38, 109.39, 109.67 and 109.76.

**ARC 7844****NURSING BOARD [655]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Board of Nursing hereby gives Notice of Intended Action to adopt amendments to Chapter 1, "Administrative and Regulatory Authority," Iowa Administrative Code.

There are two amendments: One defines the term "agency" to mean the Iowa Board of Nursing. This is needed in order to make clear that the uniform rules which use the term "agency" are accurately referring to the Iowa Board of Nursing. The second change provides a mission statement which is required in Iowa Code section 17A.3(1)"a."

Any interested person may make written suggestions or comments prior to September 15, 1987. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, State Capitol Complex, 1223 East Court Avenue, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Executive Director at (515) 281-3256 or in the office at 1223 East Court Avenue by appointment.

These amendments are intended to implement Iowa Code section 17A.3.

The following amendments are proposed:

ITEM 1. Amend the definition of "Board" appearing in rule 590—1.1(17A,147,152) to read as follows:

"Agency" or "Bboard" means the Iowa board of nursing.

ITEM 2. Amend subrule 1.3(1) to read as follows:

**1.3(1) Description of the board.** The board derives its legal authority for regulating and enforcing regulations for nursing education, nursing practice, and continuing education for nurses under the provisions of Iowa Code chapters 147, 147A, 152, and 258A. *The mission of the board is to protect the public health, safety and welfare by assuring that nursing is practiced by at least minimally competent licensed individuals who practice within their authorized scope of practice.*

ITEM 3. Amend subrule 1.3(3) to read as follows:

**1.3(3) Information.** Members of the public may obtain information or submit requests to the board office that relate to regulating and enforcing regulations on nursing education, nursing practice, and continuing education

for nurses. Requests for information resulting in legally binding answers require a petition for rule making or a petition for declaratory ruling. See Chapter 8, "Petition for Rule Making"; Chapter 9, "Declaratory Ruling"; Chapter 10, "Agency Procedure for Rule Making."

**ARC 7845****NURSING BOARD [655]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3, 147.76, and 258A.3, the Iowa Board of Nursing hereby gives Notice of Intended Action to adopt an amendment to ARC 7409 (Chapter 2) Nursing Education, as adopted, to go into effect when the new chapter is implemented.

This amendment corrects a typographical error in the filing of ARC 7409 and relates to requirements of faculty members who teach nursing.

Any interested person may make written suggestions or comments prior to September 15, 1987. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, State Capitol Complex, 1223 East Court Avenue, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Executive Director at (515) 281-3256 or in the office at 1223 East Court Avenue.

This amendment is intended to implement Iowa Code section 152.5.

The following amendment is proposed:

Amend subrule 2.6(2), paragraph "c," subparagraph (3) to read as follows:

(3) A person who is a faculty member on September 1, 1987, and who does not hold a baccalaureate degree shall obtain a baccalaureate degree in an applicable field by September 1, 1995, and a master's degree in an applicable field by September 1, 1998.

**ARC 7846****NURSING BOARD [655]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.4, 17A.7 and 17A.9, the Iowa Board of Nursing hereby gives Notice of Intended Action to adopt rules creating a new

## NURSING BOARD[655] (cont'd)

Chapter 8, "Petitions for Rule Making," a new Chapter 9, "Declaratory Rulings," and a new Chapter 10, "Rule Making," Iowa Administrative Code.

These new chapters provide the Board's procedures for petitions for rule making, declaratory rulings, and rule making based on the Uniform Rules on Agency Procedure and provide for exceptions to those rules.

Any interested person may make suggestions or comments prior to September 15, 1987. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, State Capitol Complex, 1223 East Court Avenue, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Executive Director at (515) 281-3256 or in the office at 1223 East Court Avenue by appointment.

These rules are intended to implement Iowa Code sections 17A.4, 17A.7, and 17A.9.

The following rules are proposed:

ITEM 1. Add a new 655—Chapter 8 as follows:

**CHAPTER 8  
PETITIONS FOR RULE MAKING**

**655—8.1(17A) Uniform rules.** The Uniform Rules on Agency Procedure — Petitions for Rule Making cover the procedures used by the board in handling petitions for rule making.

**655—8.2(17A) Exceptions to the uniform rules.** The board may deny the petition to initiate rule making for any of the following reasons: lack of jurisdiction, lack of clarity of the issue presented, lack of merit, lack of substantial conformity to the required form or because rules are already being promulgated.

ITEM 2. Add a new 655—Chapter 9 as follows:

**CHAPTER 9  
DECLARATORY RULINGS**

**655—9.1(17A) Uniform rules.** The Uniform Rules on Agency Procedure — Declaratory Rulings cover the procedures used by the board in handling declaratory rulings.

ITEM 3. Add a new 655—Chapter 10 as follows:

**CHAPTER 10  
RULE MAKING**

**655—10.1(17A) Uniform rules.** The Uniform Rules on Agency Procedure — Agency Procedures for Rule Making cover the procedures used by the board in handling rule making.

**655—10.2(17A) Exception to uniform rules.** Iowa Code section 17A.31(1)"c" exempts the practice of a profession from the small business regulatory flexibility analysis, addressed in X.6 of the uniform rules.

**ARC 7851**

**REAL ESTATE  
EXAMINING BOARD[700]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 117.9, the Executive Secretary of the Iowa Real Estate Examining Board, as designee of the Board, hereby gives Notice of Intended Action to amend Chapter 1, "Brokers and Salespersons," Iowa Administrative Code.

The proposed rules separate rules which are essentially administrative procedure from rules which regulate the business conduct of licensees. Rules 1.10(117) and 1.11(117) are rescinded because they are obsolete. Rules 1.5(117) and 1.6(117) are rescinded because the same subjects are covered under other rules. All other rules rescinded by this Notice have been rewritten and included in a revised Chapter 2, "Administrative Procedure," which has been submitted simultaneously under a separate Notice of Intended Action and published herein as ARC 7852. Rule 1.27(117) deletes a reporting requirement and adds information in regard to operating without an open trust account. All other changes are nonsubstantive language changes.

The proposed rules will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Real Estate Examining Board has determined that the proposed rules will not have an impact on small business within the meaning of Iowa Code section 17A.31.

Any interested persons may make written suggestions or comments on these proposed rules no later than September 15, 1987, to the Executive Secretary, Iowa Real Estate Examining Board, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. Persons who wish to convey their views orally should contact the Executive Secretary at 515/281-3183 or at the above address. Also, there will be a public hearing on September 15, 1987, at 10 a.m. at the above address. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Executive Secretary prior to the date of the public hearing in order to be scheduled.

These rules are intended to implement Iowa Code sections 117.5, 117.29, 117.34, and 117.46.

ITEM 1. Rescind and reserve rules 1.1(117) to 1.7(117).

ITEM 2. Amend rules 1.8(117) and 1.9(117) as follows:

**700—1.8(117) Advertising under own name.** ~~Apprentice salespersons, or salespersons, or broker salespersons~~ *broker associates* are prohibited from advertising under their own name unless they are the owner of the property they are advertising, and therefore have all the rights of a nonlicensed owner.

**700—1.9(117) Licensee acting as principal.** A licensee shall not acquire any interest in any property nor shall the licensee sell any property in which the licensee has an interest without first making licensee's true position

## REAL ESTATE EXAMINING BOARD[700] (cont'd)

clear to the other party. Satisfactory proof of this fact must be produced by the licensee upon request of the commission board.

ITEM 3. Rescind and reserve rules 1.10(117) to 1.13(117) and 1.17(117).

ITEM 4. Amend subrule 1.23(1) as follows:

1.23(1) A real estate ~~apprentice salesperson or salesperson or broker~~ shall not negotiate a sale, exchange, lease or listing contract; of real property directly with an owner if it is known that ~~such the~~ owner has a written unexpired contract in connection with ~~such the~~ property which grants an exclusive right to sell to another broker, or which grants an exclusive agency to another broker.

ITEM 5. Amend rule 1.24(117) as follows:

700—1.24(117) **Advertising.** A broker shall not advertise to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease ~~such the~~ property is being made by a private party not engaged in the real estate business, and no real estate advertisement shall show only a post office box number, telephone number or street address. Every broker, when advertising real estate, shall use the regular business name or the name under which the broker is licensed, and shall affirmatively and unmistakably indicate that the party is a real estate broker and not a private party. Each broker when operating under a franchise or trade name other than the broker's own name may license the franchise or trade name with the commission board, or shall clearly reveal in all advertising that the broker is the licensed individual who owns the entity using the franchise or trade name.

ITEM 6. Rescind and reserve rule 1.25(117) and amend rule 1.26(117) as follows:

700—1.26(117) **Presenting purchase agreements.** Any and all offers to purchase received by any broker shall be promptly presented to the seller for formal acceptance or rejection of ~~such the~~ offer. The formal acceptance or rejection immediately upon receipt of ~~such the~~ offers shall be promptly communicated to the prospective purchasers.

ITEM 7. Amend rule 1.27(117), introductory paragraphs, as follows:

700—1.27(117) **Trust account.** Earnest payments, rents collected, property management funds, and other trust funds received by the broker shall be deposited in an identified "trust" account in a bank, savings and loan association, savings bank, or credit union located in Iowa. A broker shall maintain in the broker's office a general ledger for the trust account and an account ledger for each account or transaction which shall provide a complete record of all moneys received on real estate transactions, rents and management funds, including the sources of the money, the date of receipt, depository, and date of deposit; and when a transaction has been completed, the final disposition of the moneys. The notification to the commission board of the name, depository, and address of the broker's trust account shall include the account number. ~~Upon closing a trust account the broker shall immediately notify the commission that the account has been closed.~~

1. All money belonging to others and accepted by the broker or the broker's salesperson on the sale, purchase or exchange of real property located in the state of Iowa

shall no later than the next banking day after acceptance of the offer be deposited in one or more interest-bearing checking accounts separate from the money belonging to the broker, except for funds deposited to cover bank service charges as specified in Iowa Code section 117.46. The name of the separate account(s) shall be identified by the word "trust."

2. Unless there is a written agreement between a buyer and a seller to the contrary, the interest on the account shall be transferred quarterly to the state. The beginning of the first quarter is July 1, 1985. The broker may have the depository remit the interest directly, or the broker may remit the interest, but in either case, it will be the responsibility of the broker to see that the interest is remitted. The amount to be remitted to the state will be the net of interest earned less any service charges directly attributable to the requirement of maintaining an interest-bearing account and of remitting the interest to the state. If the interest is remitted by the broker, the broker shall include with the remittance a copy of the applicable bank statement(s).

3. The broker may, but shall not be required to, inform the buyer and seller of the intended use of the accrued interest.

4. Property management and rental account funds may be deposited in a trust account separate from real estate transaction funds. If separately maintained, this account shall not be required to be an interest-bearing account.

5. A broker may have as many trust accounts as needed. A "Consent to Examine and Audit Trust Account" form shall be filed in the board office for each account. Forms may be obtained from the board office.

6. A broker shall either open and maintain a trust account or shall file an affidavit in the board office certifying that the broker does not expect to receive trust funds in the course of business. The affidavit form may be obtained from the board office.

7. If trust funds are received by the broker after filing an affidavit as in paragraph "6" above, the broker must immediately open a trust account and file a consent form as in paragraph "5" above.

ITEM 8. Amend subrule 1.27(1), introductory paragraph, subrule 1.27(6) and the implementation sentence at the end of the rule as follows:

1.27(1) No funds shall be disbursed from the trust account prior to the closing without the informed written consent of all the parties. In the event of a dispute over the return or forfeiture of any earnest deposit held by a broker, the broker shall continue to hold the deposit in the trust account until a written release is received from all parties consenting to its disposition or until a civil action is filed to determine its disposition at which time payment may be made into court.

1.27(6) Broker as principal. Where a licensee acts as a principal in the sale of property owned by the licensee and receives payments from the purchaser, those payments must be deposited into the trust account when the licensee is acting in the capacity of a real estate broker and in those instances where any part of the funds must be used to pay taxes, insurance, mortgage, or any other types of encumbrances. When a licensee is acting as a principal in the renting of property owned by the licensee, funds other than security deposits should not be deposited into the broker's trust account except when the broker is not the sole owner of the property or is acting in the broker's capacity as a real estate licensee under a



REAL ESTATE EXAMINING BOARD[700] (cont'd)

management agreement relative to the management of the property whether it be for himself the licensee or others. Whenever a licensee is in doubt as to whether his activities as a principal require that funds received be deposited into the broker's trust account, the safest course of action is to account for those funds through a broker's trust account.

This rule is intended to implement Iowa Code section 117.46 as amended by 1985 Iowa Acts, Senate File 577, section 1.

ITEM 9. Rescind and reserve rule 1.30(117) and amend rule 1.31(117), introductory paragraph, and unnumbered paragraph following subrule 1.31(7), as follows:

700—1.31(117) **Tying arrangements.** For purposes of this rule only the term "real estate licensee" shall mean "real estate broker, or real estate salesperson or real estate apprentice salesperson" as defined in Iowa Code chapter 117. The term "unethical conduct or practice harmful or detrimental to the public" as used in Iowa Code section 117.29, shall be defined to mean and include, but not be limited to, the following including the aiding or abetting of same.

Rule 1.31(117) is not intended nor should it be interpreted to supplant Iowa code chapter 553; Iowa Code (The Iowa Competition Law).

Rule 1.31(117) is intended only to regulate the licensing of real estate licensees in the state of Iowa and not to exempt such behavior from remedies, both private and public, provided under Iowa Code chapter 553; Iowa Code. The real estate commission board, upon receipt of any formal written complaint filed pursuant to this rule, shall forward a copy of same to the attorney general of the state of Iowa for investigation and appropriate action under Iowa Code chapter 553; Iowa Code (The Iowa Competition Law).

ITEM 10. Rescind and reserve rules 1.32(117) and 1.33(117) and amend rule 1.34(117) as follows:

700—1.34(117) **Loan finder fees.** The acceptance of a fee or anything of value by a real estate licensee from a lender or financing company for the referral or steering of a client to the lender for a loan; shall be considered not in the best interest of the public and shall constitute a violation of Iowa Code sections 117.29(3) and 117.34(8).

ARC 7852

REAL ESTATE EXAMINING BOARD[700]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 117.9, 117.18, 557A.11 and 17A.3, the Executive Secretary of the Iowa Real Estate Examining Board, designee of the Board, hereby gives Notice of Intended Action to rescind in its entirety 700—Chapter 2 and adopt in lieu thereof a new Chapter 2, "Administrative Procedure," Iowa Administrative Code.

The proposed new chapter incorporates some rules which were formerly in Chapter 1, "Brokers & Salespersons." Most of the rules have been rewritten with expanded detail and have been organized into topical sections for better comprehension.

Some fees have been lowered and others eliminated.

The method of measuring deadlines has been changed from "received in the office" to "postmarked."

The subject matter included in former rules 2.5(117) and 2.6(117) will be incorporated in a new chapter.

The proposed rules will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Real Estate Examining Board has determined that the proposed rules will not have an impact on small business within the meaning of Iowa Code section 17A.31.

Any interested persons may make written suggestions or comments on these proposed rules no later than September 15, 1987, to the Executive Secretary, Iowa Real Estate Examining Board, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. Persons who wish to convey their views orally should contact the Executive Secretary at 515/281-3183 or at the above address.

Also there will be a public hearing on September 15, 1987, at 10 a.m. at the above address. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Executive Secretary prior to the date of the public hearing in order to be scheduled.

These rules are intended to implement Iowa Code sections 117.1, 117.2, 117.5, 117.9, 117.15, 117.16, 117.18, 117.20 to 117.24, 117.27 to 117.29, 117.31 to 117.34, 117.50, 17A.3, and 557A.11.

Rescind 700—Chapter 2 and adopt in lieu thereof the following:

CHAPTER 2 ADMINISTRATIVE PROCEDURE

700—2.1(117) **Mission of the board.** The mission of the Iowa real estate examining board is to protect the public through the examination, licensing, and regulation of real estate brokers, salespersons, and firms pursuant to Iowa Code chapter 117, "Real Estate Brokers and Salespersons"; to administer Iowa Code chapter 117A, "Sales of Subdivided Land Outside of Iowa"; and to administer Iowa Code chapter 557A, "Iowa Time-Share Act."

Out-of-state subdivided land developers file plats, records, and other legal documents with the board pursuant to Iowa Code chapter 117A. The board refers the filings to the attorney general's office for legal review. Upon the recommendation of the attorney general, the board registers the subdivision and the developer may then advertise, solicit, and sell the registered property in the state of Iowa.

The board is a policy-making body with authority to promulgate rules for the regulation of the real estate industry consistent with all applicable statutes. Rules promulgated by the board are published under 700— Iowa Administrative Code. Administrative support services are furnished by the professional licensing and regulation division of the department of commerce and by the office of administrative services of the department of commerce. The administrator of the professional licensing and regulation division appoints and supervises an executive secretary and staff to carry out the duties



## REAL ESTATE EXAMINING BOARD[700] (cont'd)

assigned by the board. The department of inspections and appeals furnishes support services in the following areas: review broker trust accounts, investigate complaints against licensees, conduct appeals and hearings, and inspect subdivided land outside of Iowa pursuant to Iowa Code section 117A.4. Disciplinary hearings are held under the guidance of a hearing officer assigned by the department of inspections and appeals. Proposed decisions are subject to the review of the board.

2.1(1) Office and communications. Correspondence and communications with the board shall be addressed or directed to the board office at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. The telephone number is (515)281-3183.

2.1(2) Meetings of the board. Meetings of the board shall be held at times scheduled by the board in the offices of the board or a place designated by the board. Special meetings may be called by the chairperson or executive secretary of the board, who shall set the time and place of the meeting.

2.1(3) Custodian of records, filings, and requests for public information. Unless otherwise specified by the rules of the department of commerce or the professional licensing and regulation division, the board is the principal custodian of its own agency orders, statements of law or policy issued by the board, legal documents, and other public documents on file with the board.

Any person may examine public records promulgated or maintained by the board at its office during regular business hours. The office is open from 8 a.m. until 4:30 p.m. Monday through Friday. The office is closed Saturdays, Sundays, and official state holidays.

2.1(4) Deadlines. Unless the context requires otherwise, any provision of these rules which creates a deadline for filing a document shall, in those instances in which the deadline falls on a Saturday, Sunday, or official state holiday, be interpreted to extend the deadline to 4:30 p.m. the next working day.

**700—2.2(117) Definitions.** For the purpose of these rules, the following definitions shall apply:

“Applicant” means a person who has applied for or intends to apply for a real estate salesperson license or real estate broker license.

“Application form” means the form furnished by the board to be completed and submitted to apply for an original license as a real estate salesperson, real estate broker, real estate firm or trade name.

“Board” means the real estate examining board.

“Branch office license” as used in these rules means the same as “duplicate license” as used in Iowa Code section 117.31.

“Broker associate” is defined in Iowa Code section 117.5(1).

“Broker-in-charge” means a broker or broker associate designated as the person responsible for supervision of a main office or branch office.

“Examination” means a licensure examination required before issuance of a license.

“Examinee” means a person who has registered or intends to register to take a licensure examination.

“Filed”. A document is considered filed with the board on the date of the United States postal service postmark or the date personal delivery is made to the board office.

“Original license” means the license that covers the first term of licensure in Iowa as a salesperson, broker, or firm. A license applied for and reissued after the final deadline for renewal of a license is also an original license.

“Principal broker” means a broker who is either a real estate proprietor, a partner in a real estate partnership, or an officer in a real estate corporation.

“Proprietor” means an individual broker who privately owns and manages a real estate company.

“Renewal application form” means the form furnished by the board to be completed and submitted to apply for renewal of a license as a real estate salesperson, real estate broker, real estate firm, branch office or trade name.

“Status” means the condition of a real estate license. A license may be active, inactive, expired, suspended, revoked or canceled. An inactive license is defined in Iowa Code section 117.5(3).

“Type” means the category to which a broker license or firm license is issued. A broker license may be issued as a proprietor, officer, partner, or broker associate. A firm license may be issued as a corporation, partnership or association.

**700—2.3(117) Licensees of other jurisdictions.** A person licensed by examination as a real estate salesperson or broker in a state which does not have a reciprocity agreement with Iowa may be issued a comparable Iowa license by passing the Iowa portion of the examination under the following circumstances:

Broker: Has been actively licensed as a broker for at least 24 months and the license has not been inactive or expired for more than 6 months immediately preceding the date of the successful examination.

Salesperson: Has been actively licensed as a salesperson for at least 12 months and the license has not been inactive or expired for more than 6 months immediately preceding the date of the successful examination.

2.3(1) The board may enter into specific reciprocity agreements with individual states and grant an Iowa license to licensees from those states on the same basis as Iowa licensees are granted licenses by those states. Iowa has specific reciprocity agreements with the following states: Illinois, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, and South Dakota. An Iowa licensee wishing to obtain a license in any of these states should contact that state's licensing board for information and applications. Addresses and telephone numbers are available from the board.

2.3(2) Each applicant under rule 2.3(117) or under a reciprocity agreement must apply on forms provided by the board. The application shall include but not be limited to a certification of license from the state of original licensure containing all information as required by Iowa Code section 117.21 and an affidavit certifying that the applicant has reviewed and is familiar with the Iowa real estate license law and the rules of the board and will be bound thereby.

a. Nonresident applicants must comply with Iowa Code section 117.22.

b. The application for a nonresident license must be accompanied by an executed irrevocable written consent to suits at law or in equity as provided in Iowa Code section 117.23.

c. If the applicant is a broker associate of a nonresident broker, the employing broker must have an Iowa broker license.

d. If the applicant is employed by or otherwise associated with a nonresident real estate partnership or corporation, that partnership or corporation must apply for and qualify for an Iowa license. No partnership or corporation shall be granted an Iowa license unless every

**REAL ESTATE EXAMINING BOARD[700] (cont'd)**

partner or officer who holds a real estate license in the state of domicile applies for and is granted an Iowa license.

**2.3(3)** If a nonresident Iowa licensee has a real estate license suspended or revoked by any other state, it will be considered prima facie evidence of violation of Iowa Code section 117.29 or 117.34 or both, and a hearing may be held to determine whether similar disciplinary action should be taken against the Iowa licensee. Failure to notify the board of adverse action taken by another state shall be cause for disciplinary action.

2.4 to 2.7 Reserved.

**700—2.8(557A) Time-share interval filing fees.** Each initial filing made pursuant to Iowa Code sections 557A.11 and 557A.12 shall be accompanied by a basic filing fee of \$100 plus \$25 for every 100 time-share intervals or fraction thereof included in the offering. A registration fee shall be paid with the filing of an application for registration consolidating additional time-share intervals with a prior registration and shall be a fee of \$50 plus an additional fee of \$25 for every 100 time-share intervals or fraction thereof included in the offering. A fee shall not be charged for amendments to the property report as a result of amendments to the initial filing, unless the board determines the amendments are made for the purpose of avoiding the payment of a fee, in which event the amendment may be treated as an application for registration consolidating additional time-share intervals with a prior registration.

**700—2.9(117) Fees.** Examination fee: Paid directly to the testing service at the prevailing rate established by contract between the board and the testing service. Original license or renewal:

Salesperson license	\$45
Broker license	\$90
Firm license	\$90
Branch office license	\$30
Trade name license	\$30
Fee for renewal of license between January 1 and January 30 following expiration of license:	
Salesperson:	\$70
\$45 renewal fee plus \$25 penalty fee	
Broker:	\$115
\$90 renewal fee plus \$25 penalty fee	

Penalty fee is not applicable to a firm license, trade name license, or branch office license.

Fees remitted with an application for license will be refunded if the board finds the applicant was not qualified for a license.

Fees will not be refunded for the unexpired term of a license which has been issued and is in effect.

A fee remitted in error will be refunded if the amount remitted in error is more than \$5. A fee of \$5 or less remitted in error will be refunded if a written request is received within 30 days of receipt of the fee.

All fees are received subject to collection. Payment of a fee with a bad check shall be prima facie evidence of a violation of Iowa Code section 117.29(1) or 117.34(8), or both.

If a bad check is received for an original license, the application for license shall be deemed incomplete and the license null and void.

If a bad check is received for renewal of a license and replacement is not filed with the board by the date of expiration of the license (December 31), the penalty fee shall be added to the unpaid renewal fee. If the renewal

fee and penalty fee are not filed with the board by January 30 following the expiration of the license, the license issued for the new term shall be deemed null and void.

**700—2.10(117) License examination.** Examinations for license as real estate salesperson or broker shall be conducted by the board or its authorized representative.

**2.10(1) Testing service.** The board has contracted with American College Testing (ACT), Registration Department, P.O. Box 1009, Iowa City, Iowa 52243, for delivery of certain testing services for real estate licensure examination in Iowa. Examinations are given once each month on dates established by the contract. A registration form for examination may be requested from the board or from the testing service. Information in regard to test dates, locations, registration filing deadlines, fees, passing requirements, score reports, and special testing procedures is included on the registration forms. The completed registration form and examination fee shall be submitted directly to the testing service.

**2.10(2) Passing score.** The examination is divided into a national section and a state section. To receive a passing score, the examinee must answer correctly 75 percent of the total number of questions in the combined sections.

**2.10(3) Requests for waivers.** An examinee must meet the requirements set out in Iowa Code section 117.15. Requests for waiver of the qualifications for license required by Iowa Code section 117.15 shall be submitted in writing. The board will consider each case on an individual basis. The board may require additional supporting information. If the board finds the applicant's experience or prelicense education to be less than equivalent to the statutory requirement, it may suggest methods of satisfying the deficiency. If the board grants a waiver, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

**2.10(4) Evidence of completion of prelicense education required.** An examinee shall be required to show evidence at the examination site that required prelicense education has been completed. If the board has granted a waiver of prelicense education, the waiver letter will serve as evidence of completion. Persons planning to qualify under rule 2.3(117) must obtain an authorization from the board to show at the examination site.

**2.10(5) Rescheduling examination.** An examinee scheduled to take an examination who fails to attend may reschedule for a later examination by filing a new registration form and paying the examination fee. An examinee who takes an examination and fails shall be eligible to apply to retake the examination at any time the examination is offered by filing a new registration form and paying the examination fee.

**700—2.11(117) Application for license.** An applicant who passes a qualifying examination will receive a passing score report and an application form for license from the testing service. An applicant who passes a qualifying examination and applies for a license must file with the board a completed application and license fee and proof of required education not later than on the last working day of the sixth calendar month following the qualifying real estate examination.

**2.11(1) Application contents.** The application form requires detailed personal, financial, and business information concerning the applicant; and the applicant for license shall attest to the accuracy thereof.

**REAL ESTATE EXAMINING BOARD[700] (cont'd)**

**2.11(2) License terms.** Real estate salesperson licenses, broker licenses, and firm licenses are issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term. Branch office licenses and trade name licenses are issued for the remaining portion of the license term of the license to which each is assigned.

**700—2.12(117) Renewing a license.** Real estate license renewal applications are mailed in November by first-class mail to each licensee whose license is due for renewal. Renewal applications for active licenses are mailed to the main office of the firm or proprietor to which the license is assigned. Renewal applications for inactive licenses are mailed to the last known mailing address of the licensee.

**2.12(1) Renewal requirements.** If the renewal application form is signed by the individual applicant and the license renewal fee has been submitted with the application (including the penalty fee, if applicable), and if the application has been timely filed, the license will be renewed. If any other required signature or document is not received with the renewal application form, the license will be issued inactive status pending receipt of the required signature or document.

If the renewal application form is not signed by the individual applicant or if the license renewal fee is not received with the renewal application, the application will be returned to the licensee.

**2.12(2) Renewal deadlines.** A signed application for renewal and the appropriate renewal fee must be filed with the board by December 31 of the year of expiration. Failure to comply with the requirement shall terminate licensee's authority under the license, but the license may be renewed if the application for renewal and the renewal fee and penalty fee are filed with the board by January 30 following the expiration of the license. If the licensee does not meet the January 30 deadline, the individual shall be required to submit an application for an original license and, if not specifically exempted by statute or board rules, shall be required to retake and pass a licensure examination before submitting the application for license.

**700—2.13(117) Reapplying for license as a former licensee.**

**2.13(1)** The salesperson prelicense course will not be required if a former salesperson whose license has expired passes the salesperson examination, and a completed application for license and fee are filed with the board by December 31 of the second year after the date of expiration of the license. Persons planning to be examined under this rule must obtain authorization from the board to show at the examination site.

**2.13(2)** The broker prelicense courses will not be required if a former broker whose license has expired passes the broker examination, and a completed application for license and fee are filed with the board by December 31 of the second year after the date of expiration of the license. Persons planning to be examined under this rule must obtain authorization from the board to show at the examination site.

**2.13(3)** An applicant for a broker license may use active experience as a former Iowa salesperson to satisfy the experience requirement for a broker license if the former salesperson was actively licensed for 24 months and if the license has not been expired more than two

years prior to the date the completed broker application and fee are filed with the board.

**2.13(4)** If a former salesperson or former broker does not qualify for and obtain a license within two years of the date of expiration of the former license, the person will not be permitted to apply for a license solely on the basis of previous experience as a licensee, but must qualify for a license in the same manner as for an original license.

**700—2.14(117) Real estate offices and licenses required.**

**2.14(1)** Every Iowa resident real estate firm or self-employed broker shall maintain an office for the transaction of business in the state of Iowa which shall be open to the public during business hours.

**2.14(2) Sharing office space.** It shall be acceptable for more than one broker to operate in an office at the same address if each broker maintains all records and trust accounts separate from all other brokers. Each broker shall operate under a business name which clearly identifies the broker as an individual within the group of brokers.

**2.14(3) Branch office.** A resident Iowa real estate firm or proprietor maintaining a branch office shall display two branch office licenses in that location. One branch office license is issued in the name of the firm or proprietor and one branch office license is issued in the name of the designated broker or broker associate assigned to supervise the branch office. (Exception: A proprietor who supervises a branch office location is required to display only one branch office license in that location.) The main office and every branch office shall be directly supervised by a broker or broker associate assigned to that location as the broker-in-charge. No broker or broker associate shall be the broker-in-charge of more than one location.

**700—2.15(117) Notification required.**

**2.15(1)** Partnerships, associations, and corporations are required to obtain a license before acting as a real estate broker. Failure of a broker to inform the board within five working days that the broker has formed a new partnership, association or corporation, or has changed the type of the business, is prima facie evidence of a violation of Iowa Code section 117.1.

**2.15(2)** Failure of a broker to inform the board in writing within five working days of a change in type of license as proprietor, partner, officer or broker associate is prima facie evidence of a violation of Iowa Code sections 117.1 and 117.29(1).

**2.15(3)** Failure of a broker to inform the board in writing within five working days of a change of address of a proprietorship, partnership, or corporation is prima facie evidence of a violation of Iowa Code section 117.32.

**2.15(4)** Failure of a broker to deliver or mail by certified mail a license to the office within 72 hours after a salesperson or broker associate is discharged or terminated employment is prima facie evidence of a violation of Iowa Code section 117.33.

**2.15(5)** Each real estate broker who returns a license to the board office shall include the last known permanent mailing address of the licensee.

**2.15(6)** Failure of a licensee to inform the board in writing of a change of residence address or mailing address is prima facie evidence of violation of Iowa Code sections 117.16 and 117.18.

## REAL ESTATE EXAMINING BOARD[700] (cont'd)

**700—2.16(117) Supervision required.** An employing broker is responsible for providing supervision of any salesperson or broker associate employed by or otherwise associated with the broker as a representative of the broker. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and the salesperson or broker associate shall not relieve either the broker or the salesperson or broker associate of duties, obligations or responsibilities required by law.

A broker associate is a broker employed by or otherwise associated with another broker as a salesperson and, during the time the broker remains a broker associate, is subject to the provisions of Iowa Code sections 117.24 and 117.33 and board rules pertaining to salespersons.

**700—2.17(117) Commission controversies.** The board is not authorized by law nor will it consider or conduct hearings involving disputes over fees or commissions between cooperating brokers, brokers and salespersons, and other brokers.

**ARC 7850****REGENTS BOARD [720]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 262.9 and 19A.3, the Board of Regents hereby gives Notice of Intended Action to amend Chapter 3, “Personnel Administration,” Iowa Administrative Code.

The addition to rule 3.26(19A) will preempt classification reviews initiated by employees and departments when those classes are being studied as part of a cyclical review initiated by the Merit System Director. The changes to subrules 3.39(4), 3.67(2), and 3.104(4)“d” will make those rules governing nonorganized supervisory and confidential merit employees consistent with the negotiated agreement covering employees in collective bargaining units. The changes in rules 3.82(19A) and 3.83(19A) will facilitate administration and reflect current practice.

Any interested person may make written suggestions or comments on the proposed rules prior to September 15, 1987. Such written materials should be directed to R. Wayne Richey, Executive Secretary, Iowa State Board of Regents, Lucas State Office Building, Des Moines, Iowa 50319. An opportunity for oral presentations will be provided at 10 a.m. on September 18, 1987, in the West Conference Room on the Sixth Floor of the Lucas State Office Building, Des Moines, Iowa.

These rules are intended to implement Iowa Code section 19A.9.

ITEM 1. Amend rule 720—3.26(19A) by adding the following new paragraphs:

A review of the allocation of positions to classification, class series, or group of classes may be initiated by the merit system director on a systemwide basis. Such an administrative review shall preempt the classification appeal procedure provided in 3.127(19A) of these rules. Changes in the classification of positions resulting from a systemwide review shall be effective at the beginning of the next fiscal year.

This rule is intended to implement Iowa Code section 19A.9.

ITEM 2. Amend subrule 3.39(4) by adding the following new paragraph:

If an employee accepts voluntary demotion in lieu of layoff, the employee shall retain the employee's salary providing funding is available. In no event will the salary exceed the maximum of the new pay grade.

ITEM 3. Amend subrule 3.67(2) as follows:

**3.67(2) Duration of eligibility lists.** Employment eligibility lists will exist for a period of time no less than ~~one year~~ *two years* and no more than three years as designated by the resident director. Reemployment eligibility lists will exist for a period of ~~one~~ *two* years. Names may be added to or deleted from eligibility lists in accordance with these rules. The names of applicants who have not been appointed or otherwise removed from lists will be removed at the termination at the designated period of time.

ITEM 4. Amend rule 720—3.82(19A) as follows:

**720—3.82(19A) Temporary appointments.** Temporary appointments may be made and approved by the resident director to provide for services needed on a periodic basis. Employees appointed on this basis will not work more than 960 hours in any ~~twelve-month period~~ *fiscal year*, but may at the request of an employing department, be returned to duty in successive years.

This rule is intended to implement Iowa Code section 19A.9.

ITEM 5. Amend rule 720—3.83(19A) as follows:

**720—3.83(19A) Emergency appointments.** Appointments may be made without reference to the provision of these rules regarding minimum qualifications, certification and selection, to provide for services needed in cases of emergency. ~~Such appointments will be made only for the duration of the emergency and in no case will exceed 480 hours for any individual in any twelve-month period.~~ *Such appointments shall not exceed 480 hours during a fiscal year for any individual at any or all employing departments of board of regents institutions.*

This rule is intended to implement Iowa Code section 19A.9.

ITEM 6. Amend subrule 3.104(4), paragraph “d,” as follows:

d. Each employee affected by reduction in force will be notified in writing of the layoff and the reasons therefor at least ~~ten~~ *20* days prior to the effective date of the layoff *unless budgetary limitations require a lesser period of notice.*

**ARC 7854**  
**UTILITIES DIVISION[199]**  
**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 17A.4, the Utilities Board gives Notice that on July 29, 1987, the Utilities Board issued an order in Docket No. RMU-87-9, In Re: Requests or Demands for Contested Case Proceedings, "Order Commencing Rule Making." The Utilities Board is proposing to amend 199—subrule 6.5(2), rule 8.2(476), subrule 10.2(1), and rule 11.1(478) relating to filing requests or demands for contested case proceedings.

On July 1, 1987, an amendment to Iowa Code section 17A.12 became effective. 1987 Iowa Acts, House File 193, provides that "Unless otherwise provided by statute, a person's request or demand for a contested case proceeding shall be in writing, delivered to the agency by United States postal service or personal service and shall be considered as filed with the agency on the date of the United States postal service postmark or the date personal service is made."

The Board proposes to amend certain rules to comply with 1987 Iowa Acts, House File 193, which applies only in those instances where a request or demand is made for a contested case proceeding. A "contested case" is defined in Iowa Code section 17A.2(2) as "... a proceeding including but not restricted to ratemaking, price fixing and licensing in which the legal rights, duties or privileges of a party are required by constitution or statute to be determined by an agency after an opportunity for an evidentiary hearing." Although several Board rules outline procedure for a "contested case," the amendment is more specific and applies only where there is a "request or demand for a contested case." In those instances, the Board proposes to amend our rules to conform to the new filing requirements of 1987 Iowa Acts, House File 193.

Any interested person may file a written statement of position pertaining to the proposed amendments. The statement may be filed on or before September 15, 1987, by filing an original and ten copies in a form substantially complying with 199—subrule 2.2(2). All communications shall clearly indicate the author's name and the docket in which the comment is submitted. All communications should be directed to the Executive Secretary, Iowa State Utilities Board, Lucas State Office Building, Des Moines, Iowa 50319.

ITEM 1. Amend subrule 6.5(2) to read as follows:

6.5(2) The request for formal complaint proceedings shall be filed within 14 days after issuance of the proposed resolution or the specified date of utility action, whichever is later. *The request shall be considered as filed on the date of the United States postal service postmark or the date personal service is made. The request shall be in writing and must be delivered by United States postal service or personal service.* The request shall include the file number (C-XX-XXX) marked on the proposed resolution. It shall explain why the proposed resolution

should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to the consumer advocate and the parties.

ITEM 2. Amend 199—8.2(476), introductory paragraph, to read as follows:

**199—8.2(476) Procedure.** A request for imposition of civil penalties must be made within 180 days of the date the party filing the request knew or should have known of the alleged violation. *The request shall be considered as filed on the date of the United States postal service postmark or the date personal service is made. The request shall be in writing and must be delivered by United States postal service or personal service.* The 180-day limit is tolled by commencing an informal complaint proceeding in accordance with Iowa Administrative Code 199—Chapter 6.

ITEM 3. Amend subrule 10.2(1), introductory paragraph, to read as follows:

**10.2(1)** Petition for permit shall be made to this board upon the form prescribed. *The petition shall be considered as filed on the date of the United States postal service postmark or the date personal service is made. The petition must be delivered by United States postal service or personal service.* A typical set of exhibits to such petition, which exhibits are labeled "A," "B," "C," "D" and "E" are described below:

ITEM 4. Amend 199—11.1(478) by adding a new subrule as follows:

**11.1(4)** Date of service. A petition for franchise shall be considered as filed on the date of the United States postal service postmark or the date personal service is made. The petition must be delivered by United States postal service or personal service.

## NOTICE — 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:

October 1, 1985 - October 31, 1985	12.25%
November 1, 1985 - November 30, 1985	12.25%
December 1, 1985 - December 31, 1985	12.25%
January 1, 1986 - January 31, 1986	11.75%
February 1, 1986 - February 28, 1986	11.25%
March 1, 1986 - March 31, 1986	11.25%
April 1, 1986 - April 30, 1986	10.75%
May 1, 1986 - May 31, 1986	9.75%
June 1, 1986 - June 30, 1986	9.25%
July 1, 1986 - July 31, 1986	9.75%
August 1, 1986 - August 31, 1986	9.75%
September 1, 1986 - September 30, 1986	9.25%
October 1, 1986 - October 31, 1986	9.25%
November 1, 1986 - November 30, 1986	9.50%
December 1, 1986 - December 31, 1986	9.50%
January 1, 1987 - January 31, 1987	9.25%
February 1, 1987 - February 28, 1987	9.00%
March 1, 1987 - March 31, 1987	9.00%
April 1, 1987 - April 30, 1987	9.25%
May 1, 1987 - May 31, 1987	9.25%
June 1, 1987 - June 30, 1987	10.00%
July 1, 1987 - July 31, 1987	10.50%
August 1, 1987 - August 31, 1987	10.50%
September 1, 1987 - September 30, 1987	10.50%

## ARC 7868

## ATTORNEY GENERAL[61]

DEPARTMENT OF JUSTICE

## Adopted and Filed Emergency

Pursuant to the authority of 1987 Iowa Acts, House File 520, the Attorney General hereby adopts Chapter 25, "Regulation of Membership Campground Operators," Iowa Administrative Code.

In accordance with Iowa Code section 17A.4(2), the Attorney General finds that public notice and participation are contrary to the public interest. The legislation upon which these rules are based requires that membership campground operators become registered with the state prior to selling membership campground contracts. These rules are necessary to prescribe the procedure for registration. The legislation was effective July 1, 1987, but without rules to implement the statute, the campground operators would be unable to comply with the registration requirements. All of the known membership campground operators doing business in Iowa have been given notice of the passage of the membership campground bill and are preparing to file their registration materials. Registration is important in order to permit the state to determine whether the operators are in compliance with the new legislation and whether they have the financial resources to provide their members with the facilities and amenities that have been promised. Registration cannot be effected, however, without rules to guide the applicants. If the usual method for filing Notice of Intended Action were followed, the earliest the rules would be in force is November 25, 1987. The prime season for sales of campground memberships would have expired by then.

In accordance with Iowa Code section 17A.5(2)"b"(2), the Attorney General also finds that the usual effective date of the rules should be waived and the rules made effective on September 7, 1987. This finding is made because the rules confer a benefit on the public by requiring sellers of membership camping contracts to comply with public disclosure provisions of Iowa's membership campground law. The statute, effective July 1, 1987, requires that operators register in accordance with Attorney General rules in order to operate within the state. These rules implement that requirement to permit operators to continue to do business.

These rules will also be filed as Notice of Intended Action in order to consider the comments of interested persons prior to adoption of permanent rules.

These rules were adopted by the Attorney General on August 7, 1987.

In accordance with Iowa Code section 17A.31, Notice is hereby given that the rules which are the subject of this filing may have an impact on small business.

These rules are intended to implement 1987 Iowa Acts, House File 520, section 20.

These rules shall become effective September 7, 1987. The Attorney General's office will send a copy of these rules to each membership campground operator who is known to be doing business in this state.

Adopt 61—Chapter 25 as follows:

CHAPTER 25  
REGULATION OF MEMBERSHIP  
CAMPGROUND OPERATORS

**61—25.1(72GA, HF520) Place of filing.** Information required to be filed by the membership campground statute, 1987 Iowa Acts, House File 520, sections 5 to 20, or these rules shall be submitted to the Office of the Attorney General, Consumer Protection Division, Hoover Building, 2nd Floor, Des Moines, Iowa 50319. Whenever these rules state that a document be "filed," the document must be delivered to the attorney general's office by United States postal service or personal service and shall be considered filed on the date of the United States postal service mark or the date personal service is made.

**61—25.2(72GA, HF520) Definitions.** Unless otherwise defined, the terms used in these rules have the same definitions found in 1987 Iowa Acts, House File 520, section 5.

## REGISTRATION

**61—25.3(72GA, HF520) Registration.**

**25.3(1) Who must register.** A person shall not offer or sell a membership camping contract in this state unless the membership camping contract is covered by a membership camping registration. The application for registration must be filed with the attorney general's office at the address indicated in rule 25.1(72GA, HF520). The following transactions are exempt from the requirement of registration:

a. An offer, sale, or transfer by any one person of not more than one membership camping contract in any twelve-month period.

b. An offer or sale by a government, government agency, or other subdivision of government.

c. A bona fide pledge of a membership camping contract.

d. Transactions subject to regulation pursuant to Iowa Code chapter 557A.

**25.3(2) Contents of application.** The application for registration must contain all of the information required by 1987 Iowa Acts, House File 520, section 7. A form which may be used by the applicant for registration is available. Copies of this form, which is designated as Form 557B-1, may be obtained from the consumer protection division at the address stated in rule 25.1(72GA, HF520). If an alternative format is used, the information must be supplied in a readable, coherent, and complete manner, or the application will be denied.

**25.3(3) Fee for registration.** The application for registration must be accompanied by a nonrefundable fee of \$200. Applications which are received without such payment will be returned to the sender.

**25.3(4) Effective date.** Registration is effective for one year from the date the application is granted either by the attorney general's office or by operation of law. The attorney general's office will notify each registrant of the effective date of its registration.

**25.3(5) Amendments to registration and fee.** An application for registration must be amended and the amendment must be filed with the attorney general within 25 days of any material change in the information included in the application. Amendments must be accompanied by a nonrefundable fee of \$50.

**25.3(6) Renewal of registration.** A membership camping operator's registration must be renewed annually by filing an application for renewal no later



ATTORNEY GENERAL[61] (cont'd)

ARC 7871

than 30 days prior to the anniversary of the current registration. An application for renewal must be accompanied by a nonrefundable fee of \$200. The renewal application must include all changes in the information which has been provided in the previously filed application.

These rules are intended to implement 1987 Iowa Acts, House File 520.

[Filed emergency 8/7/87, effective 9/7/87]
[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

INSURANCE DIVISION[191]

Adopted and Filed Emergency

Pursuant to the authority of 1987 Iowa Acts, House File 614, section 16, the Insurance Division of Iowa hereby emergency adopts and implements new rule 19.60(72GA, HF614).

The new rule is a temporary, transitional rule that will help the Securities Bureau control administrative delays in processing initial permit applications by allowing applicants to file at any time after September 1, 1987, rather than having them wait until January 1, 1988. To further facilitate implementation of 1987 Iowa Acts, House File 614, the proposed rule will authorize an initial report and allow the Securities Bureau to accept and require fees on a temporary basis, prior to the adoption of the permanent regulations also proposed on this date.

The Division of Insurance finds that pursuant to Iowa Code section 17A.4(2), public notice and participation are contrary to the public interest in that speedy implementation of this rule is necessary to assure timely and reasonable treatment of those seeking permits required by the Iowa Prearranged Funeral Contracts Act.

The Division of Insurance also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this rule should be waived and the rule be made effective on September 1, 1987, as it confers a benefit upon the public to assure timely and reasonable treatment of those seeking permits required by the Iowa Prearranged Funeral Contracts Act.

New rule 191-19.60(72 GA, HF614) is adopted as follows:

191-19.60(72GA, HF614) Transitional rule.

19.60(1) The Iowa securities bureau may accept and process applications for establishment permits and sales permits filed pursuant to the Iowa prearranged funeral contracts Act at any time after September 1, 1987.

19.60(2) The Iowa securities bureau may accept and require the following fees at any time between September 1, 1987, and January 1, 1988:

- 1. Application packet .....\$ 5.00
2. Certification .....\$ 5.00
3. Duplicate permit fee .....\$ 5.00
4. Establishment permit fee .....\$ 50.00
5. Interpretative opinion .....\$ 50.00
6. Filing fee (annual report) .....\$200.00-500.00
7. Filing fee (seller's initial report) .....\$ 25.00
8. Name change .....\$ 10.00
9. Photocopies of records (per page) .....\$ 0.50
10. Printout of permit holders .....\$ 10.00
11. Sales permit fee .....\$ 5.00

19.60(3) The Iowa securities bureau may accept and require an initial report from sellers, as a prerequisite for an establishment permit, on the form prescribed by the commissioner.

19.60(4) The Iowa securities bureau may accept and require the following forms at any time between September 1, 1987, and January 1, 1988:

a. Content. Copies of all necessary forms and instructions may be obtained from the Iowa Securities Bureau, Lucas State Office Building, Des Moines, Iowa 50319.

ARC 7870

INSURANCE DIVISION[191]

Adopted and Filed Emergency

Pursuant to the authority of 1987 Iowa Acts, House File 614, section 16, the Insurance Division of Iowa hereby emergency adopts and implements the rescission of rule 19.1(523A), "Forms," of Chapter 19 of the Iowa Administrative Code.

The rescission is necessary to conform to changes in the reporting requirements of the Iowa Prearranged Funeral Contracts Act. Prior to July 1, 1987, the reports were filed with the applicable County Recorder. After July 1, 1987, reports will be filed with the Securities Bureau of the Iowa Insurance Division.

The rescission of the rule and adoption of the rules proposed on this date and published herein under Notice of Intended Action as ARC 7875, will bring the Bureau's rules into compliance with the amendments contained in 1987 Iowa Acts, House File 614, which were effective July 1, 1987.

In compliance with Iowa Code section 17A.4(2), the Division of Insurance finds that public notice and participation are unnecessary and impracticable because the changes merely bring the chapter into compliance with the statutory amendments, which nullified the statutory basis and authority of the rescinded rule.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of this action, 35 days after publication, should be waived and the rescission should be made effective upon filing with the Administrative Rules Coordinator on August 7, 1987, as it confers a benefit on the public since the rescinded rule could be construed to be in conflict with the statute as amended, the rescission is necessary to ensure proper compliance with the statute, and the notice period would delay adoption of new administrative regulations conforming to the amendments.

Rule 191-19.1(523A) is rescinded.

[Filed emergency 8/7/87, effective 8/7/87]
[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

INSURANCE DIVISION[191] (cont'd)

The list which follows describes the forms which members of the public shall use when dealing with the bureau, unless waived by the commissioner, and computer-generated information may be accepted. Each direction shall be complied with and each question in the forms shall be answered in the same manner as if the forms and instructions were embodied in these rules.

FORM NUMBER	DESCRIPTION
P-1	Application For Establishment Permit. Used by applicants when filing for an establishment permit under the Act.
P-2	Application For Sales Permit. Used by applicants when filing for a sales permit under the Act.
P-3	Sellers Initial Report. Transitional report that must be filed before an application for an establishment permit under the Act.
P-4	Sellers Annual Report. Used by sellers when filing their annual report under the Act.
P-5	Financial Institutions Annual Report. Used by financial institutions when filing their annual report under the Act.
P-6	Surety Bond. Required form of surety bond that a seller may file with the commissioner in lieu of the trust fund required by Iowa Code sections 523A.1 and 523A.2 as amended by 1987 Iowa Acts, House File 614.
P-7	Establishment Permit.
P-8	Sales Permit.

b. Cost. The forms listed above shall be available upon request at such reasonable charges as may be prescribed by the commissioner. An application packet, containing one copy each of the Act, this chapter and all of the application and report forms, shall be available for a \$5 charge. Individual forms may be acquired as follows:

FORM NUMBER	QUANTITY	COST
P-1	10	\$1.00
P-2	10	\$1.00
P-3	10	\$1.00
P-4	10	\$1.00
P-5	10	\$1.00
P-6	10	\$1.00

[ Filed emergency 8/7/87, effective 9/1/87]  
[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement; 8/26/87.

ARC 7847

NATURAL RESOURCES DEPARTMENT [561]

Adopted and Filed Emergency

Pursuant to the authority of 1987 Iowa Acts, House File 631, section 307, and Iowa Code section 455A.4 and chapter 17A, the Department of Natural Resources emergency adopts amendments to Chapter 9, "Ground-water Hazard Documentation," Iowa Administrative Code, to provide corrected rules and forms for reporting the existence and location of wells, disposal sites, underground storage tanks and hazardous waste sites at the time of transferring title to real estate.

1987 Iowa Acts, House File 631, section 307, provides for the submitting of a statement with each declaration of value submitted to the county recorder setting forth the existence and location of wells, disposal sites, underground storage tanks and hazardous waste. This statement may also be required in cases where the declaration of value is not required. The statute requires the Department to adopt rules governing the statement as well as to prescribe the form of statement to be used.

Since the filing of the original emergency adopted rules on July 1, 1987, published in the Iowa Administrative Bulletin, July 29, 1987, as ARC 7769, it has become apparent that the broad statutory language regarding the filing of these statements has caused a great deal of confusion in connection with completing certain property transactions. Therefore, the Department emergency adopts these amendments to the original emergency adopted rules. It is felt that these amendments will help alleviate the burdens on county officials and parties to minor real estate transactions while at the same time would not thwart the purpose of the statute. The primary amendment defines grantors or transferors under the statute to mean the person, corporation, or other entity actually conveying or transferring title to real property. It includes the vendors in real estate contracts as well as assignments of real estate contracts, plats and leases; however, it does not include governmental officials acting in their official capacity unless the property was voluntarily acquired by the governmental entity. This would have the effect of eliminating sheriff's deeds, tax deeds, and change of title certificates. The definition would also have the effect of excluding deeds to cemetery lots and correction deeds, mortgages, easements, escrow deeds, deeds in lieu of forfeiture or foreclosure, deeds to clear title which do not actually transfer title, deeds releasing a security interest, and deeds fulfilling a real estate contract and most other minor transactions excluded from the declaration of value submission.

In compliance with Iowa Code section 17A.4(2), the Department finds that public notice and participation are impracticable and contrary to the public interest in that unnecessary interference with real property transactions in Iowa would continue until final rules are adopted.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of these rules, 35 days after publication, should be waived and the rules be made effective upon filing with the Administrative Rules Coordinator on July 31, 1987, as it confers a benefit upon the public to ensure



## NATURAL RESOURCES DEPARTMENT[561] (cont'd)

the uniform, speedy and orderly compliance with the legislative mandate as it applies to transactions affecting the title to real property.

These rules are adopted by the Director of the Department of Natural Resources and are intended to implement 1987 Iowa Acts, House File 631, section 307.

The Department intends to submit a Notice of Intended Action, with possible changes, on these rules in a subsequent Iowa Administrative Bulletin.

Amend 561—Chapter 9 as follows:

**561—9.1 (72GA, HF631) Authority, purpose and application.**

**9.1(1) Authority.** Pursuant to 1987 Iowa Acts, House File 631, section 307, the department is required to adopt rules pertaining to a statement to be submitted with the declaration of value to the recorder when recording instruments transferring real property regarding the existence and location of wells, disposal sites, underground storage tanks, and hazardous wastes on the property.

**9.1(2) Purpose.** The purpose of these rules is to provide the necessary form, instructions and explanation of this requirement. It is the purpose of the statute to give notice to the department and the transferee of real estate property of the condition of the wells, disposal sites, underground storage tanks, and hazardous waste disposal existing on the real estate.

**9.1(3) Applicability.** These rules shall apply to all persons, including corporations, and other legal entities who are transferors or transferees of real estate property within the state of Iowa as well as all county recorders who are called upon to record instruments transferring real estate property in Iowa.

**9.1(4) Definition.** "Transferor" includes grantor. "Transferor" includes a transferor in any transaction for which a declaration of value must be submitted to the county recorder. Additionally, transferor shall generally mean a person as defined in Iowa Code section 4.1(13) who voluntarily transfers a possessory interest that the person voluntarily acquired in real property. Transferor shall include a transferor in the following transactions that are exempt from the submission of a declaration of value: any plat; any recorded lease; any voluntary transfer or receipt of real property by governmental entities (excluded are transactions such as sheriff's deed, tax deed, and clerks change of title).

**561—9.2 (72GA, HF631) Form.**

**9.2(1)** The grantor or transferor, their agent or attorney, shall sign department Form 542-0960 "Groundwater Hazard Statement," which may be obtained from the department or local county recorder.

**9.2(2)** The form shall be submitted to the county recorder in triplicate at the time that the declaration of value, deed, tax deed, sheriff's deed, court officer's deed, real estate contract, vendee's real estate contract assignment, plat, lease or other instrument of real estate property transfer is filed with the county recorder. It must also be submitted with the deed fulfilling a real estate contract, even if it is a second or additional submission.

**9.2(3)** The county recorder shall retain one copy of the statement, return a copy of the statement to the transferee when the recorded instrument is returned and shall send the original of the all statements filed the

preceding month to the department within 15 days after the close of each month.

**9.2(4)** The form shall include the name, address and social security number of both the transferor and transferee; the street address of the real estate involved; and the legal description of the real estate involved. The form shall set forth the information contained in 1987 Iowa Acts, House File 631, section 307.

**9.2(5)** Any instrument affecting the transfer of real estate in the state of Iowa which is filed in the county recorder's office shall be accompanied by a Groundwater Hazard Statement, even though a declaration of value may not be required because of statutory exemptions.

**9.2(6)** The personal representative in an estate, or the attorney for the estate, shall submit a Groundwater Hazard Statement to the county recorder at the time a change of title certificate (Iowa Code sections 558.66 and 602.8102(10)) is filed with the county auditor and county recorder. The personal representative in the estate or the attorney for the estate shall forward the transferee's copy of the Groundwater Hazard Statement to the transferee. The county recorder shall retain one copy and forward the original copy to the department as set forth in subrule 9.2(3).

**9.2(7)** Correction deeds or other title documents which do not transfer title are exempt from the 9.2(2) requirements.

These rules are intended to implement 1987 Iowa Acts, House File 631, section 307.

[Filed emergency 7/31/87, effective 7/31/87]  
[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7843**

**NURSING BOARD [655]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Nursing hereby transfers 590—Chapters 1 to 7 to 655—Chapters 1 to 7, under the "umbrella" of Department of Public Health [641].

Because of reorganization of state government by 1986 Iowa Acts, chapter 1245, a new agency identification number [655] was assigned by the Code Editor.

In compliance with Iowa Code section 17A.4(2), the Board of Nursing finds that public notice and participation are unnecessary. These are technical changes that do not affect any program provisions.

The Board of Nursing also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that these changes confer a benefit on the public by eliminating incorrect references. The Iowa Board of Nursing adopted these rules on July 23, 1987.

**NURSING BOARD[655] (cont'd)**

These rules implement Iowa Code section 147.76 and 1986 Iowa Acts, chapter 1245.

These rules shall become effective immediately upon filing with the Administrative Rules Coordinator on July 29, 1987.

Transfer 590—Chapters 1 to 7 to the new agency number [655], with chapter numbers remaining unchanged.

[Filed emergency 7/29/87, effective 7/29/87]  
[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7849**

**SECRETARY OF STATE[750]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 47.1, the Secretary of State emergency adopts rules amending Chapter 4, "Forms," Iowa Administrative Code.

The purpose of the proposed rule is to comply with the mandate in 1987 Iowa Acts, Senate File 480, and Executive Order Number 31, June 29, 1987, to develop a standard form for public disclosure of gifts.

In compliance with Iowa Code section 17A.4(2), the Agency finds that public notice and participation are unnecessary at this time because of the benefit conferred upon the public by having this new form available immediately.

In compliance with Iowa Code section 17A.5(2)"b"(2) the Agency finds that this amendment should become effective immediately upon filing with the Administrative Rules Coordinator on August 4, 1987, because the effective date of Senate File 480 was June 5, 1987, and the form will be needed immediately by persons required to report making or receiving gifts.

The Secretary of State adopted this rule on July 31, 1987.

This rule is intended to implement 1987 Iowa Acts, Senate File 480, section 8, and Executive Order Number 31.

Amend rule 4.3(17A) by adding the following new form:

**750—4.3(17A) Election forms.**

Form Number	Description
5-A	Gift Report

[Filed emergency 8/4/87, effective 8/4/87]  
[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7855**  
**DENTAL EXAMINERS**  
**BOARD [320]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Dental Examiners adopted at its July 31, 1987, meeting the amendment to Chapter 51, "Procedural Rules," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin, April 8, 1987, as ARC 7492.

Changes from such Notice as suggested by the Administrative Rules Review Committee are as follows:

After the words "selected by the board" insert "and to other news media upon request."

This rule is intended to implement Iowa Code sections 258A.5 and 17A.22.

This rule shall become effective September 30, 1987.

**320—51.12(153) Publication of decisions.** Final decisions of the board relating to licensee discipline shall be transmitted to the appropriate state and national professional associations and news media which may include a newspaper(s) of general circulation to be selected by the board and to other news media upon request.

This rule is intended to implement Iowa Code sections 258A.5 and 17A.22.

[Filed 8/5/87, effective 9/30/87]  
[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7860**  
**INSPECTIONS AND APPEALS**  
**DEPARTMENT[481]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 10A.104(5), the Iowa Department of Inspections and Appeals rescinds Chapter 21, "Food Establishments"; Chapter 22, "Bulk Food Operations"; Chapter 23, "Food Service Establishments"; Chapter 24, "Food and Beverage Vending Machines"; Chapter 25, "Hotels," Iowa Administrative Code. The Department replaces these chapters by adopting Chapter 30, "Field Survey Administration"; Chapter 31, "Food Establishment Inspections"; Chapter 32, "Food Service Establishment Inspections"; Chapter 33, "Food and Beverage Vending Machine Inspections"; and Chapter 37, "Hotel and Motel Inspections," Iowa Administrative Code. Rule 481—7.4 (71GA, ch1245) is also rescinded.

Notice of Intended Action was published in the Iowa Administrative Bulletin, July 1, 1987, as ARC 7690.

These rules set the standards for food and food service establishments and for hotels and are substantially like those published under Notice.

At the request of the Administrative Rules Review Committee a fee of \$10 has been added to cover the cost of processing returned checks, the schedule of fees has been deleted, and bed and breakfast inns have been addressed.

"Chapters 40 to 44" has been changed to "Chapters 30 to 33 and Chapter 37"; the definition of "Department" has been moved to 481—Chapter 1, "Administration"; and rules explaining plumbing and fire regulations have been deleted. Plumbing and fire regulations are adequately described in the Iowa Code and need not be reprinted in the administrative rules.

A public hearing was held July 21, 1987, and no comments were received.

These rules are intended to implement Iowa Code sections 10A.502(2), 17A.3 and 22.11 and chapters 170, 170A, 170B, and 191A.

These rules will become effective September 30, 1987.

ITEM 1. Rescind rule 481—7.4(71GA, ch1245).

ITEM 2. Rescind 481—Chapters 21, 22, 23, 24, and 25 and adopt the following new chapters:

INSPECTIONS DIVISION

CHAPTER 30

FIELD SURVEY ADMINISTRATION

**481—30.1(10A) Inspections division.** The inspections division inspects food and food service establishments, food and beverage vending machines, hotels, and food service operations in schools, correctional and penal institutions. It also conducts preliminary inspections of places where juveniles live temporarily.

**481—30.2(10A) Definitions.**

"Bed and breakfast inn" means a hotel which has nine or fewer guest rooms.

"Food establishment" means a commercial place where (1) animals are killed or dressed for food, except those regulated by Iowa Code chapter 189A, "Meat and Poultry Inspection," (2) food is stored and sold for consumption elsewhere, or (3) food is prepared and sold for consumption elsewhere. Food establishments include but are not limited to bakeries, confectionaries, canneries, packing-houses or slaughterhouses, meat markets or groceries. Any place with a current Class "A" beer permit is not considered a food establishment for purposes of these chapters.

"Food service establishment" means any place where food is prepared and intended for individual portion service, whether or not there is a charge for the food. The term includes schools and summer camps, but does not include private homes where food is prepared or stored for an individual family to eat. The term does not include child day care facilities or service facilities subject to inspection by other agencies of the state and located in health care facilities, or hospitals.

"Hotel" means any building equipped, used, or advertised to the public as a place where sleeping accommodations are rented to temporary guests.

"Mobile food unit" means a food service establishment on a vehicle which is easy to move.

"Pushcart" means a vehicle limited to serving foods not potentially hazardous, or foods wrapped elsewhere and kept at proper temperatures. The vehicle is not self-propelled.

"Salvage food" means food from truck wrecks, fires, tornadoes, or other disasters which involve food products.

"Temporary food service establishment" means a service is at a fixed location not longer than 12 days in a row for a single event or celebration.

"Vending machine" means any device which, upon insertion of a coin or token, dispenses unit servings of

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

food. The servings are in bulk or in packages which are stored in the device.

**481—30.3(170,170A,170B,191A) Licensing.** A license to operate any of the above must be granted by the department of inspections and appeals. Application for a license is made on a form furnished by the department which contains the names of the business, owner, and manager; location of buildings; or other data relative to the license requested. Applications are available from the Inspections Division, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

**30.3(1)** A license is not transferable.

**30.3(2)** A license is renewable and expires after one year.

**30.3(3)** A valid license shall be posted no higher than eye level where the public can see it. Vending machines shall bear a tag to affirm the license.

This rule is intended to implement Iowa Code sections 170.3, 170A.4, 170B.5, and 191A.6.

**481—30.4(170,170A,170B,191A) License fees.** Fees for licenses are based on annual gross sales rounded to the nearest dollar and charged according to the Iowa Code sections below:

Food establishments (Application Form 427-2274, Renewal 427-2275) Iowa Code section 170.5.

Food service establishments (Application Form 427-2276, Renewal 427-2280) Iowa Code section 170A.5.

Food and beverage vending machines (Application Form 427-2388) Iowa Code section 191A.4.

Hotels (Application Form 427-2377) Iowa Code section 170B.6.

This rule is intended to implement Iowa Code sections 170.5, 170A.5, 170B.6, and 191A.4.

**481—30.5(170,170A,170B,191A) Returned checks.** If a check intended to pay for any license provided for in these chapters is not honored for payment by the bank on which it is drafted, the department will attempt to redeem the check. The department shall notify the applicant of the need to provide sufficient payment. An additional fee of \$10 shall be assessed for each dishonored check. If the department does not receive cash to replace the check, the establishment will be operating without a valid license.

**481—30.6(170,170A) Double licenses.**

**30.6(1)** When the department determines that only a few grocery items are sold in a food service establishment, a food establishment license is not required.

**30.6(2)** A licensed food establishment shall pay only 50 percent of the fee for a food service establishment on the same premises.

This rule is intended to implement Iowa Code sections 170.5 and 170A.5.

**481—30.7(170,170A,191A) Disposal standards.** Standards in the 1984 edition of the "Model Food Salvage Code" are used to regulate the disposal of salvaged or distressed merchandise. A copy is available from the Inspections Division of the Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

**481—30.8(170,170A,170B,191A) Inspection frequency.** All establishments are inspected annually. Food service establishments are inspected twice a year.

This rule is intended to implement Iowa Code sections 170.46, 170A.3, 170B.14, and 191A.8.

**481—30.9(170A) Inspection notice in food service establishments.** This notice, received after an inspection, must be posted at the licensed premises as soon as it is received in a place that is easily seen by the public.

This rule is intended to implement Iowa Code section 170A.12.

**481—30.10(170,170A,170B,191A) Local contracts.** The department may contract with municipal corporations to inspect and collect license fees from any establishment covered by these rules. Inspections shall be pursuant to the Iowa Administrative Code 481—Chapters 30 to 33 and Chapter 37. A list of contracts is available from the Inspections Division, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code sections 170.55, 170A.4, 170B.3, and 191A.14.

**481—30.11(22) Examination of records.** Information collected by the inspections division is considered public information. Records are stored in computer files and are not matched with any other data system. Information is available for public review and will be provided when requested from the office of the director.

**481—30.12(170,170A,170B,191A) Denial, suspension or revocation of a license to operate.** Notice of denial, suspension, or revocation of a license shall be provided by the department and shall be effective 30 days after mailing or personal service of the notice.

**481—30.13(10A) Formal hearing.** All decisions of the division may be contested by an adversely affected party. Request for a hearing must be made in writing to the department within 30 days of the mailing or service of a decision. Appeals and hearings are controlled by Iowa Administrative Code 481—Chapter 4, "Contested Case Hearings."

**30.13(1)** The proposed decision of the hearing officer becomes final ten days after it is mailed.

**30.13(2)** Any request for administrative review of a proposed decision must:

a. Be made in writing,

b. Be filed with the director within ten days after the proposed decision was mailed to the aggrieved party (date of receipt by personal service or the postmarked date is time of filing),

c. State the reason(s) for the request.

**30.13(3)** The decision of the director shall be based upon the record and becomes final agency action upon mailing.

These rules are intended to implement Iowa Code section 22.11 and chapters 170, 170A, 170B, and 191A.

#### CHAPTER 31 FOOD ESTABLISHMENT INSPECTIONS

**481—31.1(170) Inspection standards.** Standards in the 1982 edition of the Retail Food Store Sanitation Code are used to inspect all food establishments. Exceptions to the sanitation code are as follows:

1. Section 9-103 is deleted. This section repeals "all codes and parts of codes" in conflict with the Retail Food Store Sanitation Code.

2. Retail food stores built or remodeled after July 1, 1986, must meet building standards in the Retail Food Store Sanitation Code. A copy is available from the Inspections Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

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

3. Food establishments are inspected before a license is granted and annually thereafter.

**31.1(1)** An inspector may enter a food establishment at any reasonable hour and shall be given free access to every part of the premises for each inspection. The inspector shall receive any help needed to make a thorough and complete inspection.

**31.1(2)** A food establishment which is also a food service establishment is inspected for both licenses at the same time.

**481—31.2(170) Wholesale food standards.** Standards used to inspect places where wholesale food is manufactured, processed, packaged or stored are found in the Code of Federal Regulations in 21 CFR, Parts 110, 118, 122, and 123, "Current Good Manufacturing Practices in Manufacturing, Processing, Packing, or Holding Human Food."

Copies of these regulations are available from the Inspections Division of the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

**481—31.3(170) Bottled drinking water standards.** Standards used to inspect places which process bottled drinking water are found in the Code of Federal Regulations 21 CFR, Parts 103.35 and 129, "Processing and Bottling of Bottled Drinking Water."

Copies of these regulations are available from the Inspections Division of the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

**481—31.4(170) Proper care of seafood.** All seafood, including fresh fish, shellfish, and other perishable fishery products shall be stored or displayed at an internal temperature of 32°F (0°C) or less.

**481—31.5(170) Labeling.** The following labeling standards are required in addition to those in the Retail Food Store Sanitation Code. Labels on or with packaged foods shall be in legible English and tell:

1. The true name, brand, or trademark of the article,
2. The names of all ingredients in the food, beginning with the one present in the largest proportion,
3. The quantity of the contents in terms of weights, measure, or numerical count,
4. The name and address of the manufacturer, packer, importer, distributor, or dealer.

Foods and food products labeled in conformance with the labeling requirements of the government of the United States as listed in the Code of Federal Regulations in 21 CFR, Parts 101 and 102, are considered in compliance with Iowa labeling law.

**481—31.6(170) Adulterated food and disposal.** No one may produce, distribute, offer for sale, or sell adulterated food.

**31.6(1) Adulterated food:**

- a. Contains something which makes the food injurious to health, or
- b. Has been in unsanitary conditions which cause it to be unsafe for use as food, or
- c. Is the product of a diseased animal or one that has died by means other than slaughter, or
- d. Is in a container constructed to cause the food to be injurious to health, or
- e. Food with a valuable ingredient left out or removed.

This list shall not be construed to limit the definition of adulterated food.

**31.6(2)** Adulterated food shall be disposed of in a reasonable manner as determined by the department. The destruction of adulterated food may be watched by a person approved by the department.

**481—31.7(170) Health hazard.** If an imminent health hazard exists, an establishment must stop operating and shall not begin again until authorized by the department.

**481—31.8(170) Enforcement.** Violation of these rules or any provision of Iowa Code chapter 170 is a simple misdemeanor. The department may employ various remedies if violations are discovered.

A license may be revoked.

An injunction may be sought.

A case may be referred to a county attorney for criminal prosecution.

**481—31.9(170) Toilets and lavatories.** Toilets and lavatories shall be available to employees and to patrons. They shall be well lighted and electrically vented to the outside of the building.

These rules are intended to implement Iowa Code chapter 170.

## CHAPTER 32

## FOOD SERVICE ESTABLISHMENT INSPECTIONS

**481—32.1(10A) Inspection standards.** Standards used to inspect food service establishments are found in the 1976 edition of the Food and Drug Administration Food Service Sanitation Ordinance (ordinance) subject to the following amendments:

1. Sections 1-102 (h), (i) and (z), 1-104, and 10-601 are deleted.

2. Section 10-101 is amended to say that school operations, churches, fraternal societies, or civic organizations which serve food ten times a month or less do not need to be licensed.

3. Section 10-201 is amended to say that all food service establishments are inspected before a license is granted and every six months thereafter. Schools and summer camps are inspected once a year.

A copy of the ordinance is available from the Inspections Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

Food service establishments built or remodeled after January 1, 1979, must meet building standards in the ordinance.

**481—32.2(10A) Posting of inspection results.**

**32.2(1)** A food service establishment which is rated lower than 76 twice in a row shall post the numerical rate with the word "poor". The numerical rating is explained in the ordinance. The numerical rate shall be posted where it is easy for the public to see.

**32.2(2)** A person may request reinspection at any time. The request must:

- a. Be in writing,
- b. Be signed by the applicant, and
- c. Specify which improvements have been made.

**32.2(3)** When the department receives a request for reinspection, the department will make every effort to conduct the reinspection within 14 days, or as soon as possible after that, not to exceed 30 days.

**481—32.3(170A) Clarification of ordinance.**

**32.3(1)** All silverware on preset tables in dining rooms shall be covered to prevent contamination.

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

**32.3(2)** All employees who assemble, dress, cook, manufacture, compound, or serve food are required to effectively restrain hair, wigs, and beards. Caps, hair spray, bandanas, head scarves and hairnets are acceptable restraints provided they cover and restrain the hair.

**32.3(3)** When alcoholic beverages are served in a food service establishment, a sink with not fewer than three compartments shall be used in the bar area for manual washing, rinsing, and sanitizing of bar utensils and glasses. Where food is served in a bar, a separate three-compartment sink for washing, rinsing, and sanitizing food-related dishes shall be used in the kitchen area.

**32.3(4)** Toilets and lavatory facilities shall be available to patrons. They shall be well lighted and electrically vented to the outside of the building.

**32.3(5)** Separate toilet facilities for men and women shall be provided in:

- a. Places which seat 50 or more people built or extensively remodeled after January 1, 1979, and
- b. Places which serve beer or alcoholic beverages.

These rules are intended to implement Iowa Code chapter 170A.

CHAPTER 33  
FOOD AND BEVERAGE VENDING  
MACHINE INSPECTIONS

**481—33.1(191A) Definitions.**

"Nonperishable foods" means gum, canned or bottled soft drinks, and panned candies. Peanuts and nuts dispensed in ball gum type machines are also considered nonperishable snacks.

"Panned candies" are those with a fine hard coating on the outside and a soft candy filling on the inside. Panned candies are easily dispensed by a ball gum type machine.

"Perishable foods" includes potato chips, other deep fried snacks, soups, juices, soft drinks dispensed in cups, candy bars, cheese, cookies, cakes, snacks with peanut butter and creamed snacks.

**481—33.2(191A) Inspection standards.** Standards in the 1978 edition of the Food and Drug Administration Food and Beverage Vending Machine Ordinance are used to inspect vending machines. Exceptions to this ordinance are below.

1. Sections 1-104 and 6-601 are deleted.
2. Section 6-201 is changed to require one inspection each calendar year. Other inspections may be made to assure compliance with the Iowa Code and rules and regulations.

A copy of the Vending Machine Ordinance is available from the Inspections Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

An inspector may inspect a commissary or vending machine at any reasonable hour and shall be given free access to every part of the premises for each inspection. A complete list of vending machines and their locations shall be maintained by the operator and shall be given to an inspector if requested.

**481—33.3(191A) Enforcement.** Violation of these rules or any provision of Iowa Code chapter 191A is a simple misdemeanor. The department may employ various remedies if violations are discovered.

A license may be revoked.

An injunction may be sought.

A case may be referred to a county attorney for criminal prosecution.

**481—33.4(191A) Appeal rights.** Any decision of the department may be appealed to the director in accordance with the procedures set out in Iowa Administrative Code 481—Chapter 30.

These rules are intended to implement Iowa Code chapter 191A.

CHAPTERS 34 to 36  
Reserved

CHAPTER 37  
HOTEL AND MOTEL INSPECTIONS

**481—37.1(170B) Building and grounds.** Owners or managers are expected to keep hotels clean. This means there shall be no litter nor accumulation of refuse anywhere on the premises.

The floors, walls, and ceilings shall be kept clean and in good repair.

**37.1(1)** Screens or self-closing doors shall be used to keep flies, mosquitoes, and other pests out of hotel lobbies, kitchens, or any other indoor area. Other effective methods are acceptable.

**37.1(2)** All garbage must be kept in metal or plastic containers with tight-fitting lids. Garbage must be removed regularly so it does not create offensive odors, a problem with insects or rodents, or health or fire hazards.

**37.1(3)** Any room or article which becomes infested with insects or vermin shall be cleaned or chemically treated until there are no more insects or vermin.

**481—37.2(170B) Guest rooms.** Hotels built or extensively remodeled as determined by the department, after January 1, 1979, shall provide ventilation in guest rooms with windows or mechanical devices. The furniture, drapes, and accessories shall be kept clean and in good repair.

**481—37.3(170B) Bedding.** All materials used on a bed or any sleeping place shall be kept clean and in good repair.

**37.3(1)** There shall be an undersheet and top sheet for every bed. Pillows shall have pillow slips. The sheets shall be large enough to completely cover the mattress.

**37.3(2)** Each guest shall be furnished clean sheets and pillow slips.

**37.3(3)** All other bedding shall be aired between guests and shall be kept clean.

**481—37.4(170B) Lavatory facilities.** Hotels built or remodeled after January 1, 1979, shall have lavatory facilities in each guest room, except for bed and breakfast inns.

**37.4(1)** Each guest room shall be equipped with hot and cold running water. The fixtures must be easy to clean. The floors shall be nonabsorbent and impermeable so they can be washed with water.

**37.4(2)** Lavatory rooms shall be well lighted and shall be vented to the outside of the building. This may be done with electric units.

**37.4(3)** Each guest shall have a clean towel each day.

**37.4(4)** Bed and breakfast inns shall provide at least one restroom which is available to overnight guests. The restroom must be equipped as provided in subrules 37.4(1) to 37.4(3).

**481—37.5(170B) Glasses and ice.**

**37.5(1)** Each guest shall have clean glasses to use. All cups, glasses or utensils usable more than once shall be sanitized by:

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

a. Immersion for at least one-half minute in clean, hot water at a temperature of at least 170°F; or

b. Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75°F; or

c. Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75°F; or

d. Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F for one minute.

37.5(2) When hot water is used for sanitizing, the following equipment shall be used:

a. An integral heating or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170°F; and

b. A numerically scaled indicating thermometer, accurate to  $\pm 3^\circ\text{F}$ , convenient to the sink for frequent checks of water temperature.

37.5(3) Ice kept for guests to use shall be protected from contamination. Lids on ice machines or storage bins shall be tight. Containers used to store ice shall be continuously drained and there shall be an air gap in addition to the drain. Standards in Chapter 4, "Equipment and Utensil Materials" of the 1976 edition of the Food Service Establishment Ordinance are to be met for equipment and utensils used to store or handle ice.

**481—37.6(170B) Employees.** No employer shall allow a person who has a communicable disease, as defined in Iowa Code chapter 139, to work in a hotel.

**481—37.7(170B) Room rates.** A list visible to the public posted near the office shall indicate room numbers and floor and the cost per day per person. The cost per day per person shall also be posted in each room.

**481—37.8(170B) Inspections.** An inspector may enter a hotel at any reasonable hour and shall be given free access to every part of the premises for each inspection. The inspector shall receive any help needed to make a thorough and complete inspection.

**481—37.9(170B) Enforcement.** Violation of these rules or any provision of Iowa Code chapter 170B is a simple misdemeanor. The department may employ various remedies if violations are discovered.

A license may be revoked.

An injunction may be sought.

A case may be referred to a county attorney for criminal prosecution.

These rules are intended to implement Iowa Code chapter 170B.

[Filed 8/6/87, effective 9/30/87]  
[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7866****LABOR SERVICES DIVISION[347]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts an amendment to rule 347—10.20(88), Iowa Administrative Code, relating to Occupational Safety and Health Standards for General Industry.

The amendment relates to accident prevention tags. This rule was originally filed emergency and published in the Iowa Administrative Bulletin, May 20, 1987, as **ARC 7607**.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on May 20, 1987, as **ARC 7608**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for June 10, 1987, but was not conducted due to the failure of any persons to appear for the hearing. One written comment was received in support of the adoption of the rule.

This rule shall become effective September 30, 1987, and the rule adopted under emergency rule-making procedures as **ARC 7607** is to be rescinded on September 30, 1987.

Rule **347—10.20(88)** is amended by inserting in date order the words:

51 Fed. Reg. 33260 (September 19, 1986)

This rule is intended to implement Iowa Code section 88.5.

[Filed 8/6/87, effective 9/30/87]  
[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7865****LABOR SERVICES DIVISION[347]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts an amendment to rule 347—10.20(88), Iowa Administrative Code, relating to Occupational Safety and Health Standards for General Industry.

The amendment relates to record keeping for tests, inspections, and maintenance checks and hazardous waste operations and emergency response. This rule was originally filed emergency and published in the Iowa Administrative Bulletin as **ARC 7574**.

The Notice of Intended Action was published in the Iowa Administrative Bulletin, May 6, 1987, as **ARC 7575**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for May 27, 1987, but was not conducted due to the failure of any persons to appear for the hearing. One written comment was received in support of the adoption of the rule.

This rule shall become effective September 30, 1987, and the rule adopted under emergency rule-making procedures as **ARC 7574** is to be rescinded on September 30, 1987.



## LABOR SERVICES DIVISION[347] (cont'd)

Rule 347—10.20(88) is amended by adding in date order the following:

51 Fed. Reg. 34560 (September 29, 1986)

51 Fed. Reg. 45663 (December 19, 1986)

This rule is intended to implement Iowa Code section 88.5.

[Filed 8/6/87, effective 9/30/87]

[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7867****LABOR SERVICES DIVISION [347]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts an amendment to rule 347—10.20(88), Iowa Administrative Code, relating to Occupational Safety and Health Standards for General Industry.

The amendment makes minor corrections to existing rules regarding hazardous waste operations and emergency response. This rule was originally filed emergency and published in the Iowa Administrative Bulletin, June 3, 1987, as **ARC 7641**.

The Notice of Intended Action was published in the Iowa Administrative Bulletin, June 3, 1987, as **ARC 7642**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for June 24, 1987, but was not conducted due to the failure of any persons to appear for the hearing. One written comment was received in support of the adoption of the rule.

This rule shall become effective September 30, 1987, and the rule adopted under emergency rule-making procedures as **ARC 7641** is to be rescinded on September 30, 1987.

Rule 347—10.20(88) is amended by adding in date order the words:

52 Fed. Reg. 16241 (May 4, 1987)

This rule is intended to implement Iowa Code section 88.5.

[Filed 8/6/87, effective 9/30/87]

[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7864****LABOR SERVICES DIVISION[347]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts an amendment to rule 347—10.20(88), Iowa Administrative Code, relating to Occupational Safety and Health Standards for General Industry.

The amendment makes minor corrections and provides information collection requirements approval for occupational exposure to asbestos. This rule was originally filed emergency and published in the Iowa Administrative Bulletin, July 1, 1987, as **ARC 7724**.

The Notice of Intended Action was published in the Iowa Administrative Bulletin, July 1, 1987, as **ARC 7725**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for July 23, 1987, but was not conducted due to the failure of any persons to request the hearing. One written comment was received in support of the adoption of the rule.

This rule shall become effective September 30, 1987, and the rule adopted under emergency rule-making procedures as **ARC 7724** is to be rescinded on September 30, 1987.

Rule 347—10.20(88) is amended by adding at the end thereof the words:

52 Fed. Reg. 17753 (May 12, 1987)

This rule is intended to implement Iowa Code section 88.5.

[Filed 8/6/87, effective 9/30/87]

[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7863****LABOR SERVICES DIVISION[347]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts an amendment to rule 347—26.1(88), Iowa Administrative Code, relating to Occupational Safety and Health Rules for Construction. The amendment makes minor corrections and provides information collection requirements approval for occupational exposure to asbestos. This rule was originally filed emergency and published in the Iowa Administrative Bulletin as **ARC 7726**.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 1987, as **ARC 7727**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for July 23, 1987, but was not conducted due to the failure of any persons to request the hearing. One written comment was received in support of the adoption of the rule.

This rule shall become effective September 30, 1987, and the rule adopted under emergency rule-making procedures as **ARC 7726** is to be rescinded on September 30, 1987.

Rule 347—26.1(88) is amended by adding at the end thereof the words:

52 Fed. Reg. 17753 (May 12, 1987)

This rule is intended to implement Iowa Code section 88.5.

[Filed 8/6/87, effective 9/30/87]

[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.



**ARC 7862****LABOR SERVICES DIVISION[347]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts an amendment to rule 347—28.1, Iowa Administrative Code, relating to Occupational Safety and Health Rules for Agriculture. The amendment relates to occupational exposure to general environmental controls, especially field sanitation, for employees engaged in agricultural operations. This rule was originally filed emergency and published in the Iowa Administrative Bulletin as **ARC 7634**.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on June 3, 1987, as **ARC 7635**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for June 24, 1987, but was not conducted due to the failure of any persons to appear for the hearing. One written comment was received in support of the adoption of the rule.

This rule shall become effective September 30, 1987, and the rule adopted under emergency rule-making procedures as **ARC 7634** is to be rescinded on September 30, 1987.

Rule 347—28.1(88) is amended by adding at the end thereof the words:

52 Fed. Reg. 16095 (May 1, 1987)

This rule is intended to implement Iowa Code section 88.5.

[Filed 8/6/87, effective 9/30/87]

[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7880****NATURAL RESOURCE  
COMMISSION [571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 107.24 and 455A.5, the Natural Resource Commission amends Chapter 24, "Recreation/Tourism Grants to County Conservation Boards," Iowa Administrative Code.

The Notice of Intended Action was published in the July 1, 1987, Iowa Administrative Bulletin as **ARC 7693**.

The rule is identical to the Notice with the exception of superfluous language which was stricken from the existing rule at the suggestion of the Administrative Rules Review Committee.

This rule is intended to implement Iowa Code section 99E.31(3)"a."

This rule will become effective September 30, 1987.

Amend rule 24.8(71GA, ch33) to read as follows:

~~571—24.8(71A, ch3399E)~~ Department review. Grant applications as prioritized by the committee and recommended to the director will be presented to the natural resource commission; hereinafter referred to as ~~the commission~~, for final approval. Approval by the commission will establish the budget for each approved project for each fiscal year. The commission may alter the rankings recommended by the committee. *If rankings are altered, the commission will state its reasons for alteration.* Approval at this point will not constitute approval of the obligation of funds for a project.

[Filed 8/7/87, effective 9/30/87]

[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7859****PHARMACY EXAMINERS  
BOARD[620]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Pharmacy Examiners hereby adopts an amendment to Chapter 1, "Licensure," Iowa Administrative Code.

The adopted rule is identical to that published as Notice of Intended Action in the June 3, 1987, Iowa Administrative Bulletin as **ARC 7636**. The amendment was adopted during the regular meeting of the Iowa Board of Pharmacy Examiners on July 14, 1987, and will become effective September 30, 1987.

The amendment establishes administrative fees for candidates who fail an examination for licensure and are required to retake the exam(s).

This rule is intended to implement Iowa Code section 147.94.

Amend rule 620—1.5(147) to read as follows:

**620—1.5(147) Reexamination applications and fees.** Each applicant for reexamination shall make a request for such reexamination on proper forms; ~~to be provided by the board; and the request for such reexamination shall become a part of the official files.~~ Administration fees of \$40 and \$20 will be charged to take the National Association of Boards of Pharmacy Licensure Exam (NABPLEX) and the Federal Drug Law Exam (FDLE), respectively. In addition, candidates will be required to pay an examination material fee. Payment of administration fees and examination material fees shall be as described in rule 620—1.2(147).

[Filed 8/5/87, effective 9/30/87]

[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.

**ARC 7858**  
**PHARMACY EXAMINERS**  
**BOARD [620]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 204.301, the Iowa Board of Pharmacy Examiners adopts an amendment to Chapter 8, "Controlled Substances," Iowa Administrative Code.

The adopted rule is identical to that published as Notice of Intended Action in the June 3, 1987, Iowa Administrative Bulletin as **ARC 7637**. The amendment was adopted during a regular meeting of the Iowa Board of Pharmacy Examiners on July 14, 1987, and will become effective September 30, 1987.

The amendment provides that prescribers may authorize additional refills of previously issued prescriptions for schedule III, IV, and V controlled substances through an oral authorization without requiring the pharmacist to treat the additional refills as new and separate prescriptions. This amendment will make Iowa rules on refilling schedule III, IV, and V controlled substance prescriptions identical to Federal Drug Enforcement Administration (DEA) regulations.

This rule is intended to implement Iowa Code section 204.308.

Rescind subrule 8.13(9) and insert in lieu thereof the following:

**8.13(9) Refilling of prescriptions.** No prescription for a controlled substance listed in schedule III, IV, or V shall be filled or refilled more than six months after the date on which it was issued nor be refilled more than five times. Each refilling of a prescription shall be entered on the back of the prescription or on another appropriate document. If entered on another document,

such as a medication record, the document must be uniformly maintained and readily retrievable. The following information must be retrievable by the prescription number: the name and dosage form of the controlled substance, the date filled or refilled, the quantity dispensed, initials of the dispensing pharmacist for each refill, and the total number of refills for that prescription. If the pharmacist merely initials and dates the back of the prescription, it shall be deemed that the full face amount of the prescription has been dispensed. The prescribing practitioner may authorize additional refills of schedule III, IV, or V controlled substances on the original prescription through an oral refill authorization transmitted to the pharmacist, provided the following conditions are met:

a. The total quantity authorized, including the amount of the original prescription, does not exceed five refills nor extend beyond six months from the date of issue of the original prescription.

b. The pharmacist who obtains the oral authorization records on the reverse of the original prescription the date, quantity of refill, number of additional refills authorized, and initials the prescription showing who received the authorization from the prescribing practitioner who issued the original prescription.


c. The quantity of each additional refill authorized is equal to or less than the quantity authorized for the initial filling of the original prescription.

d. The prescribing practitioner must execute a new and separate prescription for any additional quantities beyond the five-refill, six-month limitation.

[Filed 8/5/87, effective 9/30/87]

[Published 8/26/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/26/87.



*State of Iowa*  
**Executive Department**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER THIRTY-ONE

- WHEREAS, Chapter 68B, as amended by 1987 Iowa Acts, Senate File 480, relates to the giving, acceptance and reporting of gifts; and
- WHEREAS, the Governor, under 1987 Iowa Code Section 68B.11(2), as amended by 1987 Iowa Acts, Senate File 480, Section 8, has the authority and the responsibility to establish formal procedures and criteria for the reporting of gifts made to officials and employees of the executive department of the state and their immediate family members;
- NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, do hereby establish the following gift reporting requirements for the executive department of state government.

ARTICLE I. SCOPE OF APPLICATION

"Official" and "employee" shall include all employees and officials of the executive department of the state. "Employee" is a full-time, salaried employee of the State of Iowa. The term "official" means an officer of the State of Iowa receiving a salary or per diem whether elected or appointed or whether serving full-time or part-time. The term "official" includes board and commission members who are required by law to file oaths of office. The word "donor" shall have the meaning specified in 1987 Iowa Code Section 68B.2(9)(a), as amended by 1987 Iowa Acts, Senate File 480, Section 1. The words "gift" and "immediate family members" shall have the meanings specified in 1987 Iowa Code Section 68B.2, as amended by 1987 Iowa Acts, Senate File 480, Section 1.

ARTICLE II. DISCLOSURE REPORT

A. An official or employee who receives or whose immediate family member receives a gift or gifts from any one donor in any one calendar day which has a cumulative value in excess of fifteen dollars shall file a written report of

the gift or gifts in the office of the Secretary of State.

B. A donor who gives any gift or gifts in any one calendar day to an official or employee or immediate family member which has a cumulative value in excess of fifteen dollars shall file a written report with the Secretary of State.

C. The value of the gift for reporting purposes is determined as provided under 1987 Iowa Code Section 68B.11(5), as amended by 1987 Iowa Acts, Senate File 480, Section 8.

D. The reports shall be filed by the fifteenth day of the month following the month in which the gift was received. The report shall show the donor, donee, nature, value and date of the gift. The reports shall also show the street address, city and state of residence of the donee and donor, if known.

E. The Secretary of State shall make available forms for the filing of these reports, upon request, to any person required to file a report. The reports shall be available for public inspection under conditions consistent with Chapter 22, Code of Iowa, relating to public records.

ARTICLE III. NO WAIVER OF REPORTING FOR FOOD AND BEVERAGE

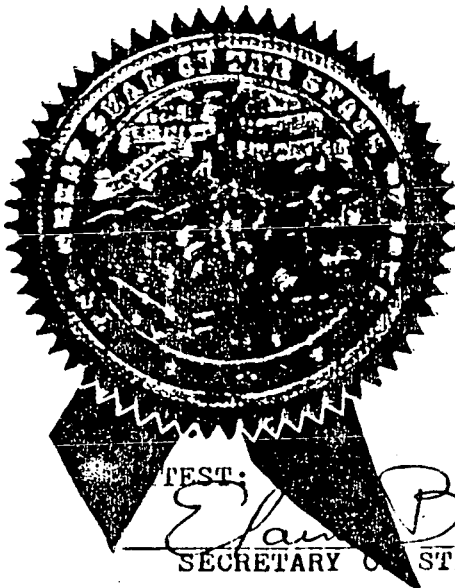
This executive order does not provide for the waiver of the reporting of food and beverage which is provided for immediate consumption in the presence of the donor.

ARTICLE IV. REPEALER

With my signature below, Executive Orders Numbered Five and Twenty-Eight are hereby repealed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 29th day of June, in the year of our Lord one thousand nine hundred eighty seven.

*Terry E. Branstad*  
GOVERNOR



*Elaine Baxter*  
SECRETARY OF STATE







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