

IOWA ADMINISTRATIVE BULLETIN

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Des Moines, Iowa 50319

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other "materials deemed fitting and proper by the Administrative Rules Review Committee" include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

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

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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.

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Iowa Administrative Code

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Prices for the Iowa Administrative Code and its Supplements are as follows:

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Hoover State Office Building, Level A
Des Moines, IA 50319
Telephone: (515)242-5120**

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 5.8(1), 5.9, 8.9, 9.1, 9.12(2), 9.13(1)
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CITATION of Administrative Rules

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

- 441 IAC 79 (Chapter)
- 441 IAC 79.1(249A) (Rule)
- 441 IAC 79.1(1) (Subrule)
- 441 IAC 79.1(1)“a” (Paragraph)
- 441 IAC 79.1(1)“a”(1) (Subparagraph)

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

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

Schedule for Rule Making 2000

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 24 '99	Jan. 12 '00	Feb. 1 '00	Feb. 16 '00	Feb. 18 '00	Mar. 8 '00	Apr. 12 '00	July 10 '00
Jan. 7	Jan. 26	Feb. 15	Mar. 1	Mar. 3	Mar. 22	Apr. 26	July 24
Jan. 21	Feb. 9	Feb. 29	Mar. 15	Mar. 17	Apr. 5	May 10	Aug. 7
Feb. 4	Feb. 23	Mar. 14	Mar. 29	Mar. 31	Apr. 19	May 24	Aug. 21
Feb. 18	Mar. 8	Mar. 28	Apr. 12	Apr. 14	May 3	June 7	Sept. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	Apr. 28	May 17	June 21	Sept. 18
Mar. 17	Apr. 5	Apr. 25	May 10	May 12	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	May 26	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 9	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	June 23	July 12	Aug. 16	Nov. 13
May 12	May 31	June 20	July 5	July 7	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	July 21	Aug. 9	Sept. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 4	Aug. 23	Sept. 27	Dec. 25
June 23	July 12	Aug. 1	Aug. 16	Aug. 18	Sept. 6	Oct. 11	Jan. 8 '01
July 7	July 26	Aug. 15	Aug. 30	Sept. 1	Sept. 20	Oct. 25	Jan. 22 '01
July 21	Aug. 9	Aug. 29	Sept. 13	Sept. 15	Oct. 4	Nov. 8	Feb. 5 '01
Aug. 4	Aug. 23	Sept. 12	Sept. 27	Sept. 29	Oct. 18	Nov. 22	Feb. 19 '01
Aug. 18	Sept. 6	Sept. 26	Oct. 11	Oct. 13	Nov. 1	Dec. 6	Mar. 5 '01
Sept. 1	Sept. 20	Oct. 10	Oct. 25	Oct. 27	Nov. 15	Dec. 20	Mar. 19 '01
Sept. 15	Oct. 4	Oct. 24	Nov. 8	Nov. 10	Nov. 29	Jan. 3 '01	Apr. 2 '01
Sept. 29	Oct. 18	Nov. 7	Nov. 22	Nov. 24	Dec. 13	Jan. 17 '01	Apr. 16 '01
Oct. 13	Nov. 1	Nov. 21	Dec. 6	Dec. 8	Dec. 27	Jan. 31 '01	Apr. 30 '01
Oct. 27	Nov. 15	Dec. 5	Dec. 20	Dec. 22	Jan. 10 '01	Feb. 14 '01	May 14 '01
Nov. 10	Nov. 29	Dec. 19	Jan. 3 '01	Jan. 5 '01	Jan. 24 '01	Feb. 28 '01	May 28 '01
Nov. 24	Dec. 13	Jan. 2 '01	Jan. 17 '01	Jan. 19 '01	Feb. 7 '01	Mar. 14 '01	June 11 '01
Dec. 8	Dec. 27	Jan. 16 '01	Jan. 31 '01	Feb. 2 '01	Feb. 21 '01	Mar. 28 '01	June 25 '01
Dec. 22	Jan. 10 '01	Jan. 30 '01	Feb. 14 '01	Feb. 16 '01	Mar. 7 '01	Apr. 11 '01	July 9 '01
Jan. 5 '01	Jan. 24 '01	Feb. 13 '01	Feb. 28 '01	Mar. 2 '01	Mar. 21 '01	Apr. 25 '01	July 23 '01

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER

SUBMISSION DEADLINE

ISSUE DATE

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Friday, June 9, 2000

June 28, 2000

27

Friday, June 23, 2000

July 12, 2000

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Friday, July 7, 2000

July 26, 2000

PLEASE NOTE:

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

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

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. Bates, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the processing of rule-making documents, we request a 3.5" High Density (not Double Density) IBM PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, 1st Floor, Lucas State Office Building or included with the documents submitted to the Governor's Administrative Rules Coordinator.

2. Alternatively, if you have Internet E-mail access, you may send your document as an attachment to an E-mail message, addressed to both of the following:

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kbates@legis.state.ia.us

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies by the Governor's office, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

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Iowa Court Rules (updated through December 1999)

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Guide to Rule Making, June 1995 Edition, available upon request to the Iowa Administrative Code Division,
Lucas State Office Building, First Floor, Des Moines, Iowa 50319.

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 13, 2000, at 9 a.m. in House Committee Room 1, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

Bulletin

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

- Eradication of pseudorabies, 64.147, 64.151(3), 64.153(5), 64.154(2)"c," 64.156(2),
64.156(3)"a," 64.157, 64.158, 64.160, 64.161, Notice **ARC 9862A** 5/31/00
- Retailers prohibited from selling motor vehicle fuel
containing greater than 2 percent MTBE, 85.33, Filed **ARC 9842A** 5/17/00

CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

- Functions; juvenile justice youth development program; reorganization of rules,
rescind chs 1, 3, 4, and 5; adopt chs 1 and 3, Notice **ARC 9841A** 5/17/00

DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Standards of practice; record keeping, ch 27 title, 27.2, 27.11, Notice **ARC 9818A** 5/17/00

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

- Housing fund—application procedures, 25.5, 25.5(5), rescind 25.5(6), Notice **ARC 9820A** 5/17/00
- Housing fund—percentage of HOME allocation reserved
for rental housing activities, 25.8(3), Filed **ARC 9821A** 5/17/00
- Submittal of HART form prior to preapplication process for LHAP funds, 28.5(5), Notice **ARC 9819A** 5/17/00
- CEBA wage threshold, 53.2, 53.6(1)"f" and "i," Filed **ARC 9822A** 5/17/00
- Iowa export trade assistance program, 68.2 to 68.4, 68.5(3), 68.7, Filed **ARC 9823A** 5/17/00

EDUCATION DEPARTMENT[281]

- Contested case appeal procedures, 6.17(4) to 6.17(10), Filed **ARC 9855A** 5/31/00
- Interscholastic competition—sanctions for ineligible player participation, 36.14(7), Notice **ARC 9854A** 5/31/00

EMERGENCY MANAGEMENT DIVISION[605]

PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

- Organization, ch 1, Notice **ARC 9828A** 5/17/00
- Uniform rules on agency procedure; Iowa emergency plan, chs 2 to 6 and 9, Notice **ARC 9827A** 5/17/00
- Local emergency management, ch 7, Notice **ARC 9826A**, also Filed **Emergency** **ARC 9824A** 5/17/00
- Criteria for awards or grants, ch 8, Notice **ARC 9825A** 5/17/00

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Water quality standards, 61.2(4)"a" and "b," 61.2(4)"b"(1), 61.2(4)"c," 61.2(4)"d"(4), 61.2(4)"e,"
61.2(4)"e"(1), 61.2(4)"f," 61.2(4)"g"(4), 61.2(5), 61.3(3)"b"(3)"2," 61.3(3)"b"(6), 61.3(3) table 1,
61.3(3) tables 3a to 3c, 61.3(5)"e," Notice **ARC 9839A** 5/17/00

FAIR BOARD[371]

- Restrictions on pets, 8.4, Notice **ARC 9832A** 5/17/00

HUMAN SERVICES DEPARTMENT[441]

- Applying county institutional credit balances, 28.13, Notice **ARC 9829A** 5/17/00
- Reporting and verification of changes in income; determination of self-employment income, 40.21, 40.27(2)"a,"
41.27(1)"i," 41.27(2), 41.27(2)"q," 75.50, 75.52(2)"a," 75.57(1)"f," 75.57(2), 75.57(2)"l," Filed **ARC 9846A** 5/31/00
- Child support guidelines and criteria, 99.2(3), 99.2(6), 99.4(5), Notice **ARC 9830A** 5/17/00
- Child support parental obligation pilot projects, ch 100, Notice **ARC 9831A** 5/17/00

INSPECTIONS AND APPEALS DEPARTMENT[481]

- Not potentially hazardous foods; exceptions for wild morels, aged cheese and whole muscle red meats;
home food establishment product labeling; hotel equipment used to store and handle ice,
30.2, 31.1(2), 31.1(14) to 31.1(16), 34.3, 37.5(3), Notice **ARC 9856A** 5/31/00

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Publication of consumer guide, 35.36 to 35.38, Filed **ARC 9849A** 5/31/00**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Use of nontoxic shot on wildlife areas—addition of South Twin Lake and Chichaqua to list,
51.9, Filed **ARC 9858A** 5/31/00Unprotected nongame—removal of timber rattlesnake and common garter snake from list,
rescind 76.1(2), Notice **ARC 9859A** 5/31/00Annual reporting requirements for ginseng dealers, 78.3(2)"e," 78.4, rescind 78.5(3)
and 78.5(4), Notice **ARC 9860A** 5/31/00Wild turkey fall hunting, 99.2(2), 99.2(3), Filed **ARC 9857A** 5/31/00Deer hunting, 106.5(1)"b," 106.5(2), 106.6(3)"a," 106.6(5), 106.6(6), 106.8(1), 106.8(4), Filed **ARC 9861A** 5/31/00**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]**Remedial claims, 11.1(3)"r," 11.1(5)"f," Filed **ARC 9845A** 5/31/00**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

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180.15 to 180.18, 180.115, ch 181, Filed **ARC 9853A** 5/31/00**PUBLIC HEALTH DEPARTMENT[641]**Emergency medical services training grants, 130.1, 130.4(2), 130.4(3), Filed **ARC 9851A** 5/31/00**PUBLIC SAFETY DEPARTMENT[661]**Handicapped parking, ch 18, Notice **ARC 9840A** 5/17/00**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Trifecta wagering approval for fields of six or fewer; grounds for denial, suspension, or revocation of
occupational license; labor organization registration, 8.2(13)"g," 13.10(8), rescind 13.14, Notice **ARC 9814A** 5/17/00**REVENUE AND FINANCE DEPARTMENT[701]**Prescription and nonprescription drugs and devices—taxation and exemption, 20.7, 20.8,
20.8(2)"c," 20.8(3), 20.9(3)"a," "c" and "e," 20.9(4), 20.9(5), Notice **ARC 9838A** 5/17/00Application of related expense to allocable interest, dividends, rents and royalties; cross-reference correction,
54.3, 54.9, 59.29, Notice **ARC 9837A** 5/17/00Unfair cigarette sales, 84.2, 84.4, Notice **ARC 9836A** 5/17/00**TRANSPORTATION DEPARTMENT[761]**Definition of "freeway" for the purpose of highway lighting, 150.2(3), Notice **ARC 9817A** 5/17/00Junked vehicle, 400.23, Filed **ARC 9844A** 5/31/00Special mobile equipment, 410.1 to 410.3, Filed **ARC 9847A** 5/31/00Motor carrier regulations—cross-reference update, 529.1, Filed **ARC 9848A** 5/31/00License examination—waiver of knowledge and driving tests, 604.21(2), 604.31(2), Filed **ARC 9843A** 5/31/00**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Unauthorized changes in telecommunications service, 6.8(1) to 6.8(3), 22.23(1) to 22.23(3),
22.23(5), 22.23(6), Filed **ARC 9835A** 5/17/00Payment agreements, 19.4(10)"c," 20.4(11)"c," Filed **ARC 9850A** 5/31/00**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

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8.9, 9.1, 9.12(2), 9.13(1)"d"(6), Filed **ARC 9852A** 5/31/00

WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

- Workforce development board, 1.1(2), 1.4 to 1.6, Filed **ARC 9816A** 5/17/00
- Iowa workforce investment Act program, ch 7, Filed **ARC 9815A** 5/17/00

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

EDITOR'S NOTE: Terms ending April 30, 2003.

Senator H. Kay Hedge
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Fremont, Iowa 52561

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Brian Gentry
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

To All Agencies:

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
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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Eradication of pseudorabies, 64.147, 64.151(3), 64.153(5), 64.154(2), 64.156, 64.157, 64.158, 64.160, 64.161 IAB 5/31/00 ARC 9862A	Auditorium Wallace State Office Building Des Moines, Iowa	June 22, 2000 10 a.m.
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CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428]

Functions; juvenile justice youth development program, chs 1, 3 to 5 IAB 5/17/00 ARC 9841A	Conference Room—1st Floor Human Rights Department Lucas State Office Bldg. Des Moines, Iowa	June 6, 2000 1 p.m.
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DENTAL EXAMINERS BOARD[650]

Standards of practice and principles of professional ethics; record keeping, 27.2, 27.11 IAB 5/17/00 ARC 9818A	Conference Room Suite D 400 SW Eighth St. Des Moines, Iowa	June 6, 2000 2 to 3 p.m.
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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Housing fund, 25.5 IAB 5/17/00 ARC 9820A	Northeast Conference Rm.—2nd Floor 200 East Grand Ave. Des Moines, Iowa	June 6, 2000 11 a.m.
LHAP application procedure, 28.5(5) IAB 5/17/00 ARC 9819A	Northeast Conference Rm.—2nd Floor 200 East Grand Ave. Des Moines, Iowa	June 6, 2000 10 a.m.

EDUCATION DEPARTMENT[281]

Ineligible player participation, 36.14(7) IAB 5/31/00 ARC 9854A	State Board Room Grimes State Office Building Des Moines, Iowa	June 20, 2000 1 p.m.
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EMERGENCY MANAGEMENT DIVISION[605]

Organization, 1.1, 1.2 IAB 5/17/00 ARC 9828A	Conference Room—Level A Hoover State Office Bldg. Des Moines, Iowa	June 12, 2000 10 a.m.
Uniform rules on agency procedure; Iowa emergency plan, chs 2 to 6, 9 IAB 5/17/00 ARC 9827A	Conference Room—Level A Hoover State Office Bldg. Des Moines, Iowa	June 12, 2000 10 a.m.

EMERGENCY MANAGEMENT DIVISION[605] (Cont'd)

Local emergency management, ch 7 IAB 5/17/00 ARC 9826A (See also ARC 9824A)	Conference Room—Level A Hoover State Office Bldg. Des Moines, Iowa	June 12, 2000 10 a.m.
Criteria for awards or grants, ch 8 IAB 5/17/00 ARC 9825A	Conference Room—Level A Hoover State Office Bldg. Des Moines, Iowa	June 12, 2000 10 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Water quality standards, 61.2, 61.3 IAB 5/17/00 ARC 9839A	Meeting Room A Iowa City Public Library 123 S. Linn St. Iowa City, Iowa	June 8, 2000 10 a.m.
	Meeting Room City Hall 400 Claiborne Dr. Decorah, Iowa	June 8, 2000 4 p.m.
	Cherokee Community Center 530 W. Bluff St. Cherokee, Iowa	June 12, 2000 11 a.m.
	Meeting Room Clear Lake Community Center 15 N. Sixth St. Clear Lake, Iowa	June 12, 2000 7 p.m.
	Municipal Utilities Conference Room 15 W. Third St. Atlantic, Iowa	June 15, 2000 11 a.m.
	Conference Room—5th Floor West Wallace State Office Building Des Moines, Iowa	June 16, 2000 1 p.m.

HUMAN SERVICES DEPARTMENT[441]

Child support guidelines—allowable deductions, extraordinary visitation adjustment, 99.2, 99.4(5) IAB 5/17/00 ARC 9830A	Conference Room—6th Floor Iowa Bldg., Suite 600 411 3rd St. SE Cedar Rapids, Iowa	June 8, 2000 10 a.m.
	Child Support Recovery Unit, Suite 32 300 West Broadway Council Bluffs, Iowa	June 7, 2000 9 a.m.
	Large Conference Room Bicentennial Bldg.—5th Floor 428 Western Ave. Davenport, Iowa	June 7, 2000 10 a.m.
	Bureau of Collections 400 SW Eighth St. Des Moines, Iowa	June 8, 2000 9 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	June 7, 2000 10 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	June 9, 2000 9 a.m.
	Conference Room B, Suite 500 520 Nebraska St. Sioux City, Iowa	June 7, 2000 10 a.m.
	Child Support Recovery Unit Suite 400 510 Sycamore St. Waterloo, Iowa	June 8, 2000 1:30 p.m.
Child support parental obligation pilot projects, ch 100 IAB 5/17/00 ARC 9831A	Conference Room—6th Floor Iowa Bldg., Suite 600 411 3rd St. SE Cedar Rapids, Iowa	June 8, 2000 10 a.m.
	Child Support Recovery Unit, Suite 32 300 West Broadway Council Bluffs, Iowa	June 7, 2000 9 a.m.
	Large Conference Room Bicentennial Bldg.—5th Floor 428 Western Ave. Davenport, Iowa	June 7, 2000 10 a.m.
	Bureau of Collections 400 SW Eighth St. Des Moines, Iowa	June 8, 2000 9 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	June 7, 2000 10 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	June 9, 2000 9 a.m.
	Conference Room B, Suite 500 520 Nebraska St. Sioux City, Iowa	June 7, 2000 10 a.m.
	Child Support Recovery Unit Suite 400 510 Sycamore St. Waterloo, Iowa	June 8, 2000 1:30 p.m.

NATURAL RESOURCE COMMISSION[571]

Unprotected nongame, 76.1(2) IAB 5/31/00 ARC 9859A	Conference Room—4th Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2000 10 a.m.
Ginseng harvesting and sale, 78.3, 78.4, 78.5 IAB 5/31/00 ARC 9860A	Conference Room—5th Floor Wallace State Office Building Des Moines, Iowa	June 22, 2000 10:30 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Hearing aid dealers examiners board, 120.1(5), 120.6 to 120.14, 120.212, ch 121 IAB 5/17/00 ARC 9834A	Board Conference Room—5th Floor Lucas State Office Building Des Moines, Iowa	June 7, 2000 9 to 11 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Parking for persons with disabilities, 18.1 to 18.8 IAB 5/17/00 ARC 9840A	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	June 7, 2000 9:30 a.m.
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TRANSPORTATION DEPARTMENT[761]

Lighting of freeways, 150.2(3) IAB 5/17/00 ARC 9817A	Commission Conference Room 800 Lincoln Way Ames, Iowa	June 8, 2000 10 a.m. (If requested)
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 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]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Iowa Finance Authority[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 GENERAL SERVICES DEPARTMENT[401]
 HUMAN INVESTMENT COUNCIL[417]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]
 HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE AND FINANCE DEPARTMENT[701]
 Lottery Division[705]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 9862A

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 159.5(11), 163.1, 166D.1, and 2000 Iowa Acts, Senate File 2312, the Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 64, “Infectious and Contagious Diseases,” Iowa Administrative Code.

These amendments are intended to implement 2000 Iowa Acts, Senate File 2312, which directs the Department of Agriculture and Land Stewardship to adopt administrative rules implementing many statutory changes relating to pseudorabies eradication in Iowa Code chapter 166D. These statutory changes include the mandatory vaccination of pigs in certain parts of Iowa; restrictions on movements of infected pigs, pigs from infected herds, and pigs from herds of unknown status; and cleanup procedures for infected herds.

There are no general waiver provisions in these amendments because 2000 Iowa Acts, Senate File 2312, does not provide the Department general waiver authority of its requirements. However, there are two specific waiver provisions in the amendments that are authorized by the legislation.

Any interested person may make written suggestions or comments on the following proposed amendments by 4:30 p.m. on June 22, 2000. Such written material should be directed to Dr. John Schiltz, State Veterinarian, Animal Industry Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments can also be submitted by fax to (515) 281-4282 or by E-mail to John.Schiltz@idals.state.ia.us.

In addition, a public hearing will be held at 10 a.m., Thursday, June 22, 2000, in the Auditorium, Wallace State Office Building, East Ninth and East Grand, Des Moines, Iowa.

It is the intention of the Department that these amendments be Adopted and Filed Emergency After Notice. This procedure is mandated in 2000 Iowa Acts, Senate File 2312, section 23.

These amendments are intended to implement 2000 Iowa Acts, Senate File 2312, and Iowa Code chapters 163 and 166D.

The following amendments are proposed.

ITEM 1. Amend rule **21—64.147(163,166D)** by adopting the following **new** definition in alphabetical order:

“Restricted movement” means movement of swine according to 2000 Iowa Acts, Senate File 2312, section 17.

ITEM 2. Adopt **new** subrule 64.151(3) as follows:

64.151(3) Quarantine releasing procedures.

a. A herd of swine shall no longer be classified as a known infected herd after removal of all positive swine and at least one of the following three conditions have been met:

(1) All swine have been removed and the premises have been cleaned and disinfected and maintained free of swine

for 30 days or a period of time determined adequate by an official pseudorabies epidemiologist.

(2) All swine seropositive to an official test have been removed and all remaining swine, except suckling pigs, are tested and found negative 30 days or more after removal of the seropositive animals.

(3) All swine seropositive to an official test have been removed, and all breeding swine that remain in the herd and an official random sample consisting of at least 30 animals from each segregated group of grower-finisher swine over two months of age are tested and found negative 30 days or more after removal of the seropositive animals. A second test of grower-finisher swine at least 30 days after the first test is required.

b. In nurseries and finishing herds without any breeding swine, quarantines may be released as follows:

(1) A negative official random-sample test consisting of at least 30 animals from each segregated group, conducted at least 30 days following depopulation with cleaning and disinfection of the premises and 7 days’ downtime, or

(2) A negative official random-sample test consisting of at least 30 animals from each segregated group, conducted at least 30 days following a similar negative official random-sample test.

A similar official random-sample test must then be conducted between 60 and 90 days following quarantine release.

Any quarantine releasing procedure deviating from the above procedures or Iowa Code section 166D.9 must be approved by the official pseudorabies epidemiologist and the state veterinarian.

ITEM 3. Amend subrule 64.153(5) as follows:

64.153(5) Beginning on October 1, 1999, all swine located within three miles of a pseudorabies-infected herd are required to be vaccinated with an approved pseudorabies vaccine within seven days of notification by a regulatory official. One dose of vaccine shall be administered to growing swine prior to 14 weeks of age or 100 pounds. Swine over six months of age or greater than 200 pounds, used or intended to be used for breeding, shall receive vaccine on a schedule designed to administer at least four doses throughout a 12-month period. The department may require a herd test to monitor both the pseudorabies status and the pseudorabies vaccine status of the herd.

A waiver for this vaccination requirement may be issued by the state veterinarian, based on epidemiological investigation and risk determination. Herd testing, at a level determined by the pseudorabies epidemiologist, will be required as a condition for issuance of a vaccination waiver.

In addition, beginning April 19, 2000, all swine located in a county designated as in Stage II of the national pseudorabies eradication program are required to be vaccinated with a modified-live differentiable vaccine. Breeding swine shall at a minimum receive quarterly vaccinations. Feeder swine shall at a minimum receive one vaccination administered when the swine reach 8 to 12 weeks of age or 100 pounds. These vaccination requirements shall be waived if:

a. *The swine are part of a herd’s being continuously maintained as a qualified negative herd; or*

b. *The swine are part of a herd located within a county where both of the following conditions apply:*

(1) *The department has determined that the county has a six-month history of 0 percent prevalence of pseudorabies infection among all herds in the county, and*

(2) *All contiguous counties have a 0 percent prevalence of pseudorabies infection among herds in that county.*

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

ITEM 4. Amend paragraph **64.154(2)“c”** as follows:

~~c. Restricted movement slaughter swine. When the department determines that a majority of herds within a program area have been tested, all herds not tested within 12 months and all~~

(1) All infected herds not on an approved herd cleanup plan shall only move swine directly to slaughter by restricted movement. All animals from infected herds must move by restricted movement to slaughter or to an approved premises detailed in the herd cleanup plan. The department may, until a herd plan is approved and showing progress, require the movement of all slaughter swine by “direct movement,” to slaughter only, by a Permit for Restricted Movement to Slaughter which provides a description of the animals, the owner, the consignee, the date of movement, the destination, and the identification or vehicle seal number if applicable. These “restricted movement to slaughter only swine” shall be individually identified by approved metal ear tags applied at the farm of origin, if required. The identification requirement is waived if the consignment of swine is sealed within the transport vehicle at the farm of origin by an official seal available from the department. The transportation vehicle must be sealed at the farm of origin. This seal shall be applied by an accredited veterinarian. This seal shall be removed by an accredited veterinarian, USDA official, department official, or the person purchasing the swine upon arrival of the consignment at the destination indicated on the Permit for Restricted Movement to Slaughter.

The ear tags shall have an alphabetic or numeric numbering system to provide unique identification with each herd, each lot, or each individual swine. They shall be applied prior to movement and listed on the Permit for Restricted Movement to Slaughter, if required. This Permit for Restricted Movement to Slaughter shall be issued and distributed by an accredited veterinarian as follows:

1. Original to accompany shipment.
2. Mail a copy to the department.
3. Veterinarian issuing permit will retain a copy.

(2) The vehicle sealing requirement may be waived by the department. Written application for waiver must be directed to the state veterinarian's office, and written waivers may be granted for herds in compliance with an approved herd cleanup plan. The minimal requirements for granting a waiver shall be:

1. No clinical disease in the herd for the past 30 days.
2. Complete herd vaccination documentation.
3. Compliance with herd plan testing requirements.
4. Concurrence of herd veterinarian and regulatory district veterinarian.

No waiver shall be granted, and waivers already granted shall be voided, for herds still classified as infected four months from the initial infection date. The department may impose additional requirements on a case-by-case basis.

ITEM 5. Amend subrule 64.156(2) as follows:

64.156(2) Iowa monitored feeder pig herd.

a. Test requirements for a monitored feeder pig herd status include a negative herd test every ~~12~~ six months of randomly selected breeding animals according to the following schedule:

- | | |
|------------|---|
| 1-10 head | Test all |
| 11-35 head | Test 10 |
| 36 or more | Test 30 percent or 30, whichever is less. |

Effective July 1, 2000, all breeding herd locations in Stage II counties must have a monitored or better status or move by restricted movement.

b. A monitored identification card will be sent by first-class mail to the herd owner shown on the test chart if test results qualify the herd as monitored. An expiration date which is ~~12~~ six months from the date that the certifying tests were drawn will be printed on the card.

It is the owner's responsibility to retest the herd ~~annually~~ *semiannually*. The monitored status is voided on the date of expiration. A monitored herd status is revoked if:

- (1) A positive test is recognized and interpreted by a pseudorabies epidemiologist and interpreted as infected.
- (2) Pseudorabies infection is diagnosed.
- (3) Recertification test is not done on time.
- (4) Not enough tests, according to herd size and vaccination status, are submitted.

c. Additions of swine to a monitored herd shall be from noninfected herds, according to Iowa Code section 166D.7.

d. Feeder pigs may be sold for further feeding without additional testing while the “monitored” status is maintained *and the feeder pigs have been maintained on the same site as the breeding herd.*

e. Monitored, or higher, status feeder pigs sold may regain, and maintain, monitored status by a negative test of all or a random sample of 30 head of each segregated group, whichever is less, within 30 days prior to resale.

f. Nursery units located in ~~counties with a county pseudorabies prevalence of 3 percent or greater Stage II counties~~ and not in the vicinity of the breeding herd are required to maintain a monitored status on the nursery unit in order for the swine to be eligible to ~~move~~ *be relocated* to a finishing premises, ~~irrespective of whether there is a change of ownership. An official random-sample test shall be required for each segregated group of swine on an individual premises every six months for the maintenance of this monitored status.~~ These testing requirements also apply to swine eligible for relocation movement. *Testing requirements for this random sampling are:*

Test 30 head per site

Effective July 1, 2000, all nursery locations in Stage II counties must have a monitored or better status or move by restricted movement.

g. Off-site finishing units located in Stage II counties are required to maintain a monitored status on the finishing unit in order for the swine to be eligible to be sold to slaughter. *An official random-sample test will be required for each segregated group of swine on an individual premises every six months for the maintenance of this monitored status. These testing requirements also apply to swine eligible for relocation movement. Testing requirements for this random sampling are:*

Test 10 head per building, minimum 30 head per site.

Effective July 1, 2000, all finishing locations in Stage II counties must have a monitored or better status or move by restricted movement.

ITEM 6. Amend paragraph **64.156(3)“a”** as follows:

a. Recertification of a qualified differentiable negative herd will include ~~quarterly or monthly~~ testing, as detailed in Iowa Code section 166D.7. A minimum of ~~14~~ five breeding swine, *or 10 percent of the breeding herd, whichever is greater*, must be tested each ~~quarter month~~. ~~If the total number of breeding swine in the herd is less than 14, then all breeding swine shall be tested.~~

ITEM 7. Amend rule 21—64.157(166D) as follows:

21—64.157(166D) Herd cleanup plan for infected herds (eradication plan).

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

64.157(1) The herd cleanup plan shall be a written plan approved and on file with the department.

64.157(2) The herd cleanup plan shall contain:

- a. Owner's name, location and herd number.
- b. Type of herd plan selected, e.g., offspring segregation, test and removal, depopulation.
- c. Description of the plan, which shall include the following requirements:

(1) The breeding herd shall be maintained on an approved vaccination program, at least four times per year;

(2) The progeny shall be weaned and segregated by five weeks of age or less, and progeny group isolation shall be maintained according to the terms of the herd plan;

(3) The herd must be visited on a regular basis (at least quarterly) by the herd veterinarian to monitor progress of the herd cleanup plan. This will include monthly testing if applicable, overseeing management procedures which may include all-in-, all-out swine movement, ventilation, sanitation, disinfection, and vaccine handling;

(4) Vaccine shall be administered to the progeny swine at least once, or more often if required by the herd plan;

(5) Feeder pig movement or relocation from the premises of origin must be detailed in writing in the herd cleanup plan. *Feeder pig movement or relocation from the premises of origin will only be allowed to approved premises and must be detailed in writing in the herd cleanup plan. Movement will not be allowed from the herd if the herd has experienced clinical symptoms of pseudorabies in the past 30 days. If this movement, or relocation, involves more than one district veterinarian's area, all participants must concur with the cleanup plan.* Effective March 15 April 19, 2000, all movements from infected premises, except to slaughter, shall be accompanied by an Iowa Restricted Movement Permit restricted movement. "Movement" in this paragraph includes movement to a premises in the production system not in the vicinity of the current location, irrespective of whether there is a change of ownership.

(6) Culled breeding swine must move by restricted movement directly to slaughter or to an approved premises in compliance with Iowa Code section 166D.10 as amended by 2000 Iowa Acts, Senate File 2312, section 16, and as detailed in the herd cleanup plan. No swine moved from infected herds may be represented as breeding swine;

(7) All herd plans for infected herds identified prior to August 1, 1999, shall be designed to complete herd cleanup before January 1, 2000. Herds identified as infected on or after August 1, 1999, with breeding swine, shall implement a test and removal herd cleanup plan which allows for the phased test and removal of bred animals for one farrowing cycle, followed by a whole herd test and removal plan. *Effective August 1, 2000, a whole herd test and removal plan shall be implemented for all infected breeding herds.* The herd plan shall include the following:

1. All breeding swine, including boars, shall be tested within 14 days of the herd's being classified as infected. Testing shall also include progeny, if applicable.

2. All breeding swine must be identified by an approved ear tag, or other approved identification method, at the time of blood collection.

3. ~~All~~ *Until August 1, 2000, all* seropositive, unbred breeding swine must be removed from the herd by restricted movement, direct to slaughter, within 15 days after blood collection. All seropositive, bred swine must be removed from the herd by restricted movement, direct to slaughter, within 15 days of weaning. All replacement breeding stock must be vaccinated prior to addition into the herd and must

be retested 60 days after entry into the herd. *Effective August 1, 2000, all seropositive animals, bred or unbred, must be removed from the herd, by restricted movement, direct to slaughter, within 15 days of the whole herd test. All known positive animals in the herd on August 1, 2000, must be removed from the herd by restricted movement, direct to slaughter, by August 15, 2000.*

4. A whole herd test shall be required within 30 days after the removal of the last known positive animal. Any additional seropositive animals must be removed from the herd by restricted movement, direct to slaughter, within 15 days of the collection date. Whole herd retests shall be required at 30-day intervals, with removal of positive animals within 15 days of the test, until it has been determined that the herd is noninfected.

5. Seropositive swine must be removed from the herd, by restricted movement, direct to a buying station or to a slaughtering establishment.

All swine movement from infected herds must be by restricted movement directly to slaughter or to an approved premises as detailed in the herd cleanup plan according to 64.154(2) "c," unless exempted by a "feeder pig cooperator" plan.

When a herd is designated a noninfected herd, or has been depopulated, by procedures detailed in Iowa Code section 166D.9, the plan is completed.

(8) Beginning October 1, 1999, a herd cleanup plan shall be implemented for all infected finishing herds which shall include the following:

1. A description of the premises, including the location, capacity, physical layout, owner's name, and herd number.

2. Vaccination requirements:

- Every animal, unless such animal is within three weeks of anticipated slaughter, must be vaccinated with an approved pseudorabies vaccine within seven days of notification by a regulatory official.

- New animals introduced into the infected premises are to be vaccinated with an approved pseudorabies vaccine according to the timetable outlined in the herd plan.

- If, through subsequent testing, additional buildings on the site are determined to be infected, all swine on the site shall be revaccinated managed by all-in, all-out production.

3. Testing requirements:

- A minimum of 14 swine, selected randomly, per building, shall be tested immediately.

- Swine shall be retested, at a minimum of 14 animals, selected randomly, per building, every 45 days, if necessary, until the premises are determined to be noninfected.

4. Description, restrictions, and requirements of pig flow through the facilities.

5. *All movements from infected finishing sites shall be by restricted movement and only to slaughter.*

d. Specific movement limitations which may include approved destination locations, "restricted movement to slaughter," or other appropriate animal movement control measures.

e. Signatures of the herd owner, the owner's veterinarian, and the epidemiologist or the epidemiologist's representative.

64.157(3) and **64.157(4)** No change.

64.157(5) If this herd cleanup plan is not followed, is discontinued, or is not progressing in a satisfactory manner as determined by the department, the herd is a quarantined herd and is subject to "restricted movement to slaughter," according to 64.154(2) "c," 2000 Iowa Acts, Senate File 2312, sec-

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

tion 17, until a new and approved cleanup plan is in place and showing progress according to a designated epidemiologist.

64.157(6) No change.

64.157(7) A deviation from a herd cleanup plan may be used in exigent circumstances if the deviation has the approval, *in writing*, of the epidemiologist *and the state veterinarian*.

ITEM 8. Amend rule 21—64.158(166D) as follows:

21—64.158(166D) Feeder pig cooperator plan for infected herds.

64.158(1) A feeder pig cooperator plan shall be a written plan approved and on file with the department.

64.158(2) Feeder Pig Cooperator Plan Agreement—revised effective April 1, 1995.

Feeder Pig Cooperator Plan Agreement—Revised

Date:

Herd I.D. Number:

Owner's Name:

Address:

Telephone Number:

The Feeder Pig Cooperator Plan Agreement shall include the following:

1. The herd has not experienced clinical signs of pseudorabies within the previous 30 days.

2. Maintain the breeding herd on an approved vaccination program, at least four times per year.

3. Wean and segregate progeny by five weeks of age or less and maintain progeny group isolation until moved as feeder pigs.

4. The herd must be visited at least quarterly by the herd veterinarian to monitor progress of herd cleanup plan; this shall include quarterly testing, if applicable, overseeing management procedures including all-in, all-out swine movement, ventilation, animal waste handling, sanitation, disinfection and vaccine handling.

5. Feeder pigs may be marketed or moved intrastate as cooperator pigs ~~of unknown status by restricted movement to approved premises detailed in the herd cleanup plan~~ provided that all requirements of this plan are followed.

6. All feeder pigs must be vaccinated prior to sale. Vaccine shall be administered according to individual's herd plan.

7. All feeder pigs must be identified prior to sale with an official pink feeder pig ear tag, or a tattoo, approved by the department, beginning with the letters PR. *All movement of feeder pigs from the herd shall be by restricted movement and only be allowed to approved premises detailed in the herd cleanup plan. The producer shall obtain a health certificate (which must include a permit number from the department) from the herd veterinarian prior to movement from premises of origin and said health certificate shall accompany each shipment.* All feeder pigs are quarantined to farm of destination until sold to slaughter. *Movement to slaughter must be by restricted movement.*

8. Breeding swine shall move directly to slaughter, or an approved premises *in compliance with Iowa Code section 166D.10 as amended by 2000 Iowa Acts, Senate File 2312, section 16, and as detailed in the herd cleanup plan, and by restricted movement.* No swine from infected herds may be represented as breeding swine.

9. The producer shall maintain a record of all test charts, all sales transactions by way of health certificates *or restricted movement permits*, and vaccine purchases for at least

two years. These records shall be available to department officials upon request.

10. When this herd is determined, through procedures as detailed in Iowa Code section 166D.9, to become a noninfected herd or is depopulated, the plan is completed.

11. I agree, if this plan is not followed, is discontinued, or is not progressing in a satisfactory manner as determined by the department, the herd is a quarantined herd and subject to restricted movement, direct to slaughter or to an approved premises.

I am currently enrolled in an approved herd cleanup plan. I further agree to comply with all the requirements contained in this Feeder Pig Cooperator Plan Agreement.

Herd Owner:

Date:

Herd Veterinarian:

Date:

ITEM 9. Amend rule 21—64.160(166D) as follows:

21—64.160(166D) Approved premises. The purpose of an approved premises is to maintain feeder swine and feeder pigs under quarantine with movement either direct to slaughter or to another approved premises. ~~A person shall not accept swine from a quarantined herd or untested breeding swine for the purpose of feeding without receiving an approved premises permit from the department. Effective June 1, 2000, all swine moved or relocated from an infected herd on an approved herd cleanup plan may only move by restricted movement to an approved premises for further feeding or to slaughter.~~

64.160(1) The following are requirements establishing, renewing, or revoking an approved premises permit:

a. A permit application, *as part of the herd cleanup plan*, must indicate the name of the premises operator and address of the premises.

b. To be valid, an *approved premises must be detailed as part of a herd cleanup plan and approved application must be completed and signed* by a department or inspection service official ~~and the premises operator~~ certifying that the facility meets the following guidelines:

(1) Must be a dry lot facility located in an area of confirmed cases of pseudorabies.

(2) Shall not be in the vicinity of a breeding herd. *Effective June 1, 2000, an approved premises shall not be located in a county designated as in Stage III of the national pseudorabies eradication program, nor shall it be located in a county which has achieved 0 percent prevalence of pseudorabies infection among all herds in the county as of March 1, 2000, or later. Effective August 1, 2000, an approved premises shall not be located within one and one-half miles of a noninfected herd or three miles of a qualified negative herd.*

(3) Shall be built such that it can be thoroughly cleaned and disinfected.

(4) The lay of the land or the facilities shall not be conducive to animal waste draining onto adjacent property.

(5) Only feeder swine *and cull swine* may be moved onto this premises. Boars and sows are to be maintained separate and apart.

(6) Swine on the premises must be maintained in isolation from other livestock.

~~e. Annual renewal is required on or before December 31.~~

d c. The permittee must provide to the department or inspection service, during normal business hours, access to the approved premises and to all required records. Records of swine transfers must be kept for at least one year. The records shall include information about purchases and sales, names of buyers and sellers, the dates of transactions, and the number of swine involved with each transaction.

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

~~e d. Feeder swine Swine must be vaccinated for pseudorabies at the owner's expense upon arrival at the approved premises according to the herd cleanup plan. Vaccination identification tagging is not required; however, the number of swine vaccinated, vaccine product description, name, address, and signature of owner/owner's representative and signature of veterinarian distributing the vaccine, are required to be submitted to the department on a Pseudorabies Vaccination Statement provided by the department. This statement is to be submitted within ten days records must be available for inspection during normal business hours.~~

~~f e. Dead swine must be disposed of in accordance with Iowa Code chapter 167. The dead swine must be held so as to prevent animals, including wild animals and livestock, from reaching the dead swine.~~

~~g f. Swine must be moved direct to slaughter accompanied by a transportation certificate or to another approved premises by restricted movement and as detailed in the herd cleanup plan with a certificate of inspection, including the identification number of the approved premises of destination.~~

~~h g. An approved premises permit may be revoked by following quarantine release methods as detailed in Iowa Code section 166D.9, or failure to comply with departmental operation rules, or if swine have been removed from the premises for a period of 12 or more months.~~

~~i h. Renewal of an approved premises will not be permitted when:~~

~~(1) Six months following the date that a program area has tested a majority of herds and 90 percent or greater of these herds are determined to be noninfected.~~

~~(1) The approved premises is not compliant with the requirements of this rule.~~

~~(2) For noncompliance with requirements of this rule.~~

~~(3) Application for renewal has not been made.~~

~~(4)(2) Federal law prohibits approved premises.~~

~~(3) The approved premises no longer is part of an approved herd cleanup plan or the county where the approved premises is located no longer allows approved premises or the site of the approved premises no longer complies with requirements.~~

~~j i. Failure to renew Revocation of an approved premises application will result in the issuance of a quarantine by the department effective until quarantine release methods have been followed as detailed in Iowa Code section 166D.9, or the approved premises has been depopulated by restricted movement to slaughter or to another approved premises as detailed in the herd cleanup plan.~~

~~64.160(2) An approved premises identification card will be sent by first class mail to the premises owner or owner's agent when the permit application has been approved according to the requirements of this rule. The expiration date will be printed on the card, will be considered permitted as long as the approved premises is compliant with all regulations and is part of an approved herd cleanup plan.~~

ITEM 10. Amend rule 21—64.161(166D) as follows:

21—64.161(166D) Sales to approved premises. After ~~March 31, 1995~~ June 1, 2000, all feeder pigs and feeder swine and cull swine except those from "noninfected herds" must be moved directly to an approved premises, ~~or through a Class IV market to an approved premises, by restricted movement~~ for further feeding; however, these pigs may continue to move as cooperator pigs of unknown status if a "Feeder Pig Cooperator Plan Agreement—Revised" is approved by the department and movement is permitted by the department.

ARC 9854A

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 280.13, the State Board of Education hereby gives Notice of Intended Action to amend Chapter 36, "Extracurricular Interscholastic Competition," Iowa Administrative Code.

This amendment is being proposed to establish sanctions that may be imposed upon a school district that allows an ineligible person to participate in interscholastic competition.

Interested parties may comment on the proposed amendment on or before June 20, 2000. Written materials should be directed to Ann Marie Brick, Office of the Director, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-5295.

A public hearing will be held on June 20, 2000, at 1 p.m. in the State Board Room, Grimes State Office Building, Des Moines, Iowa, at which time persons may present their views orally and in writing.

This amendment is intended to implement Iowa Code section 280.13.

The following amendment is proposed.

Amend subrule 36.14(7) as follows:

36.14(7) Ineligible player participation. Schools ~~who~~ which permit or allow participation in any event by a person in violation of the eligibility rules ~~shall~~ may be subject to sanctions ~~to be imposed by the executive board may, that are~~ in the best interests of interscholastic competition, ~~impose, including forfeiture of contests.~~ The sanctions may include, but are not limited to, the following: forfeiture of contests or events, or both, involving any ineligible student(s); adjustment or relinquishment of conference/district/tournament standings; and return of team or individual awards, or both.

If a student who has been declared ineligible is permitted to participate in an interscholastic competition because of a current restraining order or injunction against the school, registered organization, or department of education, and if such restraining order or injunction subsequently is voluntarily vacated, stayed, reversed, or finally determined by the courts not to justify injunctive relief, said sanctions may be imposed.

ARC 9856A

INSPECTIONS AND APPEALS
DEPARTMENT[481]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 10A.104(5), 137C.6, 137D.2(4) and 137F.2, the Department

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

of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 30, "Food and Consumer Safety," Chapter 31, "Food Establishment and Food Processing Plant Inspections," Chapter 34, "Home Food Establishments," and Chapter 37, "Hotel and Motel Inspections," Iowa Administrative Code.

The proposed amendments implement 1999 Iowa Acts, chapter 208 [House File 782]. Items 1 and 2 allow nonpotentially hazardous food products to be prepared in the home and sold to the general public for consumption off the premises without licensing. Item 3 permits the sale of wild morel mushrooms in restaurants and grocery stores, allows aged cheeses to be sold without date marking and exempts from the consumer advisory requirement the preparation and serving of whole red muscle meats that are undercooked. Item 4 updates labeling requirements for home food establishments that sell bakery products to grocery stores and restaurants to bring them into compliance with the Federal Food, Drug and Cosmetic Act which requires that an ingredient statement be present when a food has two or more ingredients. Item 5 updates hotel rules referring to the 1976 Food Service Establishment Ordinance in reference to the design of equipment used to store or handle ice.

Any interested person may make written comments or suggestions on the proposed amendments on or before June 20, 2000. Written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, East 12th and Grand Avenue, Des Moines, Iowa 50319-0083. Faxes may be sent to (515)242-6863; E-mail may be sent to jkomos@dia.state.ia.us.

The following amendments are not subject to waiver because they are specifically mandated by statute.

These amendments are intended to implement Iowa Code section 10A.104, Iowa Code chapters 137C, 137D, and 137F, and 1999 Iowa Acts, chapter 208 [House File 782].

The following amendments are proposed.

ITEM 1. Amend rule **481—30.2(10A)**, definitions of "farmers market" and "food establishment," as follows:

"Farmers market" means a marketplace which operates seasonally as a common market for fresh fruits and vegetables on a retail basis for consumption elsewhere.

The following products may be sold at a farmers market without being licensed under Iowa Code section 137F.4 at the market location:

1. Baked goods except the following: soft pies and bakery products with custard or cream fillings, as well as other potentially hazardous items. These products must be labeled in accordance with rule 481—34.3(137D).

2. Wholesome, fresh eggs.

3. Honey which is labeled per rule 481—34.3(137D).

4. Prepackaged, nonhazardous food products prepared in an establishment licensed under Iowa Code section 137F.4 as a food establishment or a food processing establishment.

5. Fresh fruits and vegetables.

6. *Not potentially hazardous food prepared on the premises of a residence. This exemption does not include "home-style" canning, since food in hermetically sealed containers must come from a licensed food processing plant.*

7. *Jams and jellies.*

"Food establishment" means an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption and includes a food service operation in a school, summer camp, residential service substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of corrections, the state training school or the Iowa

juvenile home. "Food establishment" does not include the following:

1. A food processing plant.

2. An establishment that offers only prepackaged foods that are nonpotentially hazardous.

3. A produce stand or facility which sells only whole, uncut fresh fruits and vegetables.

4. Premises which are a home food establishment pursuant to Iowa Code chapter 137D.

5. Premises which operate as a farmers market.

6. Premises of a residence in which food that is not potentially hazardous is sold for consumption off the premises *to a consumer customer*, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food. "~~Not potentially hazardous food~~" means only the following:

~~• Baked goods, except the following: soft pies, bakery products with custard or cream fillings, or any other potentially hazardous goods.~~

~~• Wholesome, fresh eggs that are kept at a temperature of 45 degrees Fahrenheit or 7 degrees Celsius or less.~~

~~• Honey which is labeled with the name of the product, and the name and address of the person preparing the food.~~

7. A kitchen in a private home where food is prepared or stored for family consumption or in a bed and breakfast home.

8. A private home that receives catered or home-delivered food.

9. Child day care facilities and other food establishment facilities located in hospitals or health care facilities which are subject to inspection by other state agencies or divisions of the department.

10. Supply vehicles, vending machine locations or boarding houses for permanent guests.

11. Establishments exclusively engaged in the processing of meat and poultry which are licensed pursuant to Iowa Code section 189A.3.

12. Premises covered by a current Class "A" beer permit as provided in Iowa Code chapter 123.

13. Premises covered or regulated by Iowa Code section 192.107 with a milk or milk products permit issued by the department of agriculture and land stewardship.

14. Premises or operations which are regulated by or subject to Iowa Code section 196.3 and which have an egg handler's license.

ITEM 2. Amend subrule 31.1(2) to read as follows:

31.1(2) Food prepared in a home food establishment, licensed under Iowa Code section 137D.2 ~~or a premises as provided in Iowa Code section 137F.1(8)"f,"~~ can be offered for sale.

ITEM 3. Amend 481—31.1(137F) by adopting the following **new** subrules:

31.1(14) Paragraph 3-201.16(B) shall be amended to permit wild morel mushrooms to be sold in food establishments.

31.1(15) Paragraphs 3-501.17(C) and (D) shall be amended so that aged cheese is not required to be date-marked.

31.1(16) Section 3-603.11 shall be amended so that a consumer advisory is not required when serving undercooked whole muscle red meats.

ITEM 4. Amend rule 481—34.3(137D) to read as follows:

481—34.3(137D) Labeling requirement. All labels shall contain the following information in legible English:

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

1. Name and address of the person(s) preparing the food, and
2. Common name of the food;
3. *The names of all ingredients in the food, beginning with the one present in the largest proportion and continuing in descending order of predominance, and*
4. *The quantity of the contents in terms of weight, measure or numerical count.*

ITEM 5. Amend subrule 37.5(3) to read as follows:

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. Ice containers and utensils shall be designed so that the surfaces are made of a material that is safe for use as a food contact surface and so that the surface can be adequately cleaned.~~

ARC 9859A**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 76, "Unprotected Nongame," Iowa Administrative Code.

This rule removes certain nongame species from the protection normally conferred to all nongame wildlife under Iowa Code section 481A.42. This amendment removes the timber rattlesnake and the common garter snake from the list and thereby confers protection to them.

Any interested person may make written suggestions or comments on the proposed amendment on or before June 21, 2000. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Division at (515)281-6156 or at the Division offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on June 21, 2000, at 10 a.m. in the Fourth Floor Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code sections 456A.24 and 481A.6.

The following amendment is proposed.

Rescind and reserve subrule 76.1(2).

ARC 9860A**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 456A.24, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 78, "Ginseng Harvesting and Sale," Iowa Administrative Code.

The purpose of these amendments is to eliminate language that is not necessary and to clarify the annual reporting requirements of licensed ginseng dealers.

Any interested person may make written comments on these proposed amendments on or before June 22, 2000. Written comments should be directed to the Division of Parks, Recreation, and Preserves, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Ginseng Program at (515)281-3891 or at the Program offices in the Wallace State Office Building on or before the above date.

There will be a public hearing on June 22, 2000, at 10:30 a.m. in the Fifth Floor Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These rules are intended to implement Iowa Code section 456A.24.

The following amendments are proposed.

ITEM 1. Amend subrule 78.3(2), paragraph "e," as follows:

e. The wild ginseng harvester's permit shall include the applicant's signature, address, ~~description~~ and such other facts as may be required by the department.

ITEM 2. Amend 571—78.4(456A) as follows:

571—78.4(456A) Dealer's records. Each permitted ginseng dealer shall keep an accurate and complete record ~~in the English language~~ of each cultivated or wild ginseng purchase or sale. Forms for these records shall be provided by the department. A copy of each record shall be kept for a period of three years after the expiration of the dealer's permit.

78.4(1) The dealer's record of each ginseng purchase shall include:

- a. Date of purchase;
- b. ~~Name and address of seller;~~
- c. Harvester's permit number or dealer's permit number of seller;
- d. Dry weight of ginseng root purchased;
- e. Name of county where purchased ginseng was harvested if purchased from a harvester with a valid harvester's permit;

NATURAL RESOURCE COMMISSION[571](cont'd)

f e. ~~Such additional~~ Additional information as may be requested by the department.

78.4(2) The dealer's record of each ginseng sale of cultivated or wild ginseng shall include:

- a. Date of sale;
- b. Name and address of buyer;
- c. Dry weight of ginseng root sold;
- d. Year in which the ginseng sold was harvested;
- e. ~~Such additional~~ Additional information as may be requested by the department.

78.4(3) Each permitted dealer shall submit ~~an annual report to the department on forms provided by the department copies of for all purchases purchase~~ and sales records for of cultivated and wild ginseng. These ~~reports records~~ shall be submitted to the department by April 15. ~~These reports and~~ shall cover all sales and purchases from September 1 of the year of the harvest through March 31 of the following year.

78.4(4) Each dealer must submit a report to the department which inventories all cultivated and wild ginseng remaining in the dealer's possession after March 31. Any roots remaining with the dealer shall be weighed and certified by the dealer. The report shall be submitted to the department by April 15 of each year even if the dealer no longer has any ginseng roots in possession. The dealer shall keep a copy of the inventory report and record all future sales of the roots listed in the report. The dealer shall submit an amended annual report to the department within 30 days of the sale of all ginseng roots listed in the inventory report.

ITEM 3. Rescind subrules 78.5(3) and 78.5(4).

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Holmes Foster, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for May is 8.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

RECOMMENDED for 74A.3 and 74A.7: A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be

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

New official state interest rates, effective May 10, 2000, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 5.30%
32-89 days	Minimum 5.60%
90-179 days	Minimum 5.80%
180-364 days	Minimum 5.90%
One year	Minimum 6.00%
More than one year	Minimum 6.50%

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

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

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:

May 1, 1999 — May 31, 1999	7.25%
June 1, 1999 — June 30, 1999	7.25%
July 1, 1999 — July 31, 1999	7.50%
August 1, 1999 — August 31, 1999	8.00%
September 1, 1999 — September 30, 1999	8.00%
October 1, 1999 — October 31, 1999	8.00%
November 1, 1999 — November 30, 1999	8.00%
December 1, 1999 — December 31, 1999	8.00%
January 1, 2000 — January 31, 2000	8.00%
February 1, 2000 — February 29, 2000	8.25%
March 1, 2000 — March 31, 2000	8.75%
April 1, 2000 — April 30, 2000	8.50%
May 1, 2000 — May 31, 2000	8.25%
June 1, 2000 — June 30, 2000	8.00%

ARC 9855A

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 6, "Appeal Procedures," Iowa Administrative Code.

In accordance with Iowa Code chapter 17A, these amendments add procedures for contested case proceedings to the Department rules regarding appealing proposed decisions.

These amendments do not provide for waivers in specified situations because they only provide additional benefits for individuals filing appeals under the Department rules.

The State Board of Education adopted these amendments on March 17, 2000.

These amendments were previously Adopted and Filed Emergency and published in the April 5, 2000, Iowa Administrative Bulletin as **ARC 9774A**. Notice of Intended Action to solicit comments on that submission was published in the Iowa Administrative Bulletin on April 5, 2000, as **ARC 9773A**.

A public hearing was held on April 25, 2000, and no comments were received. The following change was made from the Notice of Intended Action. Subrule 6.17(6) was divided into paragraphs "a," "b" and "d," and new paragraph "c" was added as follows: "c. Briefs shall be limited to a maximum length of 25 pages."

These amendments will become effective on July 5, 2000, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code section 17A.4 and 290.1.

The following amendments are adopted.

Amend rule 281—6.17(290,17A) by adopting the following **new** subrules and renumbering existing subrules **6.17(4)** to **6.17(7)** as **6.17(7)** to **6.17(10)**.

6.17(4) Any adversely affected party may appeal a proposed decision to the state board within 20 days after the date of the proposed decision.

6.17(5) An appeal of a proposed decision is initiated by filing a timely notice of appeal with the office of the director. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The names and addresses of the parties initiating the appeal;
- b. The proposed decision to be appealed;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision;
- d. The relief sought; and
- e. The grounds for relief.

6.17(6) Appeal procedures.

a. Unless otherwise ordered, within 15 days of a party's filing of the notice of appeal, each appealing party may file exceptions and briefs. Within 10 days after the filing of exceptions and briefs by the appealing party, any party may file a responsive brief;

b. Briefs shall cite any applicable legal authority and specify relevant portions of the record in the proceeding below;

c. Briefs shall be limited to a maximum length of 25 pages; and

d. An opportunity for oral arguments may be given with the consent of the board. Written requests to present oral arguments shall be filed with the briefs.

[Filed 5/12/00, effective 7/5/00]

[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9846A

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 239B.4 and 249A.4, the Department of Human Services hereby amends Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," and Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments May 9, 2000. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on March 22, 2000, as **ARC 9737A**.

These amendments clarify the definition of "change in income" and the requirements regarding reporting and verification of changes in income and the determination of income from self-employment.

An applicant or recipient is required to report and provide verification of changes in income, which include hours worked, rate of pay, and beginning or ending employment. These amendments make it clearer that reporting and verification are required when there is any change in income. The change also clarifies that income from self-employment is determined by subtracting expenses from gross income.

These amendments do not provide for a waiver in any specified situations because reporting and verification of changes in income should always be required and because income from self-employment should be determined in the same way for all applicants and recipients. Individuals may request waivers in exceptional situations pursuant to the Department's general rule on exceptions at rule 441—1.8(217).

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 239B and Iowa Code section 249A.4.

These amendments shall become effective August 1, 2000.

The following amendments are adopted.

ITEM 1. Amend rule **441—40.21(239B)**, definition of "change in income," as follows:

"Change in income" means a permanent change in hours worked, or rate of pay, any change in the amount of unearned income, or the beginning or ending of any income.

ITEM 2. Amend subrule **40.27(2)**, paragraph "a," as follows:

a. The recipient reports a change in circumstances (for example, a change in income, as defined at rule 441—40.21(239B)), or

ITEM 3. Amend rule 441—41.27(239B) as follows:

Amend subrule **41.27(1)**, paragraph "i," as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

i. The applicant or recipient shall cooperate in supplying verification of all unearned income *and of any change in income, as defined at rule 441—40.21(239B)*. When the information is available, the ~~local~~ county office shall verify job insurance benefits by using information supplied to the department by the department of workforce development. When the ~~local~~ county office uses this information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the ~~local~~ county office that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A payment adjustment shall be made when indicated. Recoupment shall be made for any overpayment. The client must report the discrepancy prior to the payment month or within ten days of the date on the Notice of Decision, Form PA-3102-0, applicable to the payment month, whichever is later, in order to receive a payment adjustment.

Amend subrule 41.27(2), introductory paragraph, as follows:

41.27(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, bonuses, commissions earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. With respect to self-employment, earned income means the *net profit determined by comparing from self-employment, defined as gross income with less* the allowable costs of producing the income. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

Further amend subrule **41.27(2)**, paragraph “q,” as follows:

q. The applicant or recipient shall cooperate in supplying verification of all earned income *and of any change in income, as defined at rule 441—40.21(239B)*. A self-employed individual shall keep any records necessary to establish eligibility.

ITEM 4. Amend rule **441—75.50(249A)**, definition of “change in income,” as follows:

“Change in income” means a permanent change in hours worked, or rate of pay, *any change in the amount of unearned income, or the beginning or ending of any income.*

ITEM 5. Amend subrule **75.52(2)**, paragraph “a,” as follows:

a. The recipient reports a change in circumstances (*for example, a change in income, as defined at rule 441—75.50(249A)*), or

ITEM 6. Amend rule **441—75.57(249A)** as follows:

Amend subrule **75.57(1)**, paragraph “f,” as follows:

f. The applicant or recipient shall cooperate in supplying verification of all unearned income *and of any change in income, as defined at rule 441—75.50(249A)*. When the information is available, the county office shall verify job insurance benefits by using information supplied to the department by Iowa workforce development. When the county office uses this information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by Iowa workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day.

When the client notifies the county office that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. The client must report the discrepancy prior to the eligibility month or within ten days of the date on the Notice of Decision, Form PA-3102-0, applicable to the eligibility month, whichever is later.

Amend subrule **75.57(2)**, introductory paragraph, as follows:

75.57(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, bonuses, commissions earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. With respect to self-employment, earned income means the *net profit determined by comparing from self-employment, defined as gross income with less* the allowable costs of producing the income. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

Further amend subrule **75.57(2)**, paragraph “l,” as follows:

l. The applicant or recipient shall cooperate in supplying verification of all earned income *and of any change in income, as defined at rule 441—75.50(249A)*. A self-employed individual shall keep any records necessary to establish eligibility.

[Filed 5/10/00, effective 8/1/00]

[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9849A

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 505.8 and Iowa Code Supplement section 514K.1, the Insurance Division amends Chapter 35, “Accident and Health Insurance,” Iowa Administrative Code.

The amendment sets forth the types of information to be collected by the Division from health maintenance organizations (HMOs) and insurers using preferred provider organization health networks (PPOs) for the purpose of publishing a consumer guide. The amendment also provides for the annual filing of the information with the Division and the form in which it shall be filed with the Division.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 5, 2000, as **ARC 9756A**. A public hearing was held on April 25, 2000. Comments were received which requested that the requirements for HMOs and PPOs be separated into different subrules. These comments were accepted, and rule 191—35.37(514K) has been revised accordingly.

These rules are intended to implement Iowa Code Supplement section 514K.1(2).

These rules will become effective July 5, 2000.

The following amendment is adopted.

Amend 191—Chapter 35 by adopting the following **new** rules:

INSURANCE DIVISION[191](cont'd)

CONSUMER GUIDE

191—35.36(514K) Purpose. These rules implement Iowa Code Supplement section 514K.1(2) which requires the commissioner and the director of public health to annually publish a consumer guide. These rules apply to all carriers providing health insurance coverage in the individual, small employer group and large group markets that utilize a preferred provider arrangement and to all health maintenance organizations.

191—35.37(514K) Information filing requirements.

35.37(1) Each health maintenance organization shall annually file with the division no later than July 1 the following information by plan as requested by the division:

- a. Health plan employer data information set (HEDIS).
- b. Network composition.
- c. Other information determined to be beneficial to consumers including but not limited to consumer survey information.

35.37(2) Each preferred provider organization health network shall annually file with the division no later than July 1 the following information by plan as requested by the division:

- a. Reportable information as defined by a nationally recognized accreditation organization for preferred provider organization health networks.
- b. Network composition.
- c. Other information determined to be beneficial to consumers including but not limited to consumer survey information.

35.37(3) Each health maintenance organization and insurer using a preferred provider organization health network shall transmit the requested information by electronic mail or diskette in a format prescribed by the division.

191—35.38(514K) Limitation of information published. The division may establish limits on the data to be collected and published in the event the division believes the information is not statistically relevant and would not be beneficial to consumers.

These rules are intended to implement Iowa Code Supplement section 514K.1(2).

[Filed 5/10/00, effective 7/5/00]

[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9858A**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 51, "Game Management Areas," Iowa Administrative Code.

These rules give the regulations for public use of state game management areas. This amendment adds South Twin Lake in Calhoun County and Chichaqua in Polk and Jasper

Counties to the list of wildlife areas on which only nontoxic shot can be used.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 8, 2000, as **ARC 9720A**. No comments were received during the comment period or at the public hearing. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 456A.24 and 481A.6.

This amendment will become effective July 5, 2000.

The following amendment is adopted.

Amend rule 571—51.9(481A) as follows:

571—51.9(481A) Use of nontoxic shot on wildlife areas. It shall be unlawful to hunt any migratory game bird or resident game or furbearers, except deer and turkeys, or target shoot with a shotgun while having in one's possession any shot other than nontoxic shot approved by the U.S. Fish and Wildlife Service on the following wildlife areas:

<u>County</u>	<u>Wildlife Area</u>
Boone	Harrier Marsh
Buena Vista	All state and federal areas except Bluebird Access
<i>Calhoun</i>	<i>South Twin Lake</i>
Cerro Gordo	All state and federal areas
Clay	All state and federal areas except Burr Access, Dry Mud Lake, Little Sioux, Highbridge, Fen Valley, and the Ocheyedan wildlife area target shooting range
Dickinson	All state and federal areas except the Spring Run target shooting range
Emmet	All state and federal areas except Birge Lake, Grass Lake, Ryan Lake, and the East Des Moines River Access
Greene	All state and federal areas except Rippey Access and McMahan Access
Guthrie	McCord Pond, Lakin Slough and Bays Branch, except the target shooting range at Bays Branch
Hamilton	Little Wall Lake, Gordon Marsh and Bauer Slough
Hancock	All state and federal areas except Schuldt and Goodell
Humboldt	All state and federal areas except Bradgate Access and Willows Access
<i>Jasper</i>	<i>Chichaqua</i>
Kossuth	All state and federal areas except Seneca Access
Osceola	All state and federal areas
Palo Alto	All state and federal areas
Pocahontas	All state and federal areas except Kalsow Prairie
Polk	Paul Errington Marsh and <i>Chichaqua</i>
Sac	All state and federal areas except White Horse Access and Sac City Access
Winnebago	All state and federal areas

NATURAL RESOURCE COMMISSION[571](cont'd)

<u>County</u>	<u>Wildlife Area</u>
Worth	All state and federal areas except Brights Lake
Wright	All state and federal areas except White Tail Flats

[Filed 5/12/00, effective 7/5/00]
[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9857A**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 99, "Wild Turkey Fall Hunting," Iowa Administrative Code.

These rules give the regulations for hunting wild turkeys during the fall and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take and transportation tag requirements. This amendment rescinds subrule 99.2(2) and rennumbers subrule 99.2(3) as 99.2(2). This change eliminates an exception that allows hunters to hunt outside their designated zones. The change is intended to reduce competition among hunters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 8, 2000, as **ARC 9721A**. No comments were received during the comment period or at the public hearing. There are no changes from the Notice of Intended Action.

This amendment will become effective July 5, 2000.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

The following amendment is adopted.

Rescind subrule **99.2(2)** and renumber **99.2(3)** as **99.2(2)**.

[Filed 5/12/00, effective 7/5/00]
[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9861A**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 106, "Deer Hunting," Iowa Administrative Code.

These rules give the regulations for hunting deer and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means

and methods of taking, and transportation tag requirements. These amendments eliminate the late January special antlerless season except for Davis and Van Buren Counties, add 50 early muzzleloader licenses for the Iowa Army Ammunition Plant, designate 17 counties in northern Iowa where the first three days of the first gun season will be antlered only and provide the number of antlerless licenses for each county in the special antlerless zone.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 8, 2000, as **ARC 9722A**. A public hearing on the proposed amendments was held April 19, 2000. The following changes from the Notice of Intended Action were made in response to public comment and based upon the Department's winter deer survey.

1. Chickasaw, Emmet, Palo Alto, Howard and Humboldt Counties in northern Iowa have been deleted from the list of counties where licenses will be valid for only antlered deer during the first three days of the first regular gun season and for any sex deer during the last two days of the season.

2. The late special January deer season in southern Iowa will be in Davis and Van Buren Counties only.

3. Quotas for antlerless deer licenses in the special antlerless counties zone were adjusted to correspond to lower deer numbers in some counties.

4. Rescissions proposed in Items 1, 2 and 4 of the Notice and amendments proposed in Items 3 and 10 of the Notice were not adopted.

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

These amendments shall become effective July 5, 2000.

The following amendments are adopted.

ITEM 1. Amend subrule **106.5(1)**, paragraph "**b**," as follows:

b. Early muzzleloader season and first regular gun season. Any sex deer may be taken in all counties *except that in the following counties licenses will be valid only for antlered deer for the first three days of the first regular gun season: Bremer, Black Hawk, Buchanan, Grundy, Osceola, Dickinson, Clay, O'Brien, Cherokee, Buena Vista, Pocahontas, Calhoun, Sac, Ida, Crawford, Carroll and Greene. Licenses will be valid in all counties for any sex deer during the last two days of the first regular gun season.*

ITEM 2. Amend subrule 106.5(2) as follows:

106.5(2) Paid antlerless deer licenses. Paid antlerless deer licenses for the bow season, second regular gun season, and late muzzleloader season ~~and special late season~~ shall be valid only for antlerless deer and only in the following counties (special antlerless zone): Adair, Montgomery, Page, Fremont, Adams, Taylor, Union, Ringgold, Clarke, Decatur, Lucas, Wayne, Monroe, Appanoose, Wapello, Davis, Jefferson, Van Buren, Henry, Lee and Washington. *Late season licenses for antlerless deer will be available for Davis and Van Buren Counties only.*

ITEM 3. Amend subrule **106.6(3)**, paragraph "**a**," as follows:

a. Early muzzleloader season. No more than 7,500 licenses will be sold for the regular October early muzzleloader season. *Fifty additional licenses will be issued to and will be valid only for the Iowa Army Ammunition Plant.* Hunters obtaining a *any* paid early muzzleloader season license are not eligible to purchase any other gun season license.

ITEM 4. Amend subrule 106.6(5) as follows:

NATURAL RESOURCE COMMISSION[571](cont'd)

106.6(5) Special antlerless-only licenses. Antlerless-only permits will be available by county to all eligible individuals by drawing as follows:

Adams, ~~600~~ 500; Appanoose, ~~800~~ 600; Clarke, ~~500~~ 300; Davis, ~~1,000~~ 800; Decatur, 800; Fremont, ~~300~~ 200; Jefferson, ~~500~~ 400; Lucas, ~~300~~ 200; Monroe, ~~700~~ 500; Ringgold, 800; Taylor, 800; Union, ~~500~~ 400; Van Buren, ~~1,100~~ 800; Wapello, ~~500~~ 400; Wayne, 300; Adair, ~~300~~ 200; Page, 200; Montgomery, ~~300~~ 200; Washington, 300; Henry, 300; and Lee, 300.

ITEM 5. Amend subrule 106.6(6) as follows:

106.6(6) Special late season. Hunters may obtain special late season licenses subject to quotas for ~~each county~~ Davis and Van Buren Counties only, regardless of any other deer license they may have obtained.

ITEM 6. Amend subrule 106.8(1) as follows:

106.8(1) County recorder—issuance. ~~All free~~ Free landowner/tenant deer licenses issued to qualifying landowners or tenants shall be issued by the county recorder's office in the county of residence. Regular shotgun and late muzzleloader season licenses shall be issued through the first Friday in November. ~~Special late season licenses and bow licenses~~ Licenses for Davis and Van Buren Counties shall be issued through January 10. Additional paid deer licenses must be purchased through the department of natural resources.

ITEM 7. Amend subrule 106.8(4) as follows:

106.8(4) Alternate application methods. The department may develop ~~media/telecommunication options that would allow for additional methods of~~ electronic licensing procedures for obtaining a deer license. Methods and deadlines may be determined by the department as a part of the alternative methods developed.

[Filed 5/12/00, effective 7/5/00]
[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9845A**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455G.4(3)"a," the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby amends Chapter 11, "Remedial Claims," Iowa Administrative Code.

The amendments are intended to implement an administrative change to the risk-based corrective action deadline imposed by the Board. The change will keep the June 30, 2000, deadline in place, but allow the commencement of work to satisfy the requirement as long as there is a contract with a time line attached that meets the Department of Natural Resources published deadlines.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 22, 2000, as **ARC 9747A**. No public comment has been received since publication. These amendments are identical to those published under Notice.

These amendments were approved May 1, 2000.

These amendments will become effective July 5, 2000.

These amendments are intended to implement Iowa Code chapter 455G.

The following amendments are adopted.

ITEM 1. Amend subrule **11.1(3)**, paragraph "r," as follows:

r. Compliance with report submittal deadlines. To be eligible for remedial benefits, claimants must comply with all department deadlines for submittal of Tier 1, Tier 2 and corrective action design report (CADR) requirements, *as published in 567—Chapter 135*, and must, *by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later*, ~~submit~~ provide a copy of an executed contract with a certified groundwater professional which contract must include a timetable that meets department deadlines for completion of a Tier 1, and Tier 2 if required, ~~by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later~~.

ITEM 2. Amend subrule **11.1(5)**, paragraph "f," as follows:

f. Compliance with report submittal deadlines. To be eligible for remedial benefits, claimants must comply with all department deadlines for submittal of Tier 1, Tier 2 and corrective action design report (CADR) requirements, *as published in 567—Chapter 135*, and must, *by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later*, ~~submit~~ provide a copy of an executed contract with a certified groundwater professional which contract must include a timetable that meets department deadlines for completion of a Tier 1, and Tier 2 if required, ~~by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later~~.

[Filed 5/5/00, effective 7/5/00]
[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9853A**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry Examiners hereby amends Chapter 180, "Board of Optometry Examiners," and adopts new Chapter 181, "Continuing Education for Optometrists," Iowa Administrative Code.

The amendments rescind the current endorsement rule and adopt in lieu thereof a new rule which clarifies licensure by endorsement; rescind the current continuing education rules; adopt a new chapter for continuing education; renumber the rule regarding grounds for discipline; and amend cross references to rules that are no longer in use.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 5, 2000, as **ARC 9767A**. A public hearing was held on April 26, 2000, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. No public comments were received at the hearing.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Changes from the Notice of Intended Action have been made. In paragraph 181.3(1)"c," the word "experts" has been changed to "qualified." In subrule 181.2(4), the phrase "except as stated for second renewal" has been added. In subrule 181.4(4), the time line has been changed from "30 days" to "60 days."

These amendments were adopted by the Board of Optometry Examiners on May 10, 2000.

These amendments will become effective July 5, 2000.

These amendments are intended to implement Iowa Code section 147.76 and chapter 272C.

The following amendments are adopted.

ITEM 1. Rescind rule 645—180.6(154) and adopt in lieu thereof the following new rule:

645—180.6(147,154) Licensure by endorsement. An applicant who has been a licensed optometrist under laws of another jurisdiction for one year or more shall file an application for licensure by endorsement with the board office. The following requirements must be satisfied prior to licensure to practice optometry in Iowa through the procedure of licensure by endorsement.

180.6(1) Application for licensure by endorsement to practice optometry in this state shall be made to the board of optometry examiners on a form provided by the board which must be complete.

180.6(2) Applications must be filed with the board along with the following:

a. Proof of graduation with a doctor of optometry degree from an accredited school and, in the case of foreign graduates, adherence to the current requirements of the National Board of Examiners in Optometry to sit for the examination.

b. Evidence of successful completion of the examination of the National Board of Examiners in Optometry that was current at the time of initial licensure, or the examination that is currently offered by the National Board of Examiners in Optometry.

c. An applicant licensed to practice optometry in any state prior to January 1, 1986, shall supply evidence of completion of a course provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States Department of Education, which has particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa. The course shall include a minimum of 40 hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa. An applicant shall have completed an additional 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases.

d. Proof of licensure and evidence of one year of active practice in another state, territory or district of the United States immediately preceding the date of application that has a similar scope of practice as determined by the board. When the scope of practice is different, the applicant shall make available to the board evidence of completion of additional hours of training related to the area of the deficiency as prescribed by the board. The board may waive the requirement of one year of active practice if, during the above-mentioned one-year period, the applicant was:

- (1) Teaching optometry;
- (2) A military optometrist;
- (3) A supervisory or administrative optometrist; or

(4) A researcher in optometry.

e. Verification by an official statement from each state board of examiners regarding the status of the applicant's license, including date of licensure, expiration date and available information regarding any pending or prior investigation that has resulted in disciplinary action. The applicant shall request such statements from all states in which the applicant is currently or was formerly licensed.

f. Statement as to any claims, complaints, judgments or settlements, pending or final, made with respect to the applicant arising out of the alleged negligence or malpractice in rendering professional services as an optometrist.

This rule is intended to implement Iowa Code sections 147.29, 147.54, 147.80 and 154.3.

ITEM 2. Rescind and reserve rules **645—180.12(154)** and **645—180.13(154)** and **645—180.15(154,272C)** to **645—180.18(154,272C)**.

ITEM 3. Renumber rule **645—180.115(272C)** as **645—180.11(272C)**.

ITEM 4. Amend renumbered rule 645—180.11(272C), introductory paragraph, as follows:

645—180.11(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in ~~rule 180.113(272C)~~ *the rules*, including civil penalties in an amount not to exceed \$1,000 or maximum allowed, when the board determines that the licensee is guilty of any of the following acts or offenses:

ITEM 5. Amend renumbered subrule 180.11(19) as follows:

180.11(19) Failure to file the reports required by rule ~~645—180.101~~ **9.3(272C)** concerning acts or omissions committed by another licensee.

ITEM 6. Adopt new 645—Chapter 181 as follows:

CHAPTER 181

CONTINUING EDUCATION FOR OPTOMETRISTS

645—181.1(154) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

"Administrator" means the administrator of the board of optometry examiners.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules, which has received advance approval by the board pursuant to these rules.

"Approved sponsor" means a person or an organization sponsoring continuing education activities that has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such organization, educational institution, or person may be deemed automatically approved.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing provider requirements during a specified time period.

"Board" means the board of optometry examiners.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means a clock hour spent by a licensee in actual attendance at and completion of approved continuing education activity.

"Inactive license" means the license of a person who is not engaged in practice in the state of Iowa.

"Lapsed license" means a license that a person has failed to renew as required, or the license of a person who has failed to meet stated obligations for renewal within a stated time.

"License" means license to practice.

"Licensee" means any person licensed to practice as an optometrist in the state of Iowa.

645—181.2(154) Continuing education requirements.

181.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year.

a. Requirements for nontherapeutic licensees. Each biennium, each person who is licensed to practice as an optometrist in this state and who is not therapeutically certified shall be required to complete a minimum of 30 hours of continuing education approved by the board. Nontherapeutic licensees must comply with Iowa continuing education rules for license renewal and reinstatement by meeting the continuing education requirements in the state of practice.

b. Requirements for therapeutic licensees. Each biennium, each person who is licensed to practice as a therapeutic licensee in this state shall be required to complete a minimum of 50 hours of continuing education approved by the board. A minimum of 20 hours of continuing education per biennium shall be in the treatment and management of ocular disease. Therapeutic licensees must comply with Iowa continuing education rules for license renewal and reinstatement regardless of the licensee's place of residence or place of practice.

181.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 50 hours of continuing education per biennium for each subsequent license renewal.

181.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be approved by the board or otherwise meet the requirements herein and be approved by the board pursuant to statutory provisions and the rules that implement them.

181.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for second renewal.

181.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—181.3(154) Standards for approval.

181.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to common subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and
e. Provides proof of attendance to licensees in attendance including:

- (1) Date, location, course title, presenter(s);
- (2) Numbers of program contact hours (One contact hour usually equals one hour of continuing education credit.); and
- (3) Official signature or verification by program sponsor.

181.3(2) Specific criteria.

a. Continuing education hours of credit may be obtained by attending:

(1) The continuing education programs of the Iowa Optometric Association, the American Optometric Association, the American Academy of Optometry, and national regional optometric congresses, schools of optometry and all state optometric associations. The department of ophthalmology of the school of medicine of the University of Iowa shall be one of the approved providers of continuing education for Iowa optometrists;

(2) Postgraduate study through an accredited school or college of optometry;

(3) Meetings or seminars that are approved and certified for optometric continuing education by the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education Committee (COPE); or

(4) Continuing education activities of an approved sponsor.

b. The maximum number of hours in each category in each biennium is as follows:

(1) Twelve hours of credit for local study group programs that have prior approval or an approved sponsorship.

(2) Ten hours of credit for correspondence courses, which include written and electronically transmitted material and have a postcourse test. Certification of the continuing education requirements and of passing the test must be given by the institution providing the continuing education, and that institution must be accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education.

(3) Six hours of credit for practice management courses.

(4) Two hours of credit for dependent adult abuse and child abuse identification.

(5) Four hours of credit for current certification in CPR, by the American Heart Association, the American Red Cross or an equivalent organization.

(6) Twenty hours of credit for postgraduate study courses.

(7) Twenty hours of credit in the treatment and management of ocular disease from the University of Iowa.

645—181.4(154) Approval of sponsors, programs, and activities for continuing education.

181.4(1) Approval of sponsors. An applicant who desires approval as a sponsor of courses, programs, or other continuing education activities shall, unless exempted elsewhere in these rules, apply for approval to the board on the form designated by the board stating the applicant's educational history for the preceding two years or proposed plan for the next two years.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. The form shall include the following:

(1) Date, place, course title(s) offered and outline of content;

(2) Total hours of instruction presented;

(3) Names and qualifications of instructors including résumé or vitae; and

(4) Evaluation form(s).

b. Records shall be retained by the sponsor for four years.

c. Attendance record report. The person or organization sponsoring an approved continuing education activity shall provide a certificate of attendance or verification to the licensee providing the following information:

(1) Program date(s);

(2) Course title and presenter;

(3) Location;

(4) Number of clock hours attended and continuing education hours earned;

(5) Name of sponsor and sponsor number;

(6) Licensee's name; and

(7) Method of presentation.

d. All approved sponsors shall maintain a copy of the following:

(1) The continuing education activity;

(2) List of enrolled licensees' names and license numbers; and

(3) Number of continuing education clock hours awarded for a minimum of four years from the date of the continuing education activity.

The sponsor shall submit a report of all continuing education programs conducted in the previous year during the assigned month for reporting designated by the board. The report shall also include a summary of the evaluations completed by the licensees.

181.4(2) Prior approval of programs/activities. An organization or person other than an approved sponsor that desires prior approval of a course, program or other educational activity or that desires to establish approval of such activity prior to attendance shall apply for approval to the board on a form provided by the board at least 60 days in advance of the commencement of the activity. The board shall approve or deny such application in writing within 30 days of receipt of such application. The application shall state:

a. The date(s);

b. Course(s) offered;

c. Course outline;

d. Total hours of instruction; and

e. Names and qualifications of speakers and other pertinent information.

The organization or person shall be notified of approval or denial by ordinary mail.

181.4(3) Review of programs. Continuing education programs/activities shall be reported every year at the designated time as assigned by the board. The board may at any time reevaluate an approved sponsor. If, after reevaluation, the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.9(17A).

181.4(4) Postapproval of activities. A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved shall submit to the board, within 60 days after completion of such activity, the following:

a. The date(s);

b. Course(s) offered;

c. Course outline;

d. Total hours of instruction and credit hours requested;

e. Names and qualifications of speakers and other pertinent information;

f. Request for credit which includes a brief summary of the activity; and

g. Certificate of attendance or verification.

Within 90 days after receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

181.4(5) Voluntary relinquishment. The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—181.5(154) Reporting continuing education by licensee. At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

181.5(1) The information on the form shall include:

a. Title of continuing education activity;

b. Date(s);

c. Sponsor of the activity;

d. Board-approved sponsor number;

e. Number of continuing education hours earned; and

f. Teaching method used.

181.5(2) Audit of continuing education report. After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

a. The board will select licensees to be audited.

b. The licensee shall make available to the board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information:

(1) Date(s), location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;

(2) Number of contact hours for program attended; and

(3) Certificate of attendance or verification indicating successful completion of course.

c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.

d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.

e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to audit of continuing education report.

f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing education requirements and submitting the renewal fee by the end of the compliance period.

645—181.6(154) Reinstatement of lapsed license. Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows a license

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;
2. Pays all of the renewal fees then due;
3. Pays all penalty fees which have been assessed by the board for failure to renew;
4. Pays reinstatement fee; and
5. Provides evidence of satisfactory completion of Iowa continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 50 for the therapeutic licensees (with a maximum of 100) and 30 for nontherapeutic licensees (with a maximum of 60) by the number of bienniums since the license lapsed. If the license has lapsed for more than five years, the applicant shall successfully pass the Iowa state optometry jurisprudence examination with a minimum grade of 75 percent.

645—181.7(154,272C) Continuing education waiver for active practitioners. An optometrist licensed to practice optometry shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing optometrist.

645—181.8(154,272C) Continuing education waiver for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa and who is residing within or without the state of Iowa may be granted a waiver of continuing education compliance and obtain a certificate of waiver upon written application to the board. The application shall contain a statement that the applicant will not engage in practice in Iowa without first complying with all regulations governing reinstatement after waiver. The application for a certificate of waiver shall be submitted upon forms provided by the board.

645—181.9(154,272C) Continuing education waiver for physical disability or illness. The board may, in individual cases involving physical disability or illness, grant waivers of the minimum education requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

645—181.10(154,272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of optometry in the state of Iowa, satisfy the following requirements for reinstatement.

181.10(1) Submit written application for reinstatement to the board upon forms provided by the board with appropriate reinstatement fee; and

181.10(2) Furnish in the application evidence of one of the following:

- a. Full-time practice in another state of the United States or the District of Columbia and completion of continuing education for each biennium of inactive status substantially equivalent in the opinion of the board to that required under these rules; or
- b. Completion of a total number of hours of approved continuing education computed by multiplying 50 for therapeutic licensees or 30 for nontherapeutic licensees by the number of bienniums a certificate of exemption shall be in effect for such applicant; or
- c. Successful completion of any or all parts of the national license examination as deemed necessary by the board, within one year immediately prior to the submission of such application for reinstatement.

645—181.11(272C) Hearings. In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee or program provider shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2 and chapter 154.

[Filed 5/12/00, effective 7/5/00]
[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9851A

**PUBLIC HEALTH
DEPARTMENT[641]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 130, "Emergency Medical Services Training Grants," Iowa Administrative Code.

The adopted amendments update definitions to be consistent with other chapters regarding emergency medical services and also allow the use of training grant money to be spent for certification, recertification, and written examination fees.

These amendments were published in the Iowa Administrative Bulletin under Notice of Intended Action as **ARC 9758A** on April 5, 2000. The Department of Public Health held a public hearing over the Iowa Communications Network (ICN) on Tuesday, April 25, 2000, from 1 to 2 p.m. Six sites participated in the ICN broadcast. One written comment was received prior to the hearing. The Iowa Academy of Family Physicians requested that the language "in conjunction with the transfer" be added to the definition of ambulance service. No comments were received during the hearing. These amendments were presented to Iowa's 22

PUBLIC HEALTH DEPARTMENT[641](cont'd)

EMS training programs and the Iowa EMS Advisory Council. No comments were noted. The amendments remain the same as published under Notice of Intended Action.

The Department has not provided specific provisions for a waiver or variance from rules in Chapter 130. A party seeking a waiver or variance from rules in Chapter 130 should do so pursuant to the Department's variance and waiver provisions contained in 641—Chapter 178.

The State Board of Health adopted these amendments at its regular board meeting on May 10, 2000.

These amendments will become effective July 5, 2000.

These amendments are intended to implement 1999 Iowa Acts, chapter 201, and Iowa Code chapter 135.

The following amendments are adopted.

ITEM 1. Amend rule **641—130.1(135)** as follows:

Amend the following definitions:

"Ambulance service" means any privately or publicly owned service program which utilizes ambulances in order to provide patient transportation and ~~emergency~~ medical care. ~~at the scene of an emergency or while en route to a hospital or during transfer from one medical care facility to another or to a private home.~~

"~~CEHs~~ CEH" means continuing education ~~hours~~ hour which ~~are~~ is based upon a minimum of 50 minutes of training per hour.

"Continuing education" means ~~approved~~ training ~~approved by the department~~ which is ~~received after becoming obtained by a certified as an EMS emergency medical care provider to maintain, improve, or expand relevant skills and knowledge and to satisfy renewal of certification requirements. This includes emergency medical training for members of the general public.~~

"Emergency medical care personnel" or "provider" means ~~any individual currently certified by the department pursuant to Iowa Code section 147A.6 an individual who has been trained to provide emergency and non-emergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic level or other certification levels adopted by rule by the department, and who has been issued a certificate by the department.~~

"Nontransport service" means any privately or publicly owned ~~rescue or first response EMS service program which that~~ does not provide patient transportation (except when no ambulance is available or in a disaster situation). ~~and utilizes only first response vehicles to provide emergency medical care at the scene of an emergency.~~

"Service program" or "service" means any emergency medical care ambulance or nontransport service ~~that has received authorization by the department.~~

Rescind the following definition:

"~~EMS provider~~" means ~~emergency medical care personnel, other health care practitioners or members of the general public involved in the provision of emergency medical care.~~

ITEM 2. Amend subrule 130.4(2) as follows:

130.4(2) Eligible costs. Costs which are eligible for EMS training fund expenditures include:

a. Reimbursement of tuition, fees and materials following successful completion of an EMS course. Practical and written examination fees may also be included.

b. and c. No change.

ITEM 3. Amend subrule 130.4(3) as follows:

130.4(3) Ineligible costs. Costs which are not eligible for funding include, but are not limited to, the following:

a. No change.

b. ~~Certification/recertification fees;~~

c. to m. No change.

n. ~~Written examination fees.~~

ITEM 4. Amend **641—Chapter 130** by amending the implementation clause as follows:

These rules are intended to implement ~~1995 Iowa Acts, House File 530 1999 Iowa Acts, chapter 201, and Iowa Code chapter 135 as amended by 1995 Iowa Acts, Senate File 178.~~

[Filed 5/11/00, effective 7/5/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9844A

TRANSPORTATION
DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on May 2, 2000, adopted an amendment to Chapter 400, "Vehicle Registration and Certificate of Title," Iowa Administrative Code.

Notice of Intended Action for this amendment was published in the February 23, 2000, Iowa Administrative Bulletin as **ARC 9690A**.

Rule 761—400.23(321) provides that the Department may approve the issuance of a new certificate of title for a vehicle that has been issued a junking certificate only if the junking certificate was issued in error. The rule currently lists three reasons that meet this standard. The amendment gives the Department the option to consider other circumstances. No waiver is provided because the amendment allows the Department the flexibility to consider individual circumstances.

This amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code subsection 321.52(3).

This amendment will become effective July 5, 2000.

Rule-making action:

Amend rule 761—400.23(321) as follows:

761—400.23(321) Junked vehicle.

400.23(1) Junking certificate. The owner of a vehicle that is to be junked or dismantled shall obtain a junking certificate ~~under in accordance with~~ Iowa Code subsection 321.52(3).

400.23(2) Retitling a junked vehicle. The department may authorize issuance of a new certificate of title to the vehicle owner named on the junking certificate, ~~only if the department determines that~~ the junking certificate was issued in error. ~~for one of the following reasons:~~

a. ~~The reasons a junking certificate was issued in error include but are not limited to the following:~~

a. (1) The owner inadvertently surrendered the wrong certificate of title. The owner shall submit to the department a photocopy of the ownership document for each vehicle and a signed statement explaining the circumstances that resulted in the error.

b. (2) A junking certificate was obtained in error and the vehicle continues to be registered. The owner shall submit to

TRANSPORTATION DEPARTMENT[761](cont'd)

the department a photocopy of the current registration and a signed statement explaining the circumstances that resulted in the error.

e. (3) The owner intended to apply for a salvage title under Iowa Code subsection 321.52(4) but inadvertently submitted an application for a junking certificate. The owner shall submit to the department a bill of sale or other documentation from the previous owner stating that the vehicle was rebuildable when purchased and a signed statement explaining the owner's original intention to obtain a salvage title. The department shall inspect the vehicle to verify the rebuildable condition.

d. b. *If the department determines that the junking certificate was issued in error, the* The department shall authorize the proper county treasurer to issue a certificate of title for the vehicle after payment by the owner of appropriate fees and taxes, including the return of any credit or refund for registration fees paid to the owner because of the error.

~~400.23(3)~~ c. If the department determines that the vehicle ~~was not junked~~ *junking certificate was not issued* in error and denies the application for reinstatement of the certificate of title for the vehicle, the owner may apply for a certificate of title under the bonding procedure in rule 400.13(321) if the vehicle qualifies as an antique vehicle under Iowa Code subsection 321.115(1).

This rule is intended to implement Iowa Code subsection 321.52(3).

[Filed 5/3/00, effective 7/5/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9847A

TRANSPORTATION
DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on May 10, 2000, adopted amendments to Chapter 410, "Special Mobile Equipment," Iowa Administrative Code.

1999 Iowa Acts, chapter 13, section 28, repealed Iowa Code section 321.21, which provided for the issuance of special mobile equipment plates and certificates. The amendments remove references to the application process and issuance of special mobile equipment plates and certificates. However, a certificate of title and registration may be obtained in accordance with Iowa Code chapter 321 for a motor truck, trailer or semitrailer which has special mobile equipment permanently attached. Information was added concerning which office answers questions regarding special mobile equipment.

Notice of Intended Action for these amendments was published in the April 5, 2000, Iowa Administrative Bulletin as **ARC 9761A**.

One change from the Notice was made for clarification. In subrule 410.2(1), the phrase "for hire" was changed to "in a for-hire operation."

No waiver provisions were included in these amendments. These amendments are an interpretation of statute, and waivers are not appropriate to the subject matter.

These amendments will become effective July 5, 2000.

These amendments are intended to implement Iowa Code sections 321.18 and 321.20 and Iowa Code Supplement section 321E.12.

Rule-making actions:

ITEM 1. Amend rule 761—410.1(321) as follows:

761—410.1(321) General.

410.1(1) Special mobile equipment is defined in Iowa Code section 321.1.

410.1(2) Special mobile equipment is exempt from the titling and registration provisions of Iowa Code sections 321.18 and 321.20. However, a certificate of title *and registration* may be obtained in accordance with ~~761—Chapter 400~~ *Iowa Code chapter 321* for a motor truck, trailer or semitrailer with special mobile equipment ~~that is permanently attached to a motor truck, trailer or semitrailer. To obtain a certificate of title, the owner must pay the title fee, but need not obtain a special mobile equipment plate and certificate of identification.~~

410.1(3) *Questions regarding special mobile equipment may be directed by mail to the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at its location in Park Fair Mall, 100 Euclid Avenue, Des Moines; or by telephone at (515)237-3264.*

This rule is intended to implement Iowa Code sections 321.1, 321.18 and ~~321.21~~ 321.20.

ITEM 2. Rescind rules ~~761—410.2(321)~~ and ~~761—410.3(321E)~~.

ITEM 3. Adopt the following new rule:

761—410.2(321E) Special mobile equipment transported on a registered vehicle. The movement of special mobile equipment or component parts of special mobile equipment transported on a vehicle registered for the gross weight of the vehicle without load, as provided in Iowa Code Supplement section 321E.12, is subject to the following:

410.2(1) A vehicle registered for its gross weight without load shall not be used to transport special mobile equipment in a for-hire operation.

410.2(2) If the special mobile equipment is leased, the lease agreement or a certified copy of the lease agreement shall be carried in the cab of the transporting vehicle.

410.2(3) All movements of special mobile equipment shall comply with the size and weight limits in Iowa Code chapter 321 unless a permit to exceed these limits is obtained in accordance with Iowa Code chapter 321E.

This rule is intended to implement Iowa Code Supplement section 321E.12.

[Filed 5/10/00, effective 7/5/00]

[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9848A

TRANSPORTATION
DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on May 10,

TRANSPORTATION DEPARTMENT[761](cont'd)

2000, adopted an amendment to Chapter 529, "For-Hire Interstate Motor Carrier Authority," Iowa Administrative Code.

Notice of Intended Action for this amendment was published in the April 5, 2000, Iowa Administrative Bulletin as **ARC 9764A**.

No changes to the federal regulations have occurred. However, the Code of Federal Regulations was updated in October 1999, and the Department needs to cite the most current version in these rules.

This amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code chapter 327B.

This amendment will become effective July 5, 2000.

Rule-making action:

Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-379, dated October 1, 1998 1999, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library.

[Filed 5/10/00, effective 7/5/00]

[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9843A**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on May 2, 2000, adopted amendments to Chapter 604, "License Examination," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the March 8, 2000, Iowa Administrative Bulletin as **ARC 9715A**.

These amendments permit the Department to waive the knowledge test for an applicant who has a valid, equivalent out-of-state driver's license. These amendments also permit the Department to waive the knowledge and driving tests when the applicant has a valid, equivalent driver's license issued by a foreign jurisdiction with which Iowa has a non-binding reciprocity agreement. These amendments are an acknowledgment of uniform testing methods employed by other United States jurisdictions and comparable testing used by foreign jurisdictions.

These amendments are identical to the ones published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 321.186.

These amendments will become effective July 5, 2000.

Rule-making actions:

ITEM 1. Amend subrule 604.21(2) as follows:

604.21(2) Knowledge test waivers. The department may waive a knowledge test listed in subrule 604.21(1) if *the applicant meets one of the following qualifications:*

a. The applicant has passed the same *type of* test for another Iowa license *or an equivalent out-of-state license* that is still valid ~~or has expired within the past 60 days.~~

b. *The applicant has a valid, equivalent license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.*

b c. The applicant has a military extension and is renewing a noncommercial Class C or Class M Iowa license or the equivalent within six months following separation from active duty.

ITEM 2. Amend subrule 604.31(2) as follows:

604.31(2) Driving test waivers. The department may waive a required driving test listed in subrule 604.31(1) if the applicant meets one of the following qualifications.:

a. The applicant is applying for the applicant's first Iowa license that permits unaccompanied driving following successful completion of the appropriate Iowa-approved course or courses. The appropriate Iowa-approved courses are the following: driver education for a Class C license other than motorized bicycle, driver education and motorcycle rider education for a Class M license, and motorized bicycle education for a motorized bicycle license. However:

(1) The department may select dates and require a driving test of applicants whose birth dates fall on the selected dates. The department shall notify the Iowa department of education quarterly of the dates selected.

(2) If an applicant is under the age of 21, a driving test is required if so requested by the applicant's parent, guardian, or instructor.

b. The applicant is renewing a Class C, Class D or Class M Iowa license within 14 months after the expiration date.

c. The applicant has passed the same *type of* driving test for another Iowa license that is still valid or has expired within the past 14 months.

d. The applicant has a military extension and is renewing a Class C or Class M Iowa license or the equivalent within six months following separation from active duty.

e. The applicant is applying for a Class C or Class M Iowa license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past six months.

f. The applicant is applying for a Class D Iowa license and has an equivalent out-of-state license that is valid or has expired within the past six months.

g. *The applicant has a valid, equivalent license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.*

[Filed 5/3/00, effective 7/5/00]

[Published 5/31/00]

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ARC 9850A**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.4(2), 17A.5(2)"b"(2), 476.20, and 476.2, the Utilities Board

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(Board) gives notice that on May 2, 2000, the Board issued an order in Docket No. RMU-99-9, In re: Payment Agreements, "Order Adopting Rules," which amends paragraphs 19.4(10)"c" and 20.4(11)"c," relating to bill payment agreements between a utility and a customer.

On September 17, 1999, the Board issued an order commencing a rule making to receive public comment on the adoption of these revisions. Notice of Intended Action was published in the IAB Vol. XXII, No. 7 (10/6/99), p. 579, as **ARC 9399A**. Written comments were filed on or before October 26, 1999, and a public hearing to receive oral comments was held on November 4, 1999.

The amendments set up a system that enables the utility and the customer to enter into an oral payment agreement. In general, the amendments state the customer and the utility may enter into a payment agreement over the telephone or through electronic transmission. In the preamble to the Notice of Intended Action, the Board stated that the amendments reflect the fact that several of the large utilities have closed offices and most customer business is transacted by telephone or mail. The Board's current rules have been amended because there have been instances in which payment plans were negotiated over the telephone because customers were not necessarily able to travel to a utility office or had to take time off from work.

Written comments were filed by MidAmerican Energy Company (MidAmerican), IES Utilities Inc. (IES), Interstate Power Company (Interstate), the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Peoples Natural Gas Company (Peoples), the Iowa Association of Electric Cooperatives (IAEC), the Iowa Association of Municipal Utilities (IAMU), and Legal Services Corporation of Iowa (Legal Services).

In reviewing the rules and Consumer Advocate's comments, the Board became aware that one version of the amendment had been proposed for electric at paragraph 19.4(10)"c," and another version had been inadvertently proposed for gas at paragraph 20.4(11)"c." At the oral presentation, the Board stated that it had been the Board's intention to propose the same amendments in 20.4(11)"c" for electric as those proposed in 19.4(10)"c" for gas. The Board has adopted the amendments in 20.4(11)"c" in a manner consistent with the proposed amendments to 19.4(10)"c."

MidAmerican suggested giving the customer up to three days to respond after the first bill is received by the customer. The Board does not find MidAmerican's suggestion practical due to variances in utility company billing systems and the timing of the payment agreements.

MidAmerican also suggested a restriction that customers who have rejected two payment agreements must make full payment in order to avoid disconnection. The Board has not adopted MidAmerican's suggestion because it is beyond the scope of this docket.

MidAmerican recommended that disconnected customers and potentially disconnected customers should be required to make a first payment in order to be eligible for reconnection. The Board declined to adopt the suggestion because it is beyond the scope of this docket.

IES, Interstate, and the IAEC requested clarification of what demonstrates "acceptance" of the terms of the agreement, and IES and Interstate suggested additional language. The Board considers the recommendation for clarification and additional language unnecessary. The rule clearly makes the agreement binding when the customer makes the first payment or if the customer fails to notify the utility within ten days of mailing.

Peoples suggested the addition of the payment agreement language on the bill in lieu of making a separate mailing. The Board is not convinced that the addition of the language on the bill would improve the customer's awareness. Furthermore, utility billing systems vary and the ten-day limit for sending bill payment terms to the customer may not correspond with the timing of a customer bill.

Legal Services recommended that the Board include the same language incorporated in the disconnection notice in the payment plan document. The Board finds that the disconnection language would not be applicable because the payment agreement is usually made prior to disconnection. Further, the Board's existing rules address the customer's rights if the utility refuses a payment agreement offered by the customer. See 199 IAC 19.4(10)"d" and 20.4(11)"d."

Legal Services stated it supports most of the language of the proposed amendments but would like a provision added that utilities should not be allowed to require a substantial up-front payment. Paragraphs 19.4(10)"c" and 20.4(11)"c" currently require that a utility must offer customers or disconnected customers the option of spreading payments evenly over at least 12 months. However, this requirement only applies to the first payment agreement. The Board declines to add any additional language to the rules because it would be beyond the scope of the noticed rule making.

Legal Services suggested the proposed amendments be modified to include a foreign language requirement. Although the Board can see some benefit in such a requirement, it is likely beyond the scope of the notice in this docket. The Board will not adopt any foreign language requirement at this time.

IAMU stated its members should not be required to enter into oral payment agreements because IAMU maintains local offices and it is not a hardship for their customers to come into the office. The proposed amendments do not require a utility to offer customers oral agreements. Under the proposed amendments, a utility may offer a customer the option of making the agreement over the telephone or through electronic transmission. While the proposed amendments do not require a utility to give customers the opportunity to enter into an oral or electronic agreement, the Board strongly urges the companies to be as flexible as possible for the convenience of the customer.

Consumer Advocate raised a concern that payment agreements by telephone could pose evidentiary problems because there is no record of the agreement. Consumer Advocate suggested the Board not dictate the procedure but insist the companies offer the agreement and take reasonable and prudent steps to secure evidence of the agreement.

The Board finds merit in Consumer Advocate's suggestion. MidAmerican was the only utility to address the issue. At the oral presentation, MidAmerican expressed a willingness to take the risk that the evidence it would have would be sufficient. The Board believes the amendments confer a benefit to the consumer and the utility. The company is in the best position to solve any evidentiary problems that may arise and should take whatever reasonable steps it deems necessary to protect its interests.

Finally, IAEC submitted that the amendments do not provide for execution of written agreements at locations other than a company facility nor do they provide for verbal agreements to be reached in person. The Board did not intend to limit opportunities for making an agreement in person only to a time when the customer is at the company facility. There may be instances when a company representative will meet elsewhere with the customer and it may be appropriate for a

UTILITIES DIVISION[199](cont'd)

payment plan to be negotiated and signed at that time. The Board finds merit in IAEC's suggestion and has revised the amendments accordingly.

The suggestions set forth in some of the written comments have been noted, in several instances, as being outside the scope of this rule making. The Board will be reviewing paragraphs 19.4(10)"c" and 20.4(11)"c" as a part of the comprehensive review under Executive Order Number 8 in the future and participants may raise these issues at that time.

The changes to the noticed amendments only clarify and make more general the amendments originally proposed in the Notice. They are, therefore, in character with the original scheme and a logical outgrowth of the Notice and comment already given. See *Iowa Citizen Labor Energy Coalition v. ISCC*, 335 N.W.2d 178 (1983).

These amendments are intended to implement Iowa Code sections 476.2, 476.3 and 476.20.

These amendments will become effective July 5, 2000.

The following amendments are adopted.

ITEM 1. Amend paragraph 19.4(10)"c" as follows:

c. Terms. The agreement may require the customer to bring the account to a current status by paying specific amounts at scheduled times. The utility shall offer customers or disconnected customers the option of spreading payments evenly over at least 12 months. Payments for potential customer agreements may be spread evenly over at least 6 months.

The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules.

When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer, disconnected customer or potential customer.

The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility will render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement. The document will be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement.

Second agreement. If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the utility may offer the customer a second payment agreement that will divide the past-due amount into equal monthly payments with the final payment due by the fifteenth day of the next October. The utility may also require the customer to enter into a level payment plan to pay the current bill.

The customer who has been in default of a payment agreement from November 1 to April 1 may be required to pay current bills based on a budget estimate of the customer's actual usage, weather-normalized, during the prior 12-month

period or based on projected usage if historical use data is not available.

ITEM 2. Amend paragraph 20.4(11)"c" as follows:

c. Terms. The agreement may require the customer to bring the account to a current status by paying specific amounts at scheduled times. The utility shall offer customers or disconnected customers the option of spreading payments evenly over at least 12 months. Payments for potential customer agreements may be spread evenly over at least 6 months.

The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules.

When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer, disconnected customer or potential customer.

The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility will render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement. The document will be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for the payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement.

Second agreement. If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the utility may offer the customer a second payment agreement that will divide the past-due amount into equal monthly payments with the final payment due by the fifteenth day of the next October. The utility may also require the customer to enter into a level payment plan to pay the current bill.

The customer who has been in default of a payment agreement from November 1 to April 1 may be required to pay current bills based on a budget estimate of the customer's actual usage, weather-normalized, during the prior 12-month period or based on projected usage if historical use data is not available.

[Filed 5/11/00, effective 7/5/00]

[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

ARC 9852A
WORKERS' COMPENSATION
DIVISION[876]

Adopted and Filed

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 1, "Purpose and Function"; Chapter 2, "General Provisions"; Chapter 4, "Contested Cases"; Chapter 5, "Declaratory Orders"; Chapter 8, "Substantive and Interpretive Rules"; Chapter 9, "Public Records and Fair Information Practices"; and Chapter 12, "Formal Review and Waiver of Rules," Iowa Administrative Code.

Item 1 amends the implementation clause to correct an Iowa Code reference to section 84A.2 which has been transferred to 84A.5 by the Iowa Code Editor.

Item 2 amends rule 2.4(85) to allow for lay testimony and other evidence in addition to medical opinions based on the AMA guides in determining an injured worker's disability. This change makes the rule consistent with supreme court decisions, including *Miller v. Lauridsen Foods, Inc.*, 525 N.W.2d 417 (Iowa 1994) and *Terwilliger v. Snap-on Tools Corp.*, 529 N.W.2d 267 (Iowa 1995).

Item 3 changes a reference to Iowa Rule of Civil Procedure 105, which was moved to rule 116, effective January 24, 1998.

Item 4 corrects a reference to a declaratory order and a reference to the form number for a patient's waiver.

Item 5 amends rule 4.17(85,86,17A) regarding exchange of records to specify that all records received pursuant to a patient's waiver as well as medical records will be promptly served on opposing parties.

Item 6 changes references to 1998 Iowa Acts to Iowa Code section 17A.17.

Item 7 adds the agency fax number to the agency rule that currently allows for filing by fax.

Item 8 changes a reference to 1998 Iowa Acts to Iowa Code subsection 17A.9(5).

Item 9 changes a reference to 1998 Iowa Acts to Iowa Code subsection 17A.9(1) and corrects a reference to a declaratory order.

Item 10 changes a reference to 1998 Iowa Acts to Iowa Code section 17A.9.

Item 11 removes the requirement that the commissioner review the fee structure for the allowable costs for duplication of medical records on a specific date each year.

Item 12 changes a reference to 1998 Iowa Acts to Iowa Code section 85B.9A.

Items 13, 14 and 15 specify that declaratory rulings and declaratory orders are open records.

Item 16 amends the implementation clause by adding Iowa Code section 17A.4(1)"b."

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 5, 2000, as **ARC 9760A**. Written comments were solicited until April 25, 2000. No written comments on these amendments were received. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments will become effective July 5, 2000.

These amendments are intended to implement Iowa Code sections 17A.3(1)"a" and "b," 17A.4(1)"b," 17A.9, 17A.12, 17A.17, 22.7, 84A.5, 85.27, 85B.9A, 86.8, 86.13, 86.18, and 86.24.

The following amendments are adopted.

ITEM 1. Amend **876—Chapter 1** by amending the implementation clause as follows:

These rules are intended to implement Iowa Code sections 17A.3(1)"a" and "b" and 84A.2 84A.5.

ITEM 2. Amend rule 876—2.4(85) as follows:

876—2.4(85) Guides to evaluation of permanent impairment. The Guides to the Evaluation of Permanent Impairment published by the American Medical Association are adopted as a guide for determining permanent partial disabilities under Iowa Code section 85.34(2)"a" to "s." The extent of loss or percentage of permanent impairment may be determined by use of this guide and payment of weekly compensation for permanent partial scheduled injuries made accordingly. Payment so made shall be recognized by the workers' compensation commissioner as a prima facie showing of compliance by the employer or insurance carrier with the foregoing sections of the Iowa workers' compensation Act. Nothing in this rule shall be construed to prevent the presentations of other medical opinions or guides or *other material evidence* for the purpose of establishing that the degree of permanent impairment disability to which the claimant would be entitled would be more or less than the entitlement indicated in the AMA guide.

This rule is intended to implement Iowa Code section 85.34(2).

ITEM 3. Amend rule 876—4.2(86), introductory paragraph, as follows:

876—4.2(86) Separate evidentiary hearing or consolidation of proceedings. In addition to applying the provision of Iowa rule of civil procedure ~~105 116~~, a person presiding over a contested case proceeding in a workers' compensation matter may conduct a separate evidentiary hearing for determination of any issue in the contested case proceeding which goes to the whole or any material part of the case. An order determining the issue presented shall be issued before a hearing is held on the remaining issues. The issue determined in the separate evidentiary hearing shall be precluded at the hearing of the remaining issues. If the order on the separate issue does not dispose of the whole case, it shall be deemed interlocutory for purposes of appeal.

ITEM 4. Amend rule **876—4.6(85,86,17A)**, first and second unnumbered paragraphs, as follows:

The original notice Form 100, Form 100A, Form 100B, Form 100C, or a determination of liability reimbursement for benefits paid and recovery of interest form shall provide for the data required in Iowa Code section 17A.12(2) and shall contain factors relevant to the contested case proceedings listed in 4.1(85,85A,85B,86,87,17A). The Form 100 is to be used for all contested case proceedings except as indicated in this rule. The Form 100A is to be used for the contested case proceedings provided for in subrules 4.1(11) and 4.1(12). The Form 100B is to be used for the contested case proceeding provided for in subrule 4.1(8). The Form 100C is to be used for the contested case proceeding provided for in subrule 4.1(14) and rule 4.48(17A,85,86). The application and consent order for payment of benefits under Iowa Code section 85.21 is to be used for contested case proceedings brought under Iowa Code section 85.21. When a commutation is sought, the Form No. 9 or Form No. 9A must be filed in addition to any other document. The petition for declaratory ruling order, approval of attorney fees, determination of compliance and other proceedings not covered in the original notice forms must accompany the original notice.

WORKERS' COMPENSATION DIVISION[876](cont'd)

At the same time and in the same manner as service of the original notice and petition, the claimant shall serve a patient's waiver using Form ~~309-5173~~ 14-0043 (authorization for release of information regarding claimants seeking workers' compensation benefits) which shall not be revoked until conclusion of the contested case.

ITEM 5. Amend rule 876—4.17(85,86,17A) as follows:

876—4.17(85,86,17A) Service of medical records and reports. Each party to a contested case shall serve all records received pursuant to a patient's waiver (Form 14-0043—authorization for release of information regarding claimants seeking workers' compensation benefits) and medical records and reports concerning the injured worker in the possession of the party upon each opposing party not later than 20 days following filing of an answer or, if not then in possession of a party, within 10 days of receipt. Medical records and reports are records of medical practitioners and institutions concerning the injured worker. Medical practitioners and institutions are medical doctors, osteopaths, chiropractors, dentists, nurses, podiatrists, psychiatrists, psychologists, counselors, hospitals, clinics, persons engaged in physical or vocational rehabilitation or evaluation for rehabilitation, all other practitioners of the healing arts or sciences, and all other institutions in which the healing arts or sciences are practiced. Each party shall serve a notice accompanying the records and reports identifying the records and reports served by the name of the practitioner or institution or other source and date of the records and reports and, if served later than 20 days following filing of the answer, stating the date when the records and reports were received by the party serving them. Pursuant to 4.14(86), the notice and records and reports shall not be filed with the workers' compensation commissioner. A party failing to comply with the provisions of this rule shall, if the failure is prejudicial to an opposing party, be subject to the provisions of 4.36(86). This rule does not require a party to serve any medical record or report that was previously served by another party in a contested case proceeding.

This rule is intended to implement Iowa Code sections 86.8 and 86.18.

ITEM 6. Amend rule ~~876—4.38(17A)~~ as follows:

Amend subrules 4.38(2) and 4.38(4) as follows:

4.38(2) The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202, section 19, and rule 4.38(17A).

4.38(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 4.38(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19, subsection 7 Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for recusal but must establish the grounds by the introduction of evidence into the record.

If the workers' compensation commissioner, chief deputy workers' compensation commissioner or deputy workers' compensation commissioner determines that recusal is appropriate, that person shall withdraw. If that person determines that withdrawal is not required, that person shall enter an order to that effect.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202, section 19.

ITEM 7. Amend rule 876—4.39(17A,86) as follows:

876—4.39(17A,86) Filing by facsimile transmission (fax).

All documents filed with the agency pursuant to this chapter and Iowa Code section 86.24 except an original notice and petition requesting a contested case proceeding (see Iowa Code section 17A.12(9)) may be filed by facsimile transmission (fax). A copy shall be filed for each case involved. A document filed by fax is presumed to be an accurate reproduction of the original. If a document filed by fax is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax is the date the document is received by the agency. The agency will not provide a mailed file-stamped copy of documents filed by fax. *The agency fax number is (515) 281-6501.*

ITEM 8. Amend subrule 5.8(1) as follows:

5.8(1) Time frames for action. Within 30 days after receipt of a petition for a declaratory order, the workers' compensation commissioner or the commissioner's designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13, subsection 5 Iowa Code section 17A.9(5).

ITEM 9. Amend rule 876—5.9(17A) as follows:

Amend subrules 5.9(1) and 5.9(3) as follows:

5.9(1) The workers' compensation commissioner shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13, subsection 1 Iowa Code section 17A.9(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. to 10. No change.

5.9(3) Filing of new petition. Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the workers' compensation commissioner's refusal to issue a ruling an order.

ITEM 10. Amend ~~876—Chapter 5~~ by amending the implementation clause as follows:

These rules are intended to implement 1998 Iowa Acts, chapter 1202, section 13 Iowa Code section 17A.9.

ITEM 11. Amend ~~876—8.9(85,86)~~, second unnumbered paragraph, as follows:

A medical provider or its agent shall furnish an employer or insurance carrier copies of the initial as well as final clinical assessment without cost when the assessments are requested as supporting documentation to determine liability or for payment of a medical provider's bill for medical services. When requested, a medical provider or its agent shall furnish a legible duplicate of additional records or reports. Except as otherwise provided in this rule, the amount to be

WORKERS' COMPENSATION DIVISION[876](cont'd)

paid for furnishing duplicates of records or reports shall be the actual expense to prepare duplicates not to exceed: \$20 for 1 to 20 pages; \$20 plus \$1 per page for 21 to 30 pages; \$30 plus \$.50 per page for 31 to 100 pages; \$65 plus \$.25 per page for 101 to 200 pages; \$90 plus \$.10 per page for more than 200 pages, and the actual expense of postage. No other expenses shall be allowed. ~~On May 10, 1996, and on an annual basis thereafter, the fee structure imposed shall be reviewed by the commissioner to determine if the charges paid for duplication consistently reflect the actual expense of a medical provider or its agent in providing duplicates of records or reports.~~

ITEM 12. Amend rule ~~876—8.10(85B)~~, implementation clause, as follows:

This rule is intended to implement ~~1998 Iowa Acts, chapter 1160, section 7, and Iowa Code section sections 85B.9A and 86.8.~~

ITEM 13. Amend rule ~~876—9.1(17A,22,85-87)~~, definition of "open record," as follows:

"Open record" means a record other than a confidential record, including but not limited to the record of *declaratory rulings, declaratory orders*, contested case proceedings, decisions, orders, rulings, settlements, and opinions of the agency.

ITEM 14. Amend subrule 9.12(2) as follows:

9.12(2) The record of *declaratory rulings, declaratory orders*, contested case proceedings, decisions, orders, rulings, settlements, and opinions are open for public inspection and copying.

ITEM 15. Amend subparagraph **9.13(1)"d"(6)** as follows:

(6) *Declaratory rulings and declaratory orders*. Records may contain information about persons making requests for declaratory rulings, *declaratory orders* or comments from other persons concerning the rulings or orders. This information is collected pursuant to Iowa Code section 17A.9. These records may be stored in an automated data processing system and may have the capability of retrieval by a personal identifier.

ITEM 16. Amend ~~876—Chapter 12~~ by amending the implementation clause as follows:

These rules are intended to implement Iowa Code ~~section sections 17A.4(1)"b" and 17A.7 as amended by 1998 Iowa Acts, chapter 1202, section 11.~~

[Filed 5/12/00, effective 7/5/00]

[Published 5/31/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/00.

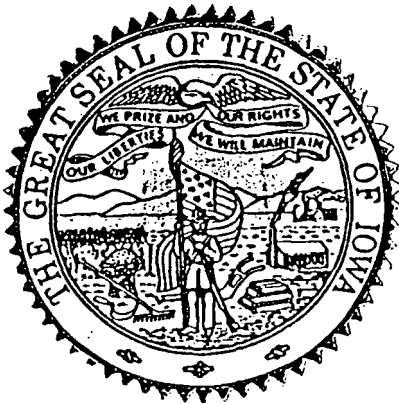


IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA


***PROCLAMATION OF DISASTER EMERGENCY**

- WHEREAS,** ON THURSDAY, MAY 11, 2000, AND CONTINUING, A SEVERE STORM SYSTEM MOVED ACROSS THE STATE OF IOWA, GENERATING STRONG WINDS, HEAVY RAINS, AND HAIL; AND
- WHEREAS,** THIS STORM SYSTEM SPAWNED INTENSE TORNADOES, STRAIGHT WINDS, HAIL AND FLOODING WHICH CAUSED DESTRUCTION AND DAMAGE TO RESIDENCES, CROPS, INFRASTRUCTURE, BUSINESS AND PRIVATE PROPERTY IN COUNTIES ACROSS IOWA; AND
- WHEREAS,** BASED UPON INITIAL REPORTS FORWARDED BY LOCAL AND STATE OFFICIALS, THE INFORMATION AND DAMAGE ASSESSMENT SURVEY INDICATE THAT STATE ASSISTANCE WILL BE NEEDED FOR RESPONDING AND RECOVERING FROM THE EFFECTS OF THIS STORM:

NOW, THEREFORE, I, THOMAS J. VILSACK, GOVERNOR OF THE STATE OF IOWA, DO HEREBY PROCLAIM A STATE OF DISASTER EMERGENCY FOR **BLACK HAWK** AND **BUCHANAN** COUNTIES, OF THE STATE OF IOWA, FOR THE AFOREMENTIONED REASONS. THIS PROCLAMATION OF DISASTER EMERGENCY AUTHORIZES LOCAL AND STATE GOVERNMENT TO RENDER GOOD AND SUFFICIENT AID TO ASSIST THIS AREA IN ITS TIME OF NEED.




IN TESTIMONY WHEREOF, I HAVE HERE-UNTO SUBSCRIBED MY NAME AND CAUSED THE GREAT SEAL OF THE STATE OF IOWA TO BE AFFIXED. DONE AT DES MOINES THIS 12TH DAY OF MAY IN THE YEAR OF OUR LORD TWO THOUSAND.



 THOMAS VILSACK
 GOVERNOR

ATTEST:



 CHESTER J. CULVER
 SECRETARY OF STATE
 (1979 Classless Deputy)

IOWA ADMINISTRATIVE BULLETIN
Customer Service Center
Department of General Services
Hoover State Office Building, Level A
Des Moines, Iowa 50319

Bulk Rate
U.S. Postage
PAID
Des Moines, Iowa
Permit No. 1195
