



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 500 to 534 include ARC 0126B to ARC 0144B

AGENDA

Administrative rules review committee 489

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice, Dairy, 68.1, 68.4 to 68.10, 68.11(1),
68.12, 68.13, 68.37 **ARC 0135B** 500
Notice, Civil penalties, ch 95 **ARC 0134B** 501

ALL AGENCIES

Schedule for rule making 487
Publication procedures 488
Administrative rules on CD-ROM 488
Agency identification numbers 498

CITATION OF ADMINISTRATIVE RULES 491

COMMUNITY ACTION AGENCIES DIVISION[427]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"
Filed Emergency, Closing date—application for
energy assistance, 10.4 **ARC 0127B** 525

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Notice, Onsite wastewater treatment system
assistance program, ch 93 **ARC 0136B** 503

HUMAN SERVICES DEPARTMENT[441]

Notice, Rehabilitation services to adults with
chronic mental illness, 77.42, 78.48, 79.1,
80.2(2) **ARC 0130B** 508
Notice, Medicare and Medicaid reimbursements—
critical access hospitals, 79.1 **ARC 0131B** 513
Filed, HAWK-I program, 86.2(2) **ARC 0132B** 526

INSPECTIONS AND APPEALS DEPARTMENT[481]

Filed, Administration, 1.4, 1.5, 1.12
ARC 0137B 526

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"
Notice of proposed workers' compensation
rate filing 514

Notice, Elimination of reporting requirements
to health data commission; elimination of
lifetime maximum benefit for transplant
coverage—small group and individual
guaranteed issue standard benefit plans,
rescind 5.90; 71.14(8), 75.10(5) **ARC 0133B** 514
Notice, Multiple employer welfare arrangements,
ch 77 **ARC 0126B** 515

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Notice, Speech pathologists and audiologists—
continuing education, 300.8 to 300.11, 301.1
to 301.7, 301.112, ch 303 **ARC 0144B** 517
Filed, Psychologists—examination fee and
discipline; continuing education, 240.10(2),
240.100 to 240.103, 240.105 to 240.109,
240.212, ch 241 **ARC 0143B** 527

PUBLIC BROADCASTING DIVISION[288]

EDUCATION DEPARTMENT[281]"umbrella"
Filed, Criteria for grants, ch 14 **ARC 0128B** 530

PUBLIC HEARINGS

Summarized list 492

REVENUE AND FINANCE DEPARTMENT[701]

Notice, Exemptions from sales and use tax,
17.35, 18.20, 18.59 **ARC 0140B** 521
Notice, Exclusion from tax for property delivered
by certain media, 18.61 **ARC 0139B** 523
Filed, Waiver or variance of certain department
rules, 7.60 **ARC 0142B** 530
Filed, Exempt sales of clothing and footwear
during two-day period in August, 20.9(9)"g,"
20.12 **ARC 0141B** 533
Filed, Collection and distribution of local option
sales and service taxes—fee paid by local option
tax jurisdictions, 107.16, 108.4 **ARC 0138B** 533

SECRETARY OF STATE[721]

Notice Terminated, Electronic voting
equipment, 22.261 **ARC 0129B** 524

TREASURER OF STATE

Notice—Public funds interest rates 524

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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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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 29, 2000	October 18, 2000
9	Friday, October 13, 2000	November 1, 2000
10	Friday, October 27, 2000	November 15, 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:

bcarr@legis.state.ia.us
 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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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 a special meeting on Monday, October 9, 2000, at 10 a.m. in Room 19, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Dairy trade practices, ch 23, <u>Notice</u> ARC 0110B	9/6/00
Chronic wasting disease, 64.104 to 64.120, <u>Filed</u> ARC 0111B	9/6/00
Livestock movement, ch 66 introductory note, 66.1, <u>Filed</u> ARC 0109B	9/6/00
Dairy farms and plants, 68.1, 68.4 to 68.10, 68.11(1), 68.12, 68.13, 68.37, <u>Notice</u> ARC 0135B	9/20/00
Licensed warehouses—emergency and polyvinyl bag storage space, 90.31, 90.32, <u>Notice</u> ARC 0107B, also <u>Filed Emergency</u> ARC 0108B	9/6/00
Civil penalties, ch 95, <u>Notice</u> ARC 0134B	9/20/00

COMMUNITY ACTION AGENCIES DIVISION[427]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Low-income home energy assistance program—application period, 10.4, <u>Filed Emergency</u> ARC 0127B	9/20/00
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CORRECTIONS DEPARTMENT[201]

Newton correctional facility, ch 28, <u>Filed</u> ARC 0112B	9/6/00
Fort Dodge correctional facility, ch 29, <u>Filed</u> ARC 0113B	9/6/00
OSHA training for offender labor, 37.6(5), <u>Filed Emergency</u> ARC 0114B	9/6/00

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Reorganization of chapters, chs 8, 62 to 64 and 66 to 211, <u>Filed Without Notice</u> ARC 0125B	9/6/00
Certified school to career program, 11.2, 11.3(3), 11.3(5), 11.3(8), 11.3(10)"g," <u>Notice</u> ARC 0120B	9/6/00
Accelerated career education (ACE) program, ch 20, <u>Notice</u> ARC 0035B <u>Terminated</u> , also <u>Notice</u> ARC 0121B and <u>Filed Emergency</u> ARC 0122B	9/6/00
Community economic betterment program; brownfield redevelopment program, 53.8(3)"f"(3), ch 65, <u>Notice</u> ARC 0123B, also <u>Filed Emergency</u> ARC 0124B	9/6/00
Community attraction and tourism development program, ch 211 title, 211.1 to 211.6, 211.7(1), 211.7(3), 211.8 to 211.10, 211.10(2), 211.10(3), 211.11(1), 211.11(5), 211.11(8), <u>Notice</u> ARC 0119B	9/6/00
Vision Iowa program; Vision Iowa board: uniform waiver and variance rules, chs 212 and 213, <u>Notice</u> ARC 0118B	9/6/00

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Onsite wastewater treatment system assistance program, ch 93, <u>Notice</u> ARC 0136B	9/20/00
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HUMAN SERVICES DEPARTMENT[441]

Medicaid eligibility for pregnant women and infants, 75.1(28)"a"(1), <u>Filed</u> ARC 0087B	9/6/00
Rehabilitation services for adults with chronic mental illness, 77.42, 78.48, 79.1(2), 79.1(19), 80.2(2)"ap," <u>Notice</u> ARC 0130B	9/20/00
Medicaid reimbursement; discontinuation of telemedicine pilot program, 78.31(1), 78.31(5), 78.45, 79.1(2), 79.1(8)"a," 79.1(9)"j," 81.1, 81.6(16)"c" and "e" to "h," 81.6(17), 81.6(17)"c," 81.13(9)"g," <u>Filed</u> ARC 0088B	9/6/00
Reimbursement rates for critical access hospitals, 79.1(1)"g," 79.1(2), 79.1(5)"a" and "aa," <u>Notice</u> ARC 0131B	9/20/00
HAWK-I program income limits, 86.2(2), <u>Filed</u> ARC 0132B	9/20/00
Credit for child support payment—use of withholding date instead of receipt date, 95.1, 95.3, <u>Filed</u> ARC 0089B	9/6/00
Child care services—income guidelines and fees, 130.3(1)"d"(2), 130.4(3), 170.4(7)"a" tables I and II, <u>Filed</u> ARC 0090B	9/6/00
Reimbursement rates for adoption, independent living, home studies, and shelter care providers, 150.3(5)"p"(1) and (2), 150.3(5)"p"(2)"1" and "3" to "5," 150.22(7)"p"(1), 150.22(7)"p"(1)"1," <u>Filed</u> ARC 0091B	9/6/00
Foster family care and adoption payment rates, 156.6(1), <u>Filed</u> ARC 0092B	9/6/00
Iowa senior living trust fund; nursing facility conversion and long-term care services development grants, chs 161 and 162, <u>Filed</u> ARC 0093B	9/6/00
Pregnancy prevention programs, 163.1, 163.3(1), 163.4(2)"d," 163.5(3), 163.5(3)"i" and "k," <u>Filed</u> ARC 0094B	9/6/00
Rehabilitative treatment services, 182.2(1)"b," ch 185 division II preamble, <u>Notice</u> ARC 0086B	9/6/00
Rehabilitative treatment and support services provider rates, 185.112(1)"k," <u>Filed</u> ARC 0095B	9/6/00

INSPECTIONS AND APPEALS DEPARTMENT[481]Investigations, inspections, and health facilities divisions, 1.4, 1.5, 1.12, Filed **ARC 0137B** 9/20/00**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Reporting requirements to health data commission; lifetime maximum benefit
for transplant coverage, 5.90, 71.14(8), 75.10(5), Notice **ARC 0133B** 9/20/00

Contraceptive coverage, 35.39, 71.14(6), 71.24, 75.10(4), 75.18, Filed **ARC 0097B** 9/6/00

Multiple employer welfare arrangements, ch 77, Notice **ARC 0126B** 9/20/00

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Wildlife refuges—addition of Spring Run, Henderson, and McCausland areas,
52.1(2)"a," Filed **ARC 0101B** 9/6/00

Unprotected nongame—removal of timber rattlesnake and common garter snake,
76.1(2), Filed **ARC 0099B** 9/6/00

Fishing—method of take, 81.2(11), Notice **ARC 0104B** 9/6/00

Waterfowl and coot hunting seasons, 91.1, 91.3, 91.4(2)"m" and "o,"
91.5(1)"c"(2), 91.6, Filed Emergency After Notice **ARC 0103B** 9/6/00

Nonresident deer hunting licenses, 94.8, Filed **ARC 0102B** 9/6/00

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Mortuary science examiners, 101.3(1)"1," 101.4, 101.5, 101.5(4), 101.6, 101.6(3),
101.6(16), 101.7 to 101.11, 101.98, 101.100 to 101.109, 101.200, 101.212 to 101.215,
101.300, ch 102, Notice **ARC 0116B** 9/6/00

Hearing aid dealers examiners, 120.1(5), 120.6 to 120.11, 120.11(16), 120.12 to 120.14,
120.212, ch 121, Filed **ARC 0117B** 9/6/00

Psychology examiners, 240.10(2), 240.100, 240.100(13), 240.101 to 240.103, 240.105 to 240.109,
240.212, ch 241, Filed **ARC 0143B** 9/20/00

Social work examiners, 280.1, 280.2(2), 280.3(1)"b," 280.3(2)"b," 280.3(3)"b" and "d," 280.4(1),
280.4(2), 280.4(6), 280.4(7), 280.100 to 280.106, 280.212, 280.213, ch 281, Notice **ARC 0115B** 9/6/00

Speech pathology and audiology examiners, 300.8 to 300.11, ch 301 title,
301.1 to 301.7, 301.112, ch 303, Notice **ARC 0144B** 9/20/00

PUBLIC BROADCASTING DIVISION[288]

EDUCATION DEPARTMENT[281]"umbrella"

Criteria for grants, ch 14, Filed **ARC 0128B** 9/20/00**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Waivers; fair information practices; greyhound racing; gambling games;
accounting and cash control, 1.8, ch 3 title and introductory paragraph, 3.3(7)"c,"
chs 7, 11, 12, 22, 24, and 26, Notice **ARC 0106B** 9/6/00

Occupational and vendor licensing; wagering and simulcasting; jockey mount fee schedule, 4.7, ch 6,
ch 8 title, 8.1, 8.2(3), 8.4, 8.5, 10.4(2)"d"(1), chs 12 and 13, Filed **ARC 0105B** 9/6/00

REVENUE AND FINANCE DEPARTMENT[701]

Waiver or variance, ch 7 division III, 7.60, Filed **ARC 0142B** 9/20/00

Livestock ear tags sold by nonprofit organizations; sales to nonprofit hospitals;
Internet access charges, 17.35, 18.20(5), 18.59, Notice **ARC 0140B** 9/20/00

Exclusion from tax for property delivered by certain media, 18.61, Notice **ARC 0139B** 9/20/00

Exempt sales of clothing and footwear during two-day period in August; sales of items
dispensed by chiropractors, 20.9(9)"g," 20.12, Filed **ARC 0141B** 9/20/00

Recovery of fees for local option tax, 107.16, 108.4, Filed **ARC 0138B** 9/20/00

SECRETARY OF STATE[721]Electronic voting equipment, 22.261, Notice **ARC 9890A** Terminated **ARC 0129B** 9/20/00**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Transportation expense—use of a private auto, 8.1"2," Filed **ARC 0096B** 9/6/00

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.

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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

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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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Certified school to career program, 11.2, 11.3 IAB 9/6/00 ARC 0120B	Main Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 26, 2000 2 p.m.
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Accelerated career education program, ch 20 IAB 9/6/00 ARC 0121B (See also ARC 0122B)	Workforce Development Conference Room—First Floor 200 E. Grand Ave. Des Moines, Iowa	September 26, 2000 3 to 4:30 p.m.
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Community economic betterment program; brownfield redevelopment program, 53.8(3), ch 65 IAB 9/6/00 ARC 0123B (See also ARC 0124B)	Business Finance Conference Room First Floor 200 E. Grand Ave. Des Moines, Iowa	September 26, 2000 1:30 p.m.
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Community attraction and tourism
development program,
amendments to ch 211
IAB 9/6/00 **ARC 0119B**
(**ICN Network**)

EDITOR'S NOTE: IDED will hold hearings regarding
ARC 0118B and **ARC 0119B** at the ICN sites as
scheduled below.

AND

Vision Iowa program; Vision Iowa
board: uniform waiver and variance
rules, chs 212, 213
IAB 9/6/00 **ARC 0118B**
(**ICN Network**)

Main Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 27, 2000 7 to 9 p.m.
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Room 210 Scott Community College 500 Belmont Rd. Bettendorf, Iowa	September 27, 2000 7 to 9 p.m.
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Great River AEA 1200 University Burlington, Iowa	September 27, 2000 7 to 9 p.m.
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Room 144 DMACC Carroll Campus 906 Grant Rd. Carroll, Iowa	September 27, 2000 7 to 9 p.m.
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Room 32A Kirkwood Farm Kirkwood Community College Cedar Rapids, Iowa	September 27, 2000 7 to 9 p.m.
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**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
(ICN Network) (Cont'd)**

Room 16 Graphic Arts Technology Center 1951 Manufacturing Dr. Clinton, Iowa	September 27, 2000 7 to 9 p.m.
Educational Services Ctr. Admin. 12 Scott St. Council Bluffs, Iowa	September 27, 2000 7 to 9 p.m.
Room 107, Technology Center Southwestern Community College 1501 W. Townline Rd. Creston, Iowa	September 27, 2000 7 to 9 p.m.
Lakeland AEA Hwy. 18 and Second St. Cylinder, Iowa	September 27, 2000 7 to 9 p.m.
Room 204, Library Bldg. Arrowhead AEA 330 Avenue M Fort Dodge, Iowa	September 27, 2000 7 to 9 p.m.
Hudson High School 245 S. Washington Hudson, Iowa	September 27, 2000 7 to 9 p.m.
Carpentry Room Western Iowa Technical Community College 801 E. Second Ida Grove, Iowa	September 27, 2000 7 to 9 p.m.
Turkey Valley High School 3219 State Hwy. 24 Jackson Junction, Iowa	September 27, 2000 7 to 9 p.m.
Room 2102 Iowa Valley Community College 3405 S. Center St. Marshalltown, Iowa	September 27, 2000 7 to 9 p.m.
Newman Catholic High School 2445 19th Street SW Mason City, Iowa	September 27, 2000 7 to 9 p.m.
Southern Prairie AEA 2814 N. Court St. Ottumwa, Iowa	September 27, 2000 7 to 9 p.m.
Room 128 Sibley-Ocheyedan High School 120 11th Avenue NE Sibley, Iowa	September 27, 2000 7 to 9 p.m.

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
(ICN Network) (Cont'd)**

Main Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 210 Scott Community College 500 Belmont Rd. Bettendorf, Iowa	September 29, 2000 10 a.m. to 12 noon
Room A169 Carroll High School 2809 N. Grant Rd. Carroll, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. NW Cedar Rapids, Iowa	September 29, 2000 10 a.m. to 12 noon
Looft Hall Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 107, Technology Center Southwestern Community College 1501 W. Townline Rd. Creston, Iowa	September 29, 2000 10 a.m. to 12 noon
Decorah High School 100 E. Claiborne Dr. Decorah, Iowa	September 29, 2000 10 a.m. to 12 noon
Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	September 29, 2000 10 a.m. to 12 noon
Room E-1 Estherville High School 1520 Central Ave. Estherville, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 12 Fort Dodge High School 819 N. 25th St. Fort Dodge, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 527, Continuing Education Ctr. Iowa Valley Community College 3702 S. Center St. Marshalltown, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 129, Careers Building NIACC 500 College Dr. Mason City, Iowa	September 29, 2000 10 a.m. to 12 noon

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
(ICN Network) (Cont'd)**

Video Conferencing and Training Ctr. Indian Hills Community College 651 Indian Hills Dr. Ottumwa, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 410, Building D Northwest Iowa Community College 603 W. Park St. Sheldon, Iowa	September 29, 2000 10 a.m. to 12 noon
Ed May Center Shenandoah High School 1000 Mustang Dr. Shenandoah, Iowa	September 29, 2000 10 a.m. to 12 noon
North High School 4200 Cheyenne Sioux City, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	September 29, 2000 10 a.m. to 12 noon
Ag. Room 331 Southeastern Community College 1015 S. Gear Ave. West Burlington, Iowa	September 29, 2000 10 a.m. to 12 noon

ENVIRONMENTAL PROTECTION COMMISSION[567]

Onsite wastewater treatment system assistance program, ch 93 IAB 9/20/00 ARC 0136B	Conference Room—Fifth Floor West Wallace State Office Bldg. Des Moines, Iowa	October 11, 2000 2 p.m.
	Council Chambers 313 First St. East Independence, Iowa	October 12, 2000 2 p.m.
	Council Chambers 220 W. Monroe Mt. Pleasant, Iowa	October 13, 2000 11:30 a.m.
	Activity Center—Muse-Norris Conference Center NIACC 500 College Dr. Mason City, Iowa	October 17, 2000 10 a.m.
	Community Center 530 West Bluff St. Cherokee, Iowa	October 18, 2000 10 a.m.
	Conference Room Atlantic Municipal Utilities 15 W. Third St. Atlantic, Iowa	October 19, 2000 10 a.m.

HUMAN SERVICES DEPARTMENT[441]

Rehabilitation services for adults with chronic mental illness, 77.42, 78.48, 79.1(2), 79.1(19), 80.2(2) IAB 9/20/00 ARC 0130B	Conference Room—7th Floor Iowa Bldg., Suite 600 411 Third St. S.E. Cedar Rapids, Iowa	October 13, 2000 10 a.m.
	Administrative Conference Room 417 E. Kanesville Blvd. Council Bluffs, Iowa	October 13, 2000 10 a.m.
	Large Conference Room—5th Floor Bicentennial Bldg. 428 Western Davenport, Iowa	October 17, 2000 9 a.m.
	Conference Room 104 City View Plaza 1200 University Des Moines, Iowa	October 13, 2000 10 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	October 11, 2000 10 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	October 16, 2000 10 a.m.
	Fifth Floor 520 Nebraska St. Sioux City, Iowa	October 12, 2000 1:30 p.m.
	Conference Room 420 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	October 17, 2000 10 a.m.

INSURANCE DIVISION[191]

Elimination of health data commission reporting requirement; elimination of lifetime maximum benefit for transplant coverage, 5.90, 71.14(8), 75.10(5) IAB 9/20/00 ARC 0133B	330 Maple St. Des Moines, Iowa	October 13, 2000 10 a.m.
Multiple employer welfare arrangements, ch 77 IAB 9/20/00 ARC 0126B	330 Maple St. Des Moines, Iowa	October 11, 2000 10 a.m.

NATURAL RESOURCE COMMISSION[571]

Fishing—method of take, 81.2(11) IAB 9/6/00 ARC 0104B	Dorothy Pecaut Nature Center Stone State Park Sioux City, Iowa	September 26, 2000 7 p.m.
	Teamster Union Hall 5000 J St. SW Cedar Rapids, Iowa	September 27, 2000 7 p.m.
	Room 100, Bennet Training Center Indian Hills Community College Ottumwa, Iowa	September 28, 2000 7 p.m.
	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 29, 2000 1 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Mortuary science examiners, 101.3 to 101.11, 101.98, 101.100 to 101.109, 101.200, 101.212 to 101.215, 101.300, ch 102 IAB 9/6/00 ARC 0116B	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	October 9, 2000 9 to 11 a.m.
Social work examiners, 280.1 to 280.4, 280.100 to 280.106, 280.212, 280.213, ch 281 IAB 9/6/00 ARC 0115B	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	September 26, 2000 9 to 11 a.m.
Speech pathology and audiology examiners, 300.8 to 300.11, 301.1 to 301.7, 301.112, ch 303 IAB 9/20/00 ARC 0144B	Room E—5th Floor Room 524 Lucas State Office Bldg. Des Moines, Iowa	October 19, 2000 9 to 11 a.m.

RACING AND GAMING COMMISSION[491]

Waivers; fair information practices; greyhound racing; gambling games; accounting and cash control, 1.8, 3.3(7); adopt chs 7, 11, 12; rescind chs 22, 24, 26 IAB 9/6/00 ARC 0106B	Suite B 717 E. Court Des Moines, Iowa	September 26, 2000 9 a.m.
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UTILITIES DIVISION[199]

Self-generation, 15.1, 15.11(5) IAB 8/23/00 ARC 0071B	Board Hearing Room 350 Maple St. Des Moines, Iowa	September 27, 2000 10 a.m.
Disconnection and reconnection, 19.4(15), 20.4(15) IAB 8/23/00 ARC 0072B (See also ARC 9717A, IAB 3/8/00)	Board Hearing Room 350 Maple St. Des Moines, Iowa	October 5, 2000 10 a.m.

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

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

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

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

The following list will be updated as changes occur:

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 0135B

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), 192.102, and 194.2, the Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 68, "Dairy," Iowa Administrative Code.

These proposed amendments are intended to make several changes relating to the regulation of dairy farms and plants. The proposed amendments include adopting the 1999 version of the "Pasteurized Milk Ordinance," establishing restrictions on the access of dairy cows or other animals to the approach or drive used by a bulk milk truck, establishing limitations on the minimum amount of milk in a bulk tank on a dairy farm before the milk can be picked up, and making technical amendments relating to the sampling and testing of milk.

Any interested person may make written suggestions or comments on the following proposed amendments prior to 4:30 p.m. on October 10, 2000. Such written material should be directed to Jake Wakefield, Bureau Chief, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments can also be submitted by fax to (515)281-8888 or by E-mail to Jake.Wakefield@idals.state.ia.us.

These proposed amendments are intended to implement Iowa Code chapters 192 and 194.

The following amendments are proposed.

ITEM 1. Amend rule 21—68.1(192,194) by adopting the following **new** definition in alphabetical order:

"P.M.O." means the Grade A Pasteurized Milk Ordinance, 1999 Recommendations of the United States Public Health Service/Food and Drug Administration, a copy of which is on file with the department and is incorporated into this chapter by reference and made a part of this chapter.

ITEM 2. Amend rule 21—68.4(192), introductory paragraph, as follows:

21—68.4(192) Certification of personnel. Certification programs conducted by the department shall follow closely the procedures as outlined in the ~~pasteurized milk ordinance~~ *P.M.O.*, Appendix B.

ITEM 3. Amend rule 21—68.5(190,192,194,195) as follows:

21—68.5(190,192,194,195) Milk tests. The department recognizes the ~~Babcock test and the turbidimetric method or the Gerber test as an approved method~~ *methods* of testing milk or cream for milk fat and other dairy products as specified in Standard Methods for the Examination of Dairy Products (16th Edition). That publication is hereby incorporated into this rule by this reference and made part thereof insofar as applicable, a copy of which is on file with the department.

All milk ~~or cream~~, graded or tested, as provided by Iowa Code chapters 192 and 194 ~~and 195~~ shall be graded and

tested by samples which shall be taken in the following manner:

1. Samples may only be taken from vats or tanks which pass the required organoleptic test.

2. ~~The~~ temperature of milk in bulk tanks from which the sample is to be taken must not be higher than 45 degrees Fahrenheit for Grade A milk and 50°~~F~~ degrees Fahrenheit for manufacturing milk.

3. The temperature of the milk in the bulk tank shall ~~then~~ be recorded on the farm milk room record, on the collection record, and on the sample container.

4. The ~~quantity~~ volume of the milk ~~or cream~~ in the bulk tank shall then be measured and the measurement *shall be* recorded.

5. Bulk tanks of less than 1,000-gallon size shall be agitated for a period of not less than five minutes. Bulk tanks of 1,000 gallons or greater shall be agitated for a period of not less than ten minutes. *However, if the manufacturer of the bulk tank provides in writing that a lesser time for agitation is acceptable given the design of the bulk tank, then the lesser time is acceptable if the agitation is done in a manner and time consistent with the manufacturer's written instructions. In addition, the instructions must be conspicuously posted in the milk room. The instructions shall be laminated, framed under glass, or otherwise displayed so that the instructions will not deteriorate while hanging in the milk room.*

6. The sample shall then be taken by using ~~an~~ approved sterile dipper and the liquid milk shall be ~~placed~~ poured in an approved sterile sample container, until the sample container is three-quarters full.

7. The sample of milk ~~or cream~~ shall then be immediately stored at a temperature of between 32°~~F~~ and 40°~~F~~ degrees Fahrenheit.

8. Grade A and Grade B milk shall not be picked up from a farm bulk milk tank when the milk volume in the tank is insufficient to completely submerge the bulk milk agitator into the milk.

9. No device, other than the bulk tank agitator, shall be used to agitate the milk in a farm bulk milk tank.

10. If the milk in a farm bulk milk tank cannot be properly agitated by the bulk tank agitator, the milk shall not be sold for human consumption.

This rule is intended to implement Iowa Code sections 194.4, 194.5, and 194.6 ~~and 195.14~~.

ITEM 4. Amend rule 21—68.6(190,192,194,195) as follows:

21—68.6(190,192,194,195) Test bottles. ~~The following makes of guaranteed test~~ Test bottles and pipettes are as approved by the *Standard Methods for the Examination of Dairy Products, 16th edition*, ~~department~~ are approved for universal use in Iowa: ~~the Nafis, the Kimball and the Wagner.~~ All test bottles should be graduated to the half point.

This rule is intended to implement Iowa Code ~~chapter~~ chapters 192 and 194.

ITEM 5. Rescind and reserve rule 21—68.7(190,192, 194,195).

ITEM 6. Rescind and reserve rule 21—68.8(190,192, 194,195).

ITEM 7. Amend rule 21—68.9(190,192,194,195) as follows:

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

21—68.9(192,194,195) Tester's license. The examination for a tester's license must be approved and administered by the department.

This rule is intended to implement Iowa Code chapter 192 and sections 192.111 and 194.13, 195.7, and 195.8.

ITEM 8. Amend rule 21—68.10(192,194,195) as follows:

21—68.10(192,194,195) Contaminating activities prohibited in milk plants. All "milk plants," "creameries," "cream stations," "transfer stations," "receiving stations," or any other facility for handling of bulk milk or milk products shall be a facility separated from any activity that could contaminate or tend to contaminate the milk or milk products.

ITEM 9. Amend subrule 68.11(1) as follows:

68.11(1) Grade A and Grade B farm permit suspension and revocation. The department may temporarily suspend a Grade A or Grade B farm permit if the dairy farm fails to meet all the requirements as set forth in "~~Grade A Pasteurized Milk Ordinance, 1997 Revision, printed as Public Health Service/Food and Drug Administration Publication No. 229~~" and incorporated into rule 21—68.12(192) the P.M.O. or the Grade B United States Department of Agriculture document titled, "Milk for Manufacturing and Its Production and Processing, Recommended Requirements," 1996 Revision. A Grade A farm under temporary suspension of the Grade A permit may sell the milk as "milk for manufacturing purposes" until reinstated as a Grade A farm if the former Grade A farm meets the requirements necessary to sell Grade B milk. A Grade B farm under temporary suspension of the Grade B permit may sell milk as "Undergrade Class 3" until reinstated as a Grade B farm if the former Grade B farm meets the requirements of Undergrade Class 3. If an inspection reveals a violation which, in the opinion of the inspector, is an imminent hazard to the public health, the inspector shall take immediate action to prevent any milk believed to have been exposed to the hazard from entering commerce. In addition, the inspector shall immediately notify the department that such action has been taken. In other cases, if there is a repeat violation of a dairy standard as determined by two consecutive routine inspections of a dairy farm, the inspector shall immediately refer the violation to the department for action.

The department may revoke the dairy permit of a person that the department determines is a habitual violator as defined in rule 21—68.1(192,194).

ITEM 10. Amend rule 21—68.12(192), introductory paragraph, as follows:

21—68.12(192) Milk standards. Standards for the production, processing, distribution, transportation, handling, sampling, examination, grading, labeling, sale and standards of identity of Grade A pasteurized milk, Grade A milk products and Grade A raw milk, the inspection of Grade A dairy herds, dairy farms, milk plants, milk receiving stations and milk transfer stations, the issuing, suspension and revocation of permits and licenses to milk producers, milk haulers, and milk distributors shall be regulated in accordance with the provisions of the ~~Grade A Pasteurized Milk Ordinance, 1995 Recommendations of the United States Public Health Service/Food and Drug Administration, P.M.O.~~, a copy of which is on file with the department and is incorporated into this rule by reference and made a part of this rule.

ITEM 11. Amend rule 21—68.13(192,194) as follows:

21—68.13(192,194) Public health service requirements.

68.13(1) Certification. A rating of 90 percent or more calculated according to the rating system as contained in Public Health Service "Methods of Making Sanitation Ratings of Milk ~~Supplies Suppliers, 1995 1997~~ Revision," shall be necessary to receive or retain a Grade A certification under Iowa Code chapter 192. That publication is hereby incorporated into this rule by this reference and made a part thereof insofar as applicable, a copy of which is on file with the department.

68.13(2) Documents. The following publications of the Public Health Service of the Food and Drug Administration are hereby adopted. A copy of each is on file with the department:

1. "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration ~~Program for Certification of Interstate Milk Shippers, 1995 of the National Conference on Interstate Milk Shipments, 1999~~ Revision."

2. "Fabrication of Single Service Containers and Closures for Milk and Milk Products, 1993 Revision."

3. "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey, Supplement I to the ~~Grade A Pasteurized Milk Ordinance, 1995 Ordinance P.M.O.~~"

4. "Evaluation of Milk Laboratories, 1995 Revision."

This rule is intended to implement Iowa Code chapter 192.

ITEM 12. Amend 21—Chapter 68 by adopting the following **new** rule:

21—68.37(192,194) Milk truck approaches.

68.37(1) The milk truck approach of a dairy farm facility shall not be through a cowyard or any other animal confinement area. In a dairy facility that is under permit by the department on the effective date of this rule, the operator of the facility shall have until January 1, 2002, to modify the facility to comply with this rule.

68.37(2) If the milk truck approach is contaminated with manure, the milk truck shall not traverse through the contaminated area.

68.37(3) All milk truck approach driveways shall be graded, maintained in a smooth condition, and shall be topped with gravel or be paved.

This rule is intended to implement Iowa Code chapters 192 and 194.

ARC 0134B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 159.5(11), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to adopt a new Chapter 95, "Civil Penalties," Iowa Administrative Code.

The proposed new chapter is intended to implement Iowa Code Supplement sections 203.11A and 203C.36A, which authorize the assessment of civil penalties against grain dealers and warehouse operators for violation of Iowa Code

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

chapter 203 or 203C or the rules promulgated thereunder. These proposed rules describe the procedures for assessing these penalties. In addition, Iowa Code Supplement section 203.11B establishes a grain industry peer review panel to assist the Department in assessing civil penalties. These proposed rules set forth the procedures under which the peer review panel will review cases involving proposed civil penalties and make recommendations regarding those penalties to the Department. These proposed rules do not apply to actions brought by the Department for license suspension or revocation, referrals for criminal prosecutions or actions seeking injunctive relief.

Interested persons may make written comments or suggestions on the proposed chapter on or before October 10, 2000. Written materials should be addressed to Donna Gwinn, Bureau Chief, Grain Warehouse Bureau, Department of Agriculture and Land Stewardship, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-6800. E-mail may be sent to Donna.Gwinn@idals.state.ia.us.

The following **new** chapter is proposed.

CHAPTER 95
CIVIL PENALTIES

21—95.1(203,203C) Definitions. For the purpose of these rules, the following definitions shall apply:

“Contested case hearing” means an evidentiary hearing pursuant to Iowa Code chapter 17A.

“Department” means the grain warehouse bureau of the Iowa department of agriculture and land stewardship.

“Informal settlement” means an agreement between a licensee and the department which provides for sanctions for a violation of Iowa Code chapter 203 or 203C or the rules promulgated thereunder, but does not include a contested case hearing.

“Licensee” means a grain dealer or warehouse operator licensed under Iowa Code chapter 203 or 203C.

“Panel” means the grain industry peer review panel.

“Report” means the information provided by the department to the panel to assist in its review of cases involving proposed civil penalties.

“Review period” means the period of time during which the licensee may seek review of a proposed civil penalty by the panel.

21—95.2(203,203C) Grain industry peer review panel. The panel shall review cases of licensees subject to civil penalties for violations of Iowa Code chapter 203 or 203C or the rules promulgated thereunder. The decision to assess a civil penalty shall be made exclusively by the department. The panel’s review shall be limited to the issues of whether a civil penalty should be assessed and the amount of the penalty. The panel will not determine whether a violation of law has occurred.

21—95.3(203,203C) Organization and location. The panel is located within the Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319. The department’s office hours are from 8 a.m. to 4:30 p.m., Monday through Friday.

21—95.4(203,203C) Membership. The panel shall consist of five members as set forth in Iowa Code Supplement section 203.11B.

21—95.5(203,203C) Staff. Staff assistance shall be provided through the department.

21—95.6(203,203C) Meetings. The panel shall meet annually to elect a chairperson but may meet at the call of the chairperson or upon written request to the chairperson of two or more members. All panel meetings shall comply with Iowa Code chapter 21. A quorum of three-fifths of the panel shall be present to transact business. Action by the panel requires a vote of a majority of those on the panel. Meetings follow Robert’s Rules of Order. Minutes of each meeting shall be available from the department.

21—95.7(203,203C) Criteria for assessing civil penalties. Licensees who violate Iowa Code chapter 203 or 203C or the rules promulgated thereunder may be subject to civil penalties. In evaluating a violation to determine which cases may be appropriate for assessment of civil penalties, or for purposes of assessing civil penalties, the department shall consider, among other relevant factors, the following:

1. Economic benefits realized by the violator through noncompliance.
2. Willfulness or recklessness of the violation.
3. Actual or threatened damage to sellers or depositors.
4. Actual or potential costs incurred by the department in discovering and responding to the violation.
5. Remedial or corrective action taken by the licensee.
6. Previous history of noncompliance by the licensee.

The amount of civil penalty assessed shall not exceed \$1500 per violation. Each day that a violation continues constitutes a separate violation.

21—95.8(203,203C) Notice of civil penalty assessment—informal settlement. The department shall give written notice to the licensee that it intends to seek assessment of a civil penalty. The notice shall describe the violation involved and set forth the amount of civil penalty sought by the department. The licensee shall have 14 days following receipt of the notice to request review of the amount of the civil penalty by the panel.

The department and the licensee may meet to discuss the case and the possibility of an informal settlement. If the parties reach an informal settlement, they may enter a joint stipulation providing for payment of an agreed-upon civil penalty and other sanctions. The joint stipulation is not reviewable by the panel.

21—95.9(203,203C) Panel review. The licensee may seek review of the proposed civil penalty by filing a request for review within 14 days of receipt of the notice of assessment. The request for review shall be served in writing by regular mail upon the chairperson of the panel and the department. The request for review shall contain a concise statement of the reasons why a civil penalty should not be assessed or why it should be assessed at a lesser amount than that proposed by the department. Within 7 days of receipt of the request for review, the department shall forward its report to the panel.

Within 14 days of receipt of the department’s report, the chairperson shall schedule a meeting of the panel in Des Moines at the Henry A. Wallace Building or telephonically, and copies of the request for review and the department’s report shall be provided to the panel.

21—95.10(203,203C) Scope of panel review. The panel shall confine its review to the licensee’s request for review and the department’s report. The department’s investigative file or parts thereof may be made available upon request. The department shall also make available, upon request, records which are otherwise confidential under Iowa Code section 22.7, 203.16, or 203C.24. The review may be in closed session pursuant to Iowa Code section 21.5. The department’s

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

reports shall be considered confidential records. The panel members shall maintain the confidentiality of records made available to the panel.

The panel's review shall not be a contested case hearing. The panel shall not have power to examine or cross-examine witnesses, nor shall it have power to subpoena witnesses or documents.

21—95.11(203,203C) Panel response. The panel shall respond in writing to the licensee and the department within 30 days of meeting to review the proposed penalty. The panel's response may include recommendations that the proposed civil penalty be increased, decreased, that no penalty be assessed, or that conditions be placed upon the license.

If the licensee does not respond to the department's notice of proposed penalty, the department shall seek review of its proposed civil penalty by submitting its report to the panel. Upon receipt of the report, the chairperson shall schedule a meeting, and the provisions of 21—95.8(203,203C) shall apply.

21—95.12(203,203C) Civil penalty assessment. If the licensee fails to pay the recommended civil penalty within 30 days of receipt of the panel's response, the department may seek either administrative or judicial assessment of the penalty. The amount of civil penalty sought shall not exceed that recommended by the panel. The panel's response may be used as evidence in an administrative hearing or civil case except to the extent that the response contains information considered confidential pursuant to Iowa Code section 22.7, 203.16, or 203C.24.

Upon finding that the licensee has violated Iowa Code chapter 203 or 203C or the rules promulgated thereunder, an order shall be issued assessing the civil penalty. The order shall recite the facts, the legal requirements violated, the rationale for assessment of the civil penalty and the date of issuance.

21—95.13(203,203C) Judicial assessment. The department may seek judicial assessment of civil penalties by requesting that the attorney general file an action in Iowa district court to seek assessment of the penalty. In requesting that the attorney general file an action seeking civil penalties, the department may also request that the attorney general seek other relief, such as issuance of an injunction.

21—95.14(203,203C) Civil penalty payment. A civil penalty shall be paid within 30 days from the date that an order or judgment for the penalty becomes final. In an administrative assessment, the order is not final until all judicial review processes are completed. In a judicial assessment, the judgment is not final until the right of appeal is exhausted.

A person who fails to timely pay a civil penalty shall pay, in addition to the penalty, interest at the rate of one and one-half percent on the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

Moneys collected in civil penalties through settlement or administrative or judicial proceedings shall be deposited in the general fund of the state.

These rules are intended to implement Iowa Code Supplement sections 203.11A and 203C.36A.

ARC 0136B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to adopt new Chapter 93, “Onsite Wastewater Treatment System Assistance Program,” Iowa Administrative Code.

The proposed rules establish a program to encourage and assist rural homeowners in improving or rehabilitating existing onsite wastewater systems by providing low-interest loans to individual applicants. Under the program, qualifying rural homeowners who need to rehabilitate or improve their onsite wastewater treatment systems may obtain low-interest loans from a participating financial institution such as a bank, credit union, or savings and loan.

To carry out the program, an onsite wastewater treatment state revolving fund (ORF) is established. The ORF will be capitalized with a combination of state funds and federal funds available under Title VI (State Water Pollution Control Revolving Funds) of the federal Clean Water Act. Section 603(c) of the Act allows the use of such funds for implementation of a state's nonpoint source management plan, and Iowa's plan identifies onsite wastewater system improvements as a specific need.

The rules envision a linked deposit program. Under this approach, a participating lending institution would make the loan to an individual applicant. An amount equal to the loan would then be transferred to the lending institution from the ORF in the form of a certificate of deposit (CD) purchased from the Department's financial agent. Loan repayments from the applicant would be made to the lending institution, which would then repay the Department's financial agent according to the terms of the CD.

Another potential approach would be to establish a loan guarantee program. Under this approach, low-interest loans made by participating lending institutions would be purchased by the Department or its financial agent using funds in the ORF. The lending institution would charge a loan origination fee to cover the cost of loan processing, and loan repayments would be made directly to the Department's financial agent for redeposit in the ORF. The Department is interested in receiving comments from financial institutions as to which approach, the linked deposit program or a loan purchase program, would be preferable.

Due to potential restrictions on the use of federal funds that will be used to capitalize the ORF and Department resource limitations, a direct loan program where the Department would issue loans to individuals and collect repayments is not possible.

For a homeowner to qualify for a low-interest loan from a participating financial institution, the county in which the onsite system is located must have an environmental health program that meets minimum requirements regarding the inspection, approval, and maintenance of onsite wastewater systems. The homeowner also needs county approval of the

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

planned improvements before applying for a loan under this program.

These proposed rules (1) create the onsite revolving fund, (2) define various terms to be used for the program, (3) establish loan application procedures, amounts, and terms, (4) establish minimum standards for qualifying counties, (5) establish requirements and responsibilities for participating financial institutions, (6) provide for the allocation of available funds, and (7) provide for a financial agent to carry out the program for the Department.

Any interested person may make written comments or suggestions on these proposed rules on or before October 24, 2000. Written materials should be sent to Brent Parker, Water Supply Section, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, post-marked no later than October 24, 2000. E-mail comments should be directed to Brent.Parker@dnr.state.ia.us.

In addition, six public hearings are scheduled in order to take oral or written comments at the following times and places:

October 11, 2000, 2 p.m. Des Moines	Fifth Floor West Conference Room Wallace Building 502 East 9th St. Des Moines
October 12, 2000, 2 p.m. Independence	Council Chambers City Hall 313 First St. East Independence
October 13, 2000, 11:30 a.m. Mt. Pleasant	Council Chambers City Hall 220 West Monroe Mt. Pleasant
October 17, 2000, 10 a.m. Mason City	Muse-Norris Conference Center - Activity Center North Iowa Area Community College 500 College Drive Mason City
October 18, 2000, 10 a.m. Cherokee	Community Center 530 West Bluff St. Cherokee
October 19, 2000, 10 a.m. Atlantic	Conference Room Atlantic Municipal Utilities 15 West 3rd St. Atlantic

Persons presenting information at the hearings will be asked to provide their names and addresses and to confine their remarks to the subject of the proposed rules.

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

These rules are intended to implement 2000 Iowa Acts, Senate File 2371, section 7.

The following rules are proposed.

Adopt **new** 567—Chapter 93 as follows:

CHAPTER 93

ONSITE WASTEWATER TREATMENT SYSTEM
ASSISTANCE PROGRAM

567—93.1(455B,78GA,SF2371) Purpose. The department of natural resources administers the state revolving fund for wastewater projects as provided by Iowa Code sections 455B.291 to 455B.299. The primary purpose of the wastewater state revolving fund is to provide loans at a below-market rate to municipalities for the construction of wastewater treatment facilities. The rules governing such loans are provided in 567—Chapter 92. Grants provided under Title VI of the federal Clean Water Act are used to capitalize the fund.

In addition to direct loans to municipalities, Section 603(c) of Title VI of the Clean Water Act allows states to use Title VI capitalization grant funds for the implementation of a state's nonpoint source management plan as provided for in Section 319 of the Clean Water Act. Iowa's nonpoint source management plan identifies the rehabilitation and improvement of onsite wastewater treatment systems as an area of need. It is the intent of the environmental protection commission in improving or rehabilitating existing onsite wastewater treatment systems by providing for low-interest loans. This chapter is intended to implement 2000 Iowa Acts, Senate File 2371.

This chapter establishes an onsite wastewater treatment assistance program intended to encourage and assist homeowners in improving or rehabilitating existing onsite wastewater treatment systems by providing for low-interest loans. This chapter is intended to implement 2000 Iowa Acts, Senate File 2371.

567—93.2(455B,78GA,SF2371) Definitions. The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Administrative authority" means the local (county) board of health as authorized by Iowa Code section 455B.172.

"Cluster systems" means onsite wastewater treatment systems providing treatment for two or more dwellings with a combined flow not to exceed 1500 gallons per day.

"Department" means the department of natural resources (DNR).

"Director" means the director of the department of natural resources.

"Eligible cost" means the cost of all labor, material, machinery, equipment, loan initiation and loan service fees, design costs, permits, legal fees, and expenses directly related to an onsite treatment plan project and all other expansion, construction, and rehabilitation of all or part of such a plan incurred after the date of approval of an onsite wastewater treatment project.

"EPA SRF" means the Environmental Protection Agency state revolving fund.

"Financial agent" means the entity which has entered into contract with the department to carry out the financial administration of the fund.

"Fiscal year" means the state fiscal year starting July 1 and ending June 30.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

“Intended use plan (IUP)” means a departmental plan identifying the intended uses of funds available for loans in the onsite revolving fund for each fiscal year.

“Loan agreement” means an executed contract between an individual and the participating financial institution which confirms the purpose of the loan, the amount and terms of the loan, the schedule of the loan payments and requirements, and any other agreed-upon conditions set forth by the director.

“NPDES” means National Pollutant Discharge Elimination Systems.

“Onsite revolving fund (ORF)” means a state-administered fund to provide low-interest loans for the rehabilitation or improvement of onsite wastewater treatment and disposal systems (as the term is defined in 567—subrule 69.1(2)). This fund is a combination of cumulative capitalization grants awarded, state funds awarded for this purpose, interest, and loan repayments.

“Participating financial institution” means any bank, bank holding company, national banking association, savings and loan association, or life insurance company; any state or federal government agency or instrumentality; or any other financial institution or entity authorized to make loans in the state of Iowa.

567—93.3(455B,78GA,SF2371) Onsite wastewater revolving fund established. An onsite revolving fund (ORF) is established as part of the overall Iowa sewage treatment and drinking water facilities financing program established in Iowa Code section 455B.294. The ORF is a separate administrative account that is to be used to provide a program for low-interest loans made by participating financial institutions for the purpose of improving and rehabilitating onsite wastewater treatment systems. The ORF will be capitalized with a combination of state-appropriated funds and annual capitalization grants provide under Title VI of the federal Clean Water Act. The portion of annual Title VI grants to be used for the ORF is identified in the annual intended use plan as provided in 567—paragraph 92.6(2)“c.”

567—93.4(455B,78GA,SF2371) Eligibility and restrictions for participation in the onsite wastewater treatment assistance program. Assistance under the onsite wastewater treatment assistance program shall be in the form of low-interest loans made by participating financial institutions. The following eligibility conditions and restrictions apply to such assistance.

93.4(1) Location restrictions. Assistance is available for the improvement or rehabilitation of onsite wastewater treatment systems located outside of corporate boundaries. Assistance cannot be provided for onsite improvements or rehabilitation located within incorporated limits.

93.4(2) County eligibility. Assistance can be provided only in counties which have an environmental health program that meets minimum standards. Minimum standards means compliance with all applicable state statutes, rules, and design standards, including 567—Chapter 69 (pertaining to technical standards for onsite wastewater treatment systems). The department shall maintain for public record a list of all counties meeting such standards. In order to qualify for this program, counties must provide the department with proposals which outline their onsite wastewater compliance programs. The department requires that the proposals include, but not be limited to:

a. Proper site evaluations for appropriate onsite wastewater treatment system installation.

b. Permitting and inspection of onsite wastewater treatment system construction.

c. Guarantee of compliance of all individual monitoring requirements (NPDES General Permit No. 4) on discharging systems.

d. Long-term management programs for all systems receiving ORF assistance.

e. Inspection at time of real estate transfer for compliance with current wastewater treatment and disposal standards on all existing housing.

93.4(3) Eligible project costs. The amount of assistance available shall be limited to the total eligible costs deemed necessary, reasonable, and directly related to the efficient completion of an onsite treatment system.

93.4(4) Applicant eligibility. Assistance is limited to individuals or other entities who demonstrate to the satisfaction of the participating financial institution that they can repay the loan.

93.4(5) Project eligibility. Assistance can be provided only for the repair or rehabilitation of existing onsite wastewater treatment and distribution systems. Assistance is not available for new development. Systems serving an equivalent of 16 individuals or more (with average daily flows of 1500 gallons or above) are considered public systems and are not eligible under this program.

567—93.5(455B,78GA,SF2371) Participating financial institutions. Any financial institution as defined in rule 93.2(455B,78GA,SF2371) is eligible to participate in the program by signing an agreement with the department or its financial agent. The agreement will contain the responsibilities of the department to the participating financial institution and vice versa as well as relevant loan conditions and restrictions. The department will provide the format of the agreement. The department or its financial agent will maintain for public record a list of participating financial institutions.

93.5(1) Responsibilities of the department to participating financial institutions. For participating financial institutions, the department or its financial agent will:

a. Provide materials such as pamphlets, brochures, loan application forms and other relevant materials necessary to educate homeowners about the program and to assist lenders in completing the loan process.

b. Assume the risk for loans made under the program, including loan delinquency of greater than 90 days. Once a loan is declared in default, the director shall cause legal action to be taken to collect amounts past due. Also, the department will notify other state agencies to preclude the recipient from receiving other grants or financial assistance until such time as all delinquent payments have been recovered.

c. Agree to deposit a certificate of deposit (CD) with the lender in the amount of the total project cost within four working days of notification of the completion and inspection of the project.

93.5(2) Responsibilities of participating financial institutions to the department or its financial agent. Any financial institution as defined in rule 93.2(455B,78GA,SF2371) is eligible to initiate and process loans for this program by signing an escrow agreement with the department. The responsibilities of participating financial institutions include:

a. Making a determination of whether a loan can be secured.

b. Rendering a judgment on the applicant’s ability to repay the loan.

c. Approving or denying the loan application. The financial institution will approve a loan agreement when it is determined that the application complies with the require-

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ments of the Clean Water Act and state rules for ORF funding. The loan agreement between the applicant and the financial institution shall be a binding obligation under Iowa law, shall include loan terms and conditions for the loan period, and shall be accompanied by evidence of satisfactory security.

d. Assessing loan initiation fees of \$150 plus filing costs, or a maximum fee of 2 percent of the loan plus filing costs.

e. Notifying the department's financial agent of the loan approval to reserve funds for the project.

f. Notifying the department and its financial agent when the project is completed and inspected. The financial agent will then make a linked deposit equal to the amount of the loan in the form of a certificate of deposit (CD) to the financial institution. The linked deposit will serve as collateral for the loan as well as to buy down the interest. The financial institution will then service the loan with the linked deposit.

g. Notifying the department that the loan is in default after the financial institution has made a reasonable attempt for 90 days to collect delinquent payments.

567—93.6(455B,78GA,SF2371) Onsite revolving fund financial agent. To assist the department in administering the onsite wastewater treatment system assistance program, the department will appoint a financial agent who will be responsible for managing the funds in the onsite revolving fund. More specifically, the financial agent will:

1. Act as a depository for the onsite revolving fund. The department will select a financial agent based on responses to its request for proposals to manage the program's funds. The department will then transfer the state ORF funds to the financial agent. Additional EPA matching funds will be transferred to the financial agent for management as loans are approved.

2. Reserve funds equal to the amount of the loan as each loan is approved by the local financial institution.

3. Distribute funds equal to the amount of the loan to the local financial institution in the form of a certificate of deposit (CD) at the time of notification that the project has been completed.

4. Act as liaison between the department and the financial institutions.

5. Invest reserve and excess funds.

6. Maintain for public record a list of participating financial institutions.

567—93.7(455B,78GA,SF2371) Applying for assistance. Prior to applying for a loan from a participating financial institution, an eligible individual or entity must receive approval of the proposed improvements from the county in which the onsite wastewater treatment system is located.

93.7(1) County requirements for individual applicants. Applicants requesting county approval shall submit forms provided by the county which include:

a. A description of the type and general specifications of the proposed work.

b. Project cost estimates.

c. A proposed construction schedule.

93.7(2) County requirements for cluster system applicants. Applicants seeking financial assistance for cluster systems using onsite technology must include with their application to the county:

a. A description, if available, of each participating property owner's current onsite wastewater treatment system, including a discussion of existing and potential problems or failures in the current treatment scheme.

b. An estimate of the population and number of households to be served.

c. A rationale for the proposed design of the new treatment system.

d. A justification that explains why a collection system to central treatment is not feasible.

e. Descriptions of the management entity and program.

93.7(3) County review. The county shall review applications to determine if the proposed work meets the applicable provisions of 567—Chapter 69 and all other relevant local provisions for the siting and construction of onsite wastewater treatment and distribution systems. For proposals meeting relevant criteria, the county shall issue a permit or certificate indicating such. The county permit or certificate shall also include a statement that the proposed cost estimates appear reasonable. A county may deny an application for reasons of noncompliance with applicable state and local criteria. Written notification of the denial shall be provided to the applicant and shall state the reason(s) that the application was denied.

93.7(4) Lender requirements for applicants. The applicant for a loan shall submit to a participating financial institution an application form as prescribed by the department of natural resources or deemed acceptable by the department's financial agent. Also, the applicant shall include a copy of the county permit or certificate approving the proposed project. The applicant is obligated to provide any other specific information the lender may deem necessary.

93.7(5) Loan application processing and disbursement of funds. The process for awarding and managing loans shall be in full accordance with the terms established by the department or its financial agent and the provisions of this chapter.

a. Loan approval or disapproval. Upon receipt of a completed loan application form with relevant information as described in 93.7(4), the participating lending institution shall either approve or deny the loan within ten working days. The financial institution shall notify the applicant of loan conditions and limitations at the time of initial application. Prior to taking action on the loan application, the lending institution shall ensure that adequate ORF funds are available. If the loan is approved, the financial institution shall (1) notify the loan applicant in writing that the loan has been approved and (2) notify the department's financial agent within two working days of approval of the loan application in order to reserve funds in that amount to ensure that adequate funds are available at time of disbursement. If the loan is denied, the financial institution shall notify the loan applicant in writing, clearly stating the reasons for denial. Reasons for denial may include that funds are not available or that the applicant presents an unacceptable level of loan risk.

b. Disbursement of funds. Upon completion of the onsite wastewater treatment system improvements, the loan applicant shall furnish the lender with (1) copies of all bills relating to the costs of the improvements which were preapproved on the loan application as specified in 93.4(3) and (2) certification from the county that the improvements were accomplished in accordance with the approved plans and meet relevant state and local requirements for onsite wastewater treatment systems. The loan shall be subject to the conditions and limitations provided in 93.7(6). If actual costs are less than the amount requested on the loan application, then the actual loan amount will equal those costs. The lending institution is authorized to execute a loan for a principal of up to 10 percent above the amount of the loan application if costs exceed the application amount. In this case,

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

the loan applicant shall provide the lending institution with a written explanation of any cost overruns.

93.7(6) Loan conditions and limitations.

a. **Loan amount and period.** The minimum loan granted under this program shall be \$2,000. The maximum loan that a participant may receive for a single onsite system pursuant to this program shall not exceed \$10,000. The loan period shall not exceed ten years. Loans shall be made contingent on the availability of funds from the ORF.

b. **Number of loans.** There will be no limit to the number of loans an applicant can receive, except that an applicant shall be eligible for no more than \$10,000 in loans outstanding. Each approved application will be handled as a new loan.

c. **Loan execution.** The loan agreements to be executed by the applicant and the financial institution shall (1) be a binding obligation under Iowa law, (2) include conditions and terms to be effective for the loan period, and (3) be accompanied by evidence of satisfactory security, legality, and enforceability.

d. **Allowable costs.** Allowable costs shall be limited to those costs deemed necessary, reasonable, and directly related to the efficient completion of the treatment system.

e. **Recipient record keeping.** The loan recipient shall maintain adequate records that document all costs associated with the project. The loan recipient shall agree to provide access to these records to the department, the state auditor, the EPA SRF project manager, and the Office of the Inspector General at the Environmental Protection Agency. The loan recipient shall retain all project records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

f. **Site access.** The loan recipient shall agree to provide the department and the administrative authority access to the construction site to verify that the loan was used for the purpose intended and that the constructed works meet applicable state and local environmental criteria for onsite wastewater treatment systems.

g. **Loan termination.** The department or its financial agent shall have the right to terminate any loan when terms of the agreement have been violated.

h. **Repayment.** Loans shall be repaid in accordance with the terms and conditions of the executed loan agreement. Repayment of the loan must begin no later than 30 days after the date specified in the selected repayment schedule.

i. **Interest.** The loan interest rate shall not exceed 3 percent per year. The actual interest rate charged shall be in accordance with the participating lending institution's agreement with the department's financial agent.

j. **Prepayment.** Prepayment of the principal in whole or in part shall be allowed without penalty.

k. **Property transfer.** In the event of a property transfer from the original landowner who secured the loan to another person or entity during the repayment period specified in the loan agreement, the balance of the loan shall be due in full.

l. **Loan delinquency.** Failure of the loan recipient to repay the loan in accordance with the schedule contained in the loan agreement will result in the loan's being declared in default. For loans delinquent more than 90 days, interest rates shall accelerate immediately to the current legal usury limit, shall be applied to the entire unpaid principal, and shall be prorated for the period for which the installment is delinquent.

567—93.8(455B,78GA,SF2371) Rectification. Failure of an onsite wastewater treatment system to conform to approved plans and specifications or failure of a loan recipient

to comply with the requirements of 567—Chapter 69 constitutes grounds for the administrative authority to withhold authorization of loan disbursements to the loan recipient. The loan recipient is then responsible for ensuring that the identified problem is rectified. Once the deficiency is corrected, the administrative authority will recommend that the retained funds be released according to the provisions of the agreement.

567—93.9(455B,78GA,SF2371) Disputes with the administrative authority. A person or entity who disagrees with the administrative authority's withholding of project funding may request a formal review of the action. A request for review must be submitted in writing to the director by the person or entity within 45 days of the date of notification of the final decision made by the administrative authority or its agent. A decision by the director in a formal review case may be appealed to the environmental protection commission (EPC).

567—93.10(455B,78GA,SF2371) Priority allocation of funds and intended use plan. The department shall, on an annual basis, prepare a plan describing the amount of funding available for loans under the program for the coming state fiscal year. The plan shall also identify those counties qualified to participate in the program and provide an estimate of the loan funds needed in those counties within the coming year. To the extent that the pool of funds available for lending involves funds granted under Title VI of the federal Clean Water Act, this plan shall be incorporated into the annual intended use plan authorized in 567—Chapter 92.

567—93.11(455B,78GA,SF2371) Availability of funds. In the initial year of operation and thereafter, funds for loans shall be made on a first-come, first-served basis. The department's financial agent shall notify all participating lending institutions when 90 percent of the available funds for the current state fiscal year have been used and shall also notify such when all funds have been exhausted.

567—93.12(455B,78GA,SF2371) Targeted assistance. The department may reserve up to 50 percent of the annual available funds for use in targeted areas. Such targeted areas may include impaired watersheds, high-density housing areas, agricultural drainage areas, or other environmentally sensitive or degraded areas in which repair and rehabilitation of onsite wastewater treatment systems are needed to preserve and protect water quality. The annual use plan shall specify the need for targeted assistance, the areas covered, and the estimate of funds needed to address the water quality problems.

567—93.13(455B,78GA,SF2371) Financial need. Reserved.

These rules are intended to implement 2000 Iowa Acts, Senate File 2371.

ARC 0130B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 80, "Procedure and Method of Payment," appearing in the Iowa Administrative Code.

The Seventy-eighth General Assembly directed the Department to work with county representatives in aggressively taking the steps necessary to implement the rehabilitation option for services to persons (adults) with chronic mental illness under the Medical Assistance Program. The General Assembly further directed that county funding shall be used to provide the match for the federal funding, except for individuals with state case status, for whom state funding shall provide the match.

These rules implement a new Medicaid service for rehabilitation services to persons (adults) with chronic mental illness as mandated by the General Assembly. In order to receive these services, Medicaid recipients must be 18 years of age or older and have a persistent mental or emotional disorder that seriously impairs their functioning relative to primary aspects of daily living. The services must be reasonable and necessary and rehabilitative, not habilitative in nature. The need for services must be documented by the recipient's case planner in a comprehensive treatment plan developed in coordination with an interdisciplinary team prior to the receipt of services. The need for services must be reviewed and approved every 180 days.

The services available under rehabilitation services to adults with chronic mental illness include community support services and day program services.

Community support services are services that address mental and functional disabilities that negatively affect integration and stability in the community and quality of life and reduce or manage those symptoms of or behaviors resulting from mental illness that interfere with a person's ability to obtain or retain employment or to function in other nonwork, role-appropriate settings. Community support services are limited to the following:

- Symptom management and support services. These services are age-appropriate, individualized training and supports available on a 24-hour basis, seven days a week, to enable persons with mental illness to obtain optimal functioning. Activities include, but are not limited to, nursing and medication monitoring, behavioral skills training for stress and symptom management, reality orientation to help the individual identify and manage the individual's symptoms of mental illness, supportive counseling in times of crisis, and training to adapt to and cope with stressors.

- Community living skills training services. These services are age-appropriate skills training or supportive interventions that focus on the improvement of communication skills, appropriate interpersonal behaviors, and other skills necessary for independent living or, when age-appropriate, for functioning effectively with family, peers, and teachers. Training for independent living may include, but is not limited to, skills related to personal hygiene, household tasks, transportation use, money management, the development of natural supports, access to needed services in the community (e.g., medical care, dental care, legal services), living accommodations, and social skills (e.g., communicating one's needs and making appropriate choices for the use of leisure time).

- Employment-related services. These services are age-appropriate training and supports that are not job- or task-specific and have as their focus the development of skills to reduce and manage the symptoms of mental illness that interfere with the person's ability to make vocational choices and to attain or retain employment. Included are activities such as skills training related to task focus, maintaining concentration, task completion, planning and managing activities to achieve outcomes, personal hygiene, grooming, communication, and skills training related to securing appropriate clothing, developing natural supports, and arranging transportation. Also included are supportive contacts in an educational setting on or off the work site to reduce or manage behaviors or symptoms related to the individual's mental illness that interfere with job performance or progress toward the development of skills that would enable the individual to obtain or retain employment.

Day program services are limited to the following:

- Day program for skills training. These services are age-appropriate and site-appropriate services provided to persons who require skills training to increase integration and stability in the community, establish support networks, increase the persons' awareness of the community, develop coping strategies, and function effectively in their social environment. Services shall concentrate on skills training activities focusing on symptom management, independent living, self-reliance, general employment interventions, impulse control, and effective interactions with peers, family, and teachers.

- Day program for skills development. These services are age-appropriate, site-based services provided to persons who are in need of day program services to ensure personal well-being, to limit skill deterioration, to promote skill development, and to reduce the risk of or duration of institutionalization. Services focus on the development of functional skills, symptom management and reduction, nursing services, and training in activities of daily living, such as skills related to the development of age-appropriate interests and personal care skills.

The following providers may be enrolled in Medicaid to provide rehabilitation services to persons with chronic mental illness: physicians (doctors of medicine and osteopathy) licensed to practice in Iowa, community mental health centers, psychologists, residential care facilities, supported employment service providers, and supported community living providers. Services must be provided under the supervision of a physician or psychologist. Services may be delivered by a paraprofessional or licensed professional through a contract with or employment by an enrolled provider.

These rules were developed with the assistance of an adult rehabilitation option workgroup consisting of county supervisors, central point of coordination administrators, repre-

HUMAN SERVICES DEPARTMENT[441](cont'd)

sentatives from the Iowa State Association of Counties, providers, a consumer, and staff.

It is anticipated that most counties will support this service as the counties will be able to draw down matching federal funds for services for which they are already paying. However, a few counties may not support the service as they do not have any current expenditures and do not have any money budgeted. Adults with chronic mental illness and their advocates should be very supportive of this service as making this service a Medicaid service creates an entitlement to the service for Medicaid recipients if the service is necessary.

These amendments do not provide for waiver in specified situations because they confer a benefit by providing for coverage of and payment for these services. Waivers of particular requirements may be requested pursuant to the Department's general rule on exceptions to policy at 441—1.8(249A).

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before October 11, 2000.

Oral presentations may be made by persons appearing at the following meetings. Written comments will also be accepted at these times.

Cedar Rapids - October 13, 2000 10 a.m.
Cedar Rapids Regional Office
Iowa Building, Suite 600
Seventh Floor Conference Room
411 Third St. S.E.
Cedar Rapids, Iowa 52401

Council Bluffs - October 13, 2000 10 a.m.
Council Bluffs Regional Office
Administrative Conference Room
417 E. Kanesville Boulevard
Council Bluffs, Iowa 51501

Davenport - October 17, 2000 9 a.m.
Davenport Area Office
Bicentennial Building, Fifth Floor
Large Conference Room
428 Western
Davenport, Iowa 52801

Des Moines - October 13, 2000 10 a.m.
Des Moines Regional Office
City View Plaza
Conference Room 104
1200 University
Des Moines, Iowa 50314

Mason City - October 11, 2000 10 a.m.
Mason City Area Office
Mohawk Square, Liberty Room
22 North Georgia Avenue
Mason City, Iowa 50401

Ottumwa - October 16, 2000 10 a.m.
Ottumwa Area Office
Conference Room 3
120 East Main
Ottumwa, Iowa 52501

Sioux City - October 12, 2000 1:30 p.m.
Sioux City Regional Office
Fifth Floor
520 Nebraska St.
Sioux City, Iowa 51101

Waterloo - October 17, 2000 10 a.m.
Waterloo Regional Office
Pinecrest Office Building
Conference Room 420
1407 Independence Avenue
Waterloo, Iowa 50703

Any persons who intend to attend a public hearing and have special requirements such as hearing or vision impairments should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement Iowa Code section 249A.4 and 2000 Iowa Acts, Senate File 2435, section 8, subsection 11.

The following amendments are proposed.

ITEM 1. Amend 441—Chapter 77 by adopting the following **new** rule:

441—77.42(249A) Rehabilitation services to adults with chronic mental illness providers. Providers listed in this rule are eligible to participate in the Medicaid program for the provision of rehabilitation services to adults with chronic mental illness. All providers of rehabilitation services to adults with chronic mental illness shall provide services consistent with their scope of practice, state licensure, and applicable requirements in this rule and rule 441—78.48(249A).

77.42(1) Eligible providers. The following providers may provide rehabilitation services to adults with chronic mental illness:

a. Physicians (doctors of medicine and osteopathy) licensed to practice in the state of Iowa. Physicians in other states are also eligible if duly licensed to practice in that state.

b. Community mental health centers accredited pursuant to 441—Chapter 24.

c. Psychologists licensed to practice in Iowa and who meet the standards of the National Register of Health Service Providers in Psychology, 1981 edition, published by the council for the National Register of Health Service Providers in Psychology. Psychologists in other states are eligible to participate when they are duly licensed to practice in that state and meet the standards of the National Register of Health Service Providers in Psychology.

d. Residential care facilities licensed by the department of inspections and appeals.

e. Supported employment service providers accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) or certified to provide services under the HCBS waiver program pursuant to rule 441—77.37(249A) or 441—77.39(249A).

f. Supported community living providers accredited pursuant to 441—Chapter 24 or certified to provide services under the HCBS waiver program pursuant to rule 441—77.37(249A) or 441—77.39(249A).

77.42(2) Additional requirements. Providers of rehabilitation services to adults with chronic mental illness shall:

a. Request criminal history record information on all employees and applicants to whom an offer of employment is made, as required by Iowa Code section 135C.33(5), and

b. Certify that any services delivered by either a paraprofessional or a licensed professional, as defined at 441—

HUMAN SERVICES DEPARTMENT[441](cont'd)

subrule 78.48(1), through a contract with or employment by the enrolled provider shall comply with the requirements that are applicable to the enrolled provider under this rule.

This rule is intended to implement Iowa Code section 249A.4 and 2000 Iowa Acts, Senate File 2435, section 8, subsection 11.

ITEM 2. Amend 441—Chapter 78 by adopting the following **new** rule:

441—78.48(249A) Rehabilitation services for adults with chronic mental illness. Subject to the requirements of this rule, payment shall be approved for the services listed in subrule 78.48(6) when provided to adults with a chronic mental illness. These services must be rehabilitative in nature and may not be primarily habilitative. Services must be designed to promote integration and stability in the community, quality of life, and the person's ability to obtain or retain employment or to function in other nonwork, role-appropriate settings.

78.48(1) Definitions.

"Adult" means a person 18 years of age or older.

"Adults with a chronic mental illness" means adults with a persistent mental or emotional disorder that seriously impairs their functioning relative to primary aspects of daily living such as personal relations, living arrangements, or employment. Adults with chronic mental illness typically meet at least one of the following criteria:

1. Have undergone psychiatric treatment more intensive than outpatient care, more than once in a lifetime (e.g., emergency services, alternative home care, partial hospitalization or inpatient hospitalization).

2. Have experienced at least one episode of continuous, structured supportive residential care other than hospitalization.

3. In addition, these persons typically meet at least two of the following criteria on a continuing or intermittent basis for at least two years:

- Are unemployed, or employed in a sheltered setting, or have markedly limited skills and a poor work history.
- Require financial assistance for out-of-hospital maintenance and may be unable to procure this assistance without help.
- Show severe inability to establish or maintain a personal social support system.
- Require help in basic living skills.
- Exhibit inappropriate social behavior that results in demand for intervention by the mental health or judicial system.

In atypical instances, a person who varies from the above criteria could still be considered to be a person with chronic mental illness.

Notwithstanding the foregoing, for the purposes of this rule persons with mental disorders resulting from Alzheimer's disease or substance abuse shall not be considered chronically mentally ill.

"Case planner" means an individual performing the functions described under subrule 78.48(3) who meets one of the following qualifications:

1. Has a bachelor's degree with 30 semester hours or equivalent quarter hours in a human services field and at least one year of experience in the delivery of services to the population groups served.

2. Has an Iowa license to practice as a registered nurse and at least three years of experience in the delivery of services to the population groups served.

"Central point of coordination (CPC)" is defined as in rule 441—25.11(331).

"Comprehensive plan" means a written plan of care completed by the recipient's case planner as to that recipient's need for services including identification of the rehabilitative service needs related to the recipient's chronic mental illness.

"Crisis" means a situation in which a person is at immediate risk of causing harm to self or others.

"Department" means the Iowa department of human services or its designee.

"Direct contact" means a provider's face-to-face interaction with a person for the delivery of a rehabilitative service.

"Legal representative" means a person authorized by law to act on behalf of a person with regard to a matter described in this rule.

"Licensed practitioner of the healing arts" or "LPHA" means a person enrolled as a Medicaid provider who is:

1. A physician (M.D. or D.O.); or
2. A psychologist who meets the standards of the National Register of Health Service Providers in Psychology, 1981 edition, published by the council for the National Register of Health Service Providers in Psychology.

"Licensed professional" means one of the following professionals licensed under Iowa law and employed by an enrolled Medicaid provider, under contract with a Medicaid provider, or employed by a professional association or institution of higher learning under contract with a Medicaid provider:

1. Mental health counselor.
2. A bachelor, master, or independent social worker.
3. Registered nurse.
4. Advanced registered nurse practitioner.
5. Physician assistant.

"Medicaid provider" means an individual or entity with which the Iowa Medicaid program has a provider agreement to provide rehabilitation services consistent with this rule.

"Paraprofessional" means a person who:

1. Is not a licensed practitioner of the healing arts (LPHA) or a licensed professional.
2. Provides services consistent with the rehabilitation component of a comprehensive plan for the recipient and under the supervisory oversight of an LPHA.
3. Has demonstrated competency in delivering the rehabilitative services delivered, in accordance with the standards of a nationally recognized organization offering training in the area in which the paraprofessional delivers services, as certified by the supervising LPHA.
4. Delivers the services through employment by or a contract with a provider enrolled in the Medicaid program.

"Peer support counselor" means a paraprofessional who has been diagnosed with a chronic mental illness, who provides counseling services to other adults with the same or a similar diagnosed mental illness and who meets the following requirements in addition to those of a paraprofessional:

1. Has completed training by a nationally recognized peer counseling and support training organization, as certified by the supervising LPHA.
2. Abides by the ethical guidelines and requirements applicable to a licensed mental health counselor as reflected in the National Board for Certified Counselors code of ethics including, but not limited to, guidelines regarding patient confidentiality, nonfraternization with patients, and mandatory abuse reporting requirements.

"Rehabilitation services for adults with chronic mental illness" means the services listed under subrule 78.48(6).

"Rehabilitative necessity" and "rehabilitatively necessary" means services that are:

1. Reasonable and necessary;

HUMAN SERVICES DEPARTMENT[441](cont'd)

2. Rehabilitative in nature and not habitative;
3. Designed to promote a recipient's integration and stability in the community and quality of life; and
4. Designed to promote a recipient's ability to obtain or retain employment or to function in nonwork settings and address the symptoms of mental and functional disabilities and behaviors resulting from chronic mental illness that interfere with these activities.

78.48(2) Requirements for covered services. Rehabilitation services for adults with chronic mental illness provided under Iowa Medicaid shall be limited to those services that are rehabilitatively necessary and that meet all of the requirements below. The rehabilitation service must be:

- a. Included in a comprehensive plan developed as specified in subrule 78.48(3).
- b. Consistent with professionally accepted guidelines and standards of practice in behavioral health care.
- c. Furnished in the most appropriate and least restrictive setting in which the service can be safely provided and at the most appropriate level for the individual.
- d. Provided by or through a provider enrolled in the Iowa Medicaid program. Medicaid providers may employ or contract with paraprofessionals or licensed professionals to deliver rehabilitation services to recipients, subject to the following conditions:

(1) Paraprofessionals and licensed professionals may only provide the services under the supervision of an LPHA.

(2) Services delivered by a paraprofessional or licensed professional through a contract with or employment by an enrolled provider shall comply with the requirements that are applicable to the enrolled provider.

(3) Peer support counseling may be provided only by a "peer support counselor."

78.48(3) Comprehensive treatment plan. A comprehensive treatment plan that includes a rehabilitation service component must be developed by a case planner in coordination with an interdisciplinary team before a recipient receives rehabilitation services. The following limitations and requirements shall apply:

a. A written assessment of need shall be made by the recipient's case planner as to the recipient's need for services, including identification of the rehabilitation service needs related to the recipient's chronic mental illness.

b. The comprehensive plan shall be developed by a case planner designated by the recipient or the recipient's legal representative and shall be based upon an assessment of the following:

(1) The social, cultural, and other factors which may affect the recipient's ability to maintain the current level of functioning or achieve a higher level of functioning.

(2) The recipient's current level of functioning and any barriers to maintaining the current or achieving a higher level of functioning.

(3) The appropriate services and service settings necessary to assist the recipient to maintain the current or achieve a higher level of functioning.

c. The interdisciplinary team shall include all persons or providers whose participation is necessary and appropriate relative to the recipient's needs and situation, as determined by the case planner.

d. The comprehensive plan shall include or identify the following:

(1) Individualized goals for the recipient.

(2) Objectives for the recipient specific to the recipient's individual needs and in the form of measurable and time-limited statements of what is to be accomplished.

(3) The specific services to be provided to the recipient that will achieve the stated goals and objectives.

(4) The providers, agencies or other persons who will be responsible for providing the indicated services.

(5) The date of service initiation and the anticipated duration of services.

(6) The persons legally authorized to act on behalf of the recipient, when applicable.

e. The case planner shall assist the recipient to obtain all the services identified in the comprehensive plan. This shall include securing initial and continuing approval by an LPHA as required for Medicaid funding under subrule 78.48(4) for rehabilitation services. The case planner shall also provide the CPC for the county with financial responsibility for the recipient with information regarding the rehabilitative services in the comprehensive plan that are approved by the LPHA for service-tracking purposes.

f. The case planner shall monitor the services and service settings identified in the comprehensive plan to ensure that they continue to be necessary and appropriate and shall communicate with the interdisciplinary team regarding these issues. The case planner shall:

(1) Do a quarterly face-to-face review of the recipient's progress towards achieving the goals and objectives in the comprehensive plan.

(2) Review the recipient's level of functioning and continued need for the services at least annually, or more frequently if the recipient's conditions warrant. This review shall be based on the quarterly determinations required by subparagraph (1) above. The comprehensive plan shall be revised based on the results of this review and using the process set forth in paragraph 78.48(3)"b."

(3) Inform the CPC for the county with financial responsibility for the recipient of any changes made in the rehabilitation services included in the recipient's comprehensive plan and provide the CPC with any information regarding any changes in the services approved by the LPHA.

78.48(4) Approval of rehabilitation services by an LPHA.

a. As a condition of Medicaid reimbursement, rehabilitation services must be approved by an LPHA as appropriate for the recipient before receipt of the services.

b. As a condition of ongoing Medicaid funding for rehabilitation services, the LPHA shall review and approve the services as appropriate to the recipient every 180 calendar days.

78.48(5) Individual eligibility for rehabilitation services. In order for individuals to be eligible for rehabilitation services, the individuals must meet the definition of "adults with a chronic mental illness."

78.48(6) Services. Rehabilitation services for adults with chronic mental illness are limited to the following:

a. Community support services. Community support services are services that address mental and functional disabilities that negatively affect integration and stability in the community or quality of life and that reduce or manage those symptoms of or behaviors resulting from mental illness that interfere with a person's ability to obtain or retain employment or to function in other nonwork, role-appropriate settings. Community support services are limited to the following:

(1) Symptom management and support services. These services are age-appropriate, individualized training and supports available on a 24-hour basis, seven days a week, to enable persons with mental illness to obtain optimal functioning. Activities include, but are not limited to, nursing and medication monitoring, behavioral skills training for

HUMAN SERVICES DEPARTMENT[441](cont'd)

stress and symptom management, reality orientation to help the individual identify and manage the individual's symptoms of mental illness, supportive counseling in times of crisis, and training to adapt to and cope with stressors.

(2) Community living skills training services. These services are age-appropriate skills training or supportive interventions that focus on the improvement of communication skills, appropriate interpersonal behaviors, and other skills necessary for independent living or, when age-appropriate, for functioning effectively with family, peers, and teachers. Training for independent living may include, but is not limited to, skills related to personal hygiene, household tasks, transportation use, money management, the development of natural supports, access to needed services in the community (e.g., medical care, dental care, legal services), living accommodations, and social skills (e.g., communicating one's needs and making appropriate choices for the use of leisure time).

(3) Employment-related services. These services are age-appropriate training and supports that are not job- or task-specific and have as their focus the development of skills to reduce and manage the symptoms of mental illness that interfere with the person's ability to make vocational choices and to attain or retain employment. Included are activities such as skills training related to task focus, maintaining concentration, task completion, planning and managing activities to achieve outcomes, personal hygiene, grooming, communication, and skills training related to securing appropriate clothing, developing natural supports, and arranging transportation. Also included are supportive contacts in an educational setting on or off the work site to reduce or manage behaviors or symptoms related to the individual's mental illness that interfere with job performance or progress toward the development of skills that would enable the individual to obtain or retain employment.

b. Day program services. Day program services are limited to the following:

(1) Day program for skills training. These services are age-appropriate and site-appropriate services provided to persons who require skills training to increase integration and stability in the community, establish support networks, increase the persons' awareness of the community, develop coping strategies, and function effectively in their social environment. Services shall concentrate on skills training activities focusing on symptom management, independent living, self-reliance, general employment interventions, im-

pulse control, and effective interactions with peers, family, and teachers.

(2) Day program for skills development. These services are age-appropriate, site-based services provided to persons who are in need of day program services to ensure personal well-being, to limit skill deterioration, to promote skill development, and to reduce the risk of or duration of institutionalization. Services focus on the development of functional skills, symptom management and reduction, nursing services, and training in activities of daily living, such as skills related to the development of age-appropriate interests and personal care skills.

78.48(7) Service location. Rehabilitation services for adults with a chronic mental illness must be provided in a service location that is consistent with the rehabilitation component of the recipient's comprehensive plan.

78.48(8) Excluded services. Rehabilitation services for adults with a chronic mental illness do not include any of the following:

- a. Services to persons under 65 years of age residing in institutions for mental diseases as defined in 42 CFR 435.1009(2) as amended to November 10, 1994.
- b. Job- and task-specific vocational services.
- c. Services which are solely educational in nature.
- d. Room and board.
- e. Services that are otherwise covered by the Iowa Medicaid program or that are an integral and inseparable part of another Medicaid-reimbursable service including, but not limited to, case management services, institutional services, HCBS waiver services, or services under the Iowa Plan for Behavioral Care.
- f. Inpatient hospital services.
- g. Respite services.
- h. Family support services.
- i. Services that are not in the person's comprehensive plan.
- j. Any services not provided directly to the eligible recipient.

This rule is intended to implement Iowa Code section 249A.4 and 2000 Iowa Acts, Senate File 2435, section 8, subsection 11.

ITEM 3. Amend rule 441—79.1(249A) as follows:
Amend subrule **79.1(2)** by adopting the following **new** basis of reimbursement provider category in alphabetical order:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Rehabilitation services for adults with a chronic mental illness providers, including:		
1. Community support service providers, including:		
Symptom management and support service providers	Retrospective cost-related. See 79.1(19)	Retrospective rate
Community living skills training services providers	Retrospective cost-related. See 79.1(19)	Retrospective rate
Employment-related service providers	Retrospective cost-related. See 79.1(19)	Retrospective rate
2. Day program services, including:		
Skills training providers	Retrospective cost-related. See 79.1(19)	Retrospective rate
Skills development providers	Retrospective cost-related. See 79.1(19)	Retrospective rate

HUMAN SERVICES DEPARTMENT[441](cont'd)

Adopt the following **new** subrule:

79.1(19) Reimbursement for rehabilitation services for adults with chronic mental illness.

a. Reimbursement methodology. Providers are reimbursed on the basis of a unit-of-service rate calculated retrospectively for each participating provider based on reasonable and proper costs of operation with suitable retroactive adjustments based on submission of Form 470-0664, Financial and Statistical Report, and Form 470-3449, Supplemental Schedule, by the provider. The retroactive adjustment represents the difference between the amount received by the provider during the year for covered services and the amount determined in accordance with an accepted method of cost apportionment (as specified in OMB Circular A-87) to be the actual cost of service rendered to medical assistance recipients.

b. County payment. Pursuant to 2000 Iowa Acts, Senate File 2435, section 8, subsection 11, county funding shall be used to provide the nonfederal share of funding for rehabilitation services to adults with chronic mental illness for whom a county is financially responsible. State funding shall be used to provide the nonfederal share of funding for persons with state case status.

ITEM 4. Amend subrule **80.2(2)** by adopting the following **new** paragraph "**ap**":

ap. Providers of rehabilitation services to adults with a chronic mental illness shall submit claims on Form HCFA-1500, Health Insurance Claim Form. Services of paraprofessionals, as defined at 441—subrule 78.48(1), who are not of a provider category able to enroll, shall be billed through an enrolled provider using Form HCFA-1500, Health Insurance Claim Form.

ARC 0131B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

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

The Seventy-eighth General Assembly directed the Department to increase the reimbursement rate for state fiscal year 2000 for critical access hospitals to the rate provided for these hospitals under the federal Medicare program.

The Balanced Budget Amendment Act of 1997, Rural Hospital Flexibility Grant Program, provides guidelines for Medicare to reimburse critical access hospitals approved under the critical access hospital (CAH) program for the reasonable cost of services provided. A critical access hospital is defined as a facility that serves a rural or vulnerable population and is necessary to the economic health and well-being of the surrounding community.

Under the critical access hospital (CAH) program, the CAH is reimbursed by Medicare for reasonable costs, rather

than on a DRG or APG basis. The Department of Public Health has implemented and oversees the CAH program. The Health Care Financing Administration (HCFA) certifies hospitals as critical access hospitals. The Department of Inspections and Appeals inspects and licenses critical access hospitals.

According to Medicare Conditions of Participation for critical access hospitals as described in 42 CFR Part 485, Subpart F, and state hospital licensure requirements administered by the Department of Inspections and Appeals, to qualify as a critical access hospital the hospital shall:

- Be located in a rural area as defined by the Medicare program.
- Be no less than 35 miles from another hospital or be designated by the Department of Public Health as a necessary provider of health care services.
- Provide 24-hour emergency care.
- Maintain no more than 15 acute care inpatient beds.
- Have a maximum of 25 acute care inpatient beds in the case of a hospital having a swing-bed agreement with a limit of 15 acute care patients.
- Limit stays to a maximum of a 96-hour annual average.

Additionally, the hospital shall continue to comply with all general hospital licensure requirements as defined in Department of Inspections and Appeals rules at 481—Chapter 51.

There are approximately 45 hospitals that could qualify to become CAHs over the next five years. As of August 31, 2000, there are 11 certified CAHs, and 8 more are in the process of certification.

These amendments provide for an additional annual payment to critical access hospitals based on the reasonable cost of services provided to Medicaid patients. The state legislature appropriated \$250,000 from the Tobacco Settlement funds for the Department to reimburse approved critical access hospitals at the same rates as Medicare.

These amendments do not provide for waivers in specific situations because they confer a benefit on CAHs. All CAHs should be reimbursed using the same methodology.

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before October 11, 2000.

These amendments are intended to implement Iowa Code section 249A.4 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, paragraph "g."

The following amendments are proposed.

ITEM 1. Amend subrule **79.1(1)** by adopting the following **new** paragraph "**g**":

g. Retrospectively adjusted prospective rates. Critical access hospital providers are reimbursed prospectively on a DRG basis for inpatient care and an APG basis for outpatient care, pursuant to subrule 79.1(5), with retrospective adjustments based on annual cost reports submitted by the hospital at the end of the hospital's fiscal year. The retroactive adjustment equals the difference between the reasonable costs of providing covered services to eligible fee-for-service Medicaid recipients (excluding recipients in managed care), determined in accordance with Medicare cost principles, and the Medicaid fee-for-service reimbursement received on the DRG and APG basis. Amounts paid prior to adjustment that exceed reasonable costs shall be recovered by the department. The base rate upon which the DRG and APG payment is built shall be changed after any retrospective adjustment to

HUMAN SERVICES DEPARTMENT[441](cont'd)

reflect, as accurately as is possible, the reasonable costs of providing covered services to eligible fee-for-service Medicaid recipients for the coming year using the most recent uti-

lization as submitted to the fiscal agent and Medicare cost principles.

ITEM 2. Amend subrule 79.1(2) by adopting the following new basis of reimbursement provider category in alphabetical order:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Hospitals (Critical access)	Retrospectively adjusted prospective rates. See 79.1(1)“g” and 79.1(5)	The reasonable cost of covered services provided to medical assistance recipients or the upper limits for other hospitals, whichever is greater.

ITEM 3. Amend subrule 79.1(5) as follows:
Amend paragraph “a” by adopting the following new definition in alphabetical order:

“Critical access hospital” or “CAH” means a hospital licensed as a critical access hospital by the department of inspections and appeals pursuant to rule 481—51.52(135B).

Adopt the following new paragraph “aa”:
aa. Retrospective adjustment for critical access hospitals. Payments to critical access hospitals pursuant to paragraphs 79.1(5)“a” to “z” are subject to a retrospective adjustment equal to the difference between the reasonable costs of covered services provided to eligible fee-for-service Medicaid recipients (excluding recipients in managed care), based on the hospital’s annual cost reports and Medicare cost principles, and the Medicaid fee-for-service reimbursement received pursuant to paragraphs 79.1(5)“a” to “z.” Amounts paid prior to adjustment that exceed reasonable costs shall be recovered by the department. The base rate upon which the DRG and APG payment is built shall be changed after any retrospective adjustment to reflect, as accurately as is possible, the reasonable costs of providing the covered service to eligible fee-for-service Medicaid recipients for the coming year using the most recent utilization as submitted to the fiscal agent and Medicare cost principles.

sent such a request, the Commissioner will issue an order concerning the rates within another 10 days, that is, by October 16, 2000.

ARC 0133B

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 505.8, 513B.14 and 513C.12, the Insurance Division gives Notice of Intended Action to amend Chapter 5, “Regulation of Insurers—General Provisions,” Chapter 71, “Small Group Health Benefit Plans,” and Chapter 75, “Iowa Individual Health Benefit Plans,” Iowa Administrative Code.

The first proposed amendment eliminates reporting requirements by insurance carriers to the health data commission. The health data commission under the Department of Public Health was repealed in 1996. The second and third proposed amendments eliminate the lifetime maximum benefit for transplant coverage under the small group and individual guaranteed issue standard health benefit plans.

Any person may make written comments on the proposed amendments on or before October 10, 2000. Comments should be directed to Susan E. Voss, Deputy Insurance Commissioner, Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be transmitted by E-mail to Susan.voss@comm6.state.ia.us or by fax to (515) 281-5692.

A public hearing will be held at 10 a.m. on Friday, October 13, 2000, at the offices of the Insurance Division, 330 Maple Street, Des Moines, Iowa. Persons wishing to provide oral comments should contact Susan Voss no later than October 12, 2000, to be placed on the agenda.

These amendments are intended to implement Iowa Code sections 505.8, 513B.14, and 513C.12.

The following amendments are proposed.

ITEM 1. Rescind rule 191—5.90(145).

INSURANCE DIVISION

Notice of Proposed Workers’ Compensation Rate Filing

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects the premium rates for workers’ compensation insurance.

The rate filing proposes an overall decrease in premium level of 3.8%. The filing has a proposed effective date of January 1, 2001.

A workers’ compensation policyholder or an established organization with one or more workers’ compensation policyholders among its members may request a hearing before the Commissioner of Insurance regarding this rate filing. Such a request must be filed within 15 days of the date of this publication, that is, by October 5, 2000, and shall be made to the Commissioner of Insurance at the Insurance Division of the State of Iowa, 330 Maple, Des Moines, Iowa 50319. Ab-

ITEM 2. Amend subrule 71.14(8), Small Employer Products Matrix, Transplants, as follows:

HOSPITAL SERVICES	MANDATED INDEMNITY		MANDATED HMOs	
	BASIC	STANDARD	BASIC HMO	STANDARD HMO
Transplants		80% \$100,000 Lifetime Max.		80% \$100,000 Lifetime Max.

INSURANCE DIVISION[191](cont'd)

ITEM 3. Amend subrule 75.10(5), Iowa Individual Products Matrix, Transplants, as follows:

General	MANDATED INDEMNITY/ODS				MANDATED HMO	
	BASIC	STANDARD	PPO		BASIC	STANDARD
			In	Out		
Transplants	None	80% (\$100,000 lifetime max.)	80% (\$100,000 lifetime max.)	80% (\$100,000 lifetime max.)	None	80% (\$100,000 lifetime max.)

ARC 0126B

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 505.8 and 507A.4, subsection 10, paragraph “b,” the Insurance Division gives Notice of Intended Action to adopt a new Chapter 77, “Multiple Employer Welfare Arrangements,” Iowa Administrative Code.

The proposed new chapter provides guidelines for certain multiple employer welfare arrangements allowed pursuant to Iowa Code section 507A.4, subsection 10, paragraph “b.” The rules provide the application process for a person to obtain and maintain a certificate of registration. The rules also outline the financial requirements for registration, premium tax guidelines, and policy or contract information. The rules contain guidelines on MEWA examinations, trade practices, insolvency and the suspension or revocation of a certificate.

Any person may make written comments on the proposed rules on or before October 10, 2000. These comments should be directed to Susan E. Voss, Deputy Insurance Commissioner, Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be transmitted by E-mail to susan.voss@comm6.state.ia.us or by fax to (515) 281-5692.

A public hearing will be held at 10 a.m. on October 11, 2000, at the offices of the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Persons wishing to provide oral comments should contact Susan Voss no later than October 10, 2000, to be placed on the agenda.

These rules are intended to implement Iowa Code section 507A.4, subsection 10, paragraph “b.”

The following new chapter is proposed.

**CHAPTER 77
MULTIPLE EMPLOYER WELFARE
ARRANGEMENTS**

191—77.1(507A) Certificate of registration. A person shall not establish or maintain an employee welfare benefit plan which is a multiple employer welfare arrangement (hereinafter MEWA) in this state unless the MEWA obtains and maintains a certificate of registration pursuant to this rule.

This rule is intended to implement Iowa Code section 507A.4.

191—77.2(507A) Application for certificate of registration.

77.2(1) A person wishing to obtain a certificate of registration pursuant to this chapter shall register and submit a plan of operation with the commissioner. This application and plan of operation shall include the following:

a. A business plan including a copy of all contracts or other instruments which the MEWA proposes to make with or sell to its members, a copy of its plan description and the printed matter to be used in the solicitation of members.

b. Copies of all articles, bylaws, agreements, or other documents or instruments describing the rights and obligations of employers, employees, and beneficiaries with respect to the MEWA.

c. A current list of all members of the employer group or association sponsoring the MEWA and a description of the relationship among the employers which serves as the basis for the formation of the association or employer group.

d. A description of the activities of the association or group of employers on behalf of its members other than the sponsorship of the MEWA.

e. Current financial statements of the MEWA which shall include at a minimum balance sheets, income statement, cash flow statement and detailed listing of assets.

f. An actuarial opinion prepared, signed, and dated by a person who is a member of the American Academy of Actuaries which states that appropriate loss and loss adjustment reserves have been established, that adequate premiums are being charged, and that the association is operating in accordance with sound actuarial principles and in conformance with this rule.

g. A statement from an authorized representative of the applicant which certifies all of the following:

(1) The MEWA is administered by an authorized insurer or an authorized third-party administrator.

(2) The MEWA has been in existence and has provided health insurance for at least five years prior to July 1, 1997.

(3) The MEWA was established by a trade, industry, or professional association of employers that has a constitution or bylaws, and has been organized and maintained in good faith for at least ten continuous years prior to July 1, 1997.

(4) The association or group of employers sponsoring the MEWA is engaged in substantial activity for its members other than sponsorship of an employer welfare benefit plan.

(5) The association is a nonprofit entity organized under applicable Iowa law.

h. A certificate from the applicant that the MEWA is in compliance with all applicable provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

i. A copy of the indemnity agreement jointly and severally binding the MEWA with private employers and each member of the MEWA to meet the covered obligations of each member in a form approved by the commissioner.

j. Any additional information requested by the commissioner.

INSURANCE DIVISION[191](cont'd)

77.2(2) The commissioner shall examine the application and supporting documents submitted by the applicant and shall have the power to conduct any investigation which the commissioner may deem necessary and to examine under oath any persons interested in or connected with the MEWA.

77.2(3) Within a reasonable time, the commissioner shall issue to the MEWA a certificate upon finding that the applicant MEWA has met all requirements, or the commissioner shall notify the applicant setting forth reasons for a denial upon finding that the applicant MEWA does not meet all the requirements.

77.2(4) Modifications to the plan of operation including but not limited to amendments to articles of incorporation and bylaws shall be submitted for prior approval to the commissioner.

This rule is intended to implement Iowa Code section 507A.4.

191—77.3(507A) Financial requirements.**77.3(1) Surplus.**

a. Unless otherwise provided below or pursuant to the discretion of the commissioner, each MEWA shall deposit with an organization or trustee meeting the requirements of 191—32.4(508) cash, securities or any combination of these that is acceptable in the amount set forth below. In addition to the requirements set forth below, the commissioner may increase the amount required to be deposited whenever, in the commissioner's judgment, it is necessary to do so to protect the enrollees of a MEWA.

b. The surplus requirement for a MEWA shall be the greater of:

(1) \$500,000; or

(2) An amount equal to 10 percent of the written premium as of the previous December 31.

77.3(2) Reserves and stop-loss coverage.

a. MEWAs shall have at all times aggregate excess stop-loss coverage providing the MEWA with coverage with an attachment point which is not greater than 110 percent of actuarially projected losses on a calendar-year basis.

b. MEWAs shall establish and maintain specific stop-loss coverage providing the MEWA with coverage with an attachment point which is not greater than 5 percent of annual expected claims for purposes of this subrule and shall provide for adjustments in the amount of that percentage as may be necessary to carry out the purposes of this subrule as determined by sound actuarial principles.

c. MEWAs shall establish and maintain appropriate loss and loss adjustment reserves determined by sound actuarial principles.

d. Premiums shall be set to fund at least 100 percent of the MEWA's actuarially projected losses plus all other costs of the MEWA.

e. All coverage obtained pursuant to this subrule shall contain a provision allowing for at least 90 days' notice to the commissioner upon cancellation or nonrenewal of the contract.

f. No contract or policy of per occurrence or aggregate excess insurance shall be recognized in considering the ability of an applicant to fulfill its financial obligations under this subrule, unless such contract or policy is issued by a company that is:

(1) Licensed to transact business in this state; or

(2) Authorized to do business in Iowa as an accredited reinsurer.

77.3(3) Filing requirements. The following reports shall be filed with the commissioner.

a. Annual report. A MEWA shall annually, on or before

the first day of March, file with the commissioner of insurance a report which has been verified by at least two of its principal officers and which covers the preceding calendar year. The report shall be on the form designated by the commissioner. The report shall be completed using statutory accounting practices and shall include information required by the commissioner. The commissioner may request additional reports and information from a MEWA as deemed necessary.

b. Independent actuarial report. A MEWA shall annually, on or before the first day of March, file with the commissioner of insurance an independent actuarial opinion prepared in conformance with this rule. The commissioner may conduct an independent actuarial review of a MEWA in addition to the actuarial opinion required by this rule. The cost of any actuarial review shall be paid by the MEWA.

c. Certificate of compliance. A MEWA shall annually, on or before the first day of March, file a certificate of compliance, which shall be signed and dated by the appropriate official representing the MEWA and shall certify the following:

(1) That the plan meets the requirements of this rule and the applicable provisions of the Iowa statutes and regulations;

(2) That an independent actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and the financial condition of the plan. The actuarial opinion must include, but is not limited to, a brief commentary about the adequacy of the reserves, rates, and other financial condition of the plan, a test of the prior year's claim reserve, a brief description of how the reserves were calculated, and whether or not the plan is able to cover all reasonably anticipated expenses. The actuarial opinion shall be prepared, signed, and dated by a person who is a member of the American Academy of Actuaries;

(3) That a written complaint procedure has been implemented. The certificate shall also list the number of complaints filed by participants under the written complaint procedure, and the percentage of participants filing written complaints in the prior calendar year; and

(4) That the MEWA has contracted with an insurer authorized to do business in this state or with a third-party administrator who holds a current certificate of registration issued by the commissioner pursuant to Iowa Code section 510.21.

This rule is intended to implement Iowa Code section 507A.4.

191—77.4(432,507A) Premium tax. Remittance of premium tax shall be payable to the State of Iowa in an amount equal to 2 percent of written premiums annually on or before March 1.

This rule is intended to implement Iowa Code section 432.1.

191—77.5(507A) Policy or contract. All contracts issued by a MEWA shall comply with the following:

77.5(1) Notice to purchasers. Every MEWA application for insurance and every policy and certificate issued by a MEWA shall contain in ten-point type on the front page the following notice prominently displayed:

NOTICE

This policy is issued by a multiple employer welfare association (MEWA). MEWAs are not subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your MEWA.

INSURANCE DIVISION[191](cont'd)

77.5(2) MEWAs must offer on a guarantee-issue basis health benefits to all individuals who qualify as members or enrollees of the association.

77.5(3) MEWAs shall become members of the Iowa Individual Health Benefit Reinsurance Association established under Iowa Code section 513C.10.

77.5(4) MEWAs shall offer only medical, dental, optical, surgical, hospital, accident and sickness or disability benefits.

77.5(5) All contracts or policies issued by a MEWA shall conform to all the provisions of P.L. 104-191, the Health Insurance Portability and Accountability Act of 1996, including but not limited to guaranteed issue of all products, preexisting condition limitations, renewability, and portability provisions as well as the issuance of prior coverage certificates to enrollees no longer eligible for plan coverage.

This rule is intended to implement Iowa Code section 507A.4.

191—77.6(507A) Assessments.

77.6(1) The following disclosure shall be made to each employer member of the MEWA: The benefits and coverages described herein are provided through a self-insured trust fund established and funded in full or in part by a group of employers. It is not a licensed insurance company and it is not protected by a guaranty fund in the event of insolvency. Participating employers are jointly and severally liable for any losses incurred or as determined by the trust or as directed by the division.

77.6(2) If at any time the surplus of the trust is below that which is required by law, the fund shall file with the division a plan to assess all employers within 15 days of such determination to bring the MEWA into compliance with this rule. The assessment shall take place no later than 45 days after the filing of the plan.

77.6(3) In the event that any member fails to pay the member's assessment, the other members shall be assessed within 60 days of the original assessment to bring the MEWA into compliance with this rule.

77.6(4) Upon default of a member to timely pay an assessment, the MEWA shall institute legal action against those members who fail to pay the assessment. Any recoveries made shall at the discretion of the board of trustees be refunded to those employers who paid the additional assessment.

This rule is intended to implement Iowa Code section 507A.4.

191—77.7(507A) Filing fee. A filing fee of \$100 shall accompany each application for registration as a multiple employer welfare MEWA.

This rule is intended to implement Iowa Code section 507A.4.

191—77.8(507A) Agreements and management contracts. Any agreement between the MEWA and any administrator, service company, or other entity shall be made available for review in the office of the commissioner upon request by the commissioner.

This rule is intended to implement Iowa Code section 507A.4.

191—77.9(507A) Examination.

77.9(1) Each MEWA shall be subject to examination by the commissioner in accordance with Iowa Code chapter 507. Chapter 507 shall govern all aspects of the examination.

77.9(2) The commissioner may make an examination of a MEWA as often as the commissioner considers it necessary, but not less frequently than once every five years. The expenses of the examination shall be assessed against the MEWA being examined in a manner in which expenses of examinations are assessed against an insurance company under Iowa Code chapter 507.

This rule is intended to implement Iowa Code section 507A.4.

191—77.10(507A) Trade practices. MEWAs are subject to applicable provisions of the unfair trade practices Act, Iowa Code chapter 507B.

This rule is intended to implement Iowa Code section 507A.4.

191—77.11(507A) Insolvency. The provisions of Iowa Code chapter 507C shall apply to MEWAs which shall be considered insurers for purposes of that chapter.

This rule is intended to implement Iowa Code section 507A.4.

191—77.12(507A) Suspension or revocation of certificate. The commissioner may sanction a MEWA or suspend or revoke any certificate issued to a MEWA upon a determination that the MEWA has failed to comply with one or more provisions of the statute or these rules.

This rule is intended to implement Iowa Code section 507A.4.

ARC 0144B

**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Speech Pathology and Audiology Examiners hereby gives Notice of Intended Action to amend Chapter 300, "Board of Speech Pathology and Audiology Examiners," and adopt new Chapter 303, "Continuing Education for Speech Pathologists and Audiologists," Iowa Administrative Code.

The proposed amendments rescind the current continuing education rules, adopt a new chapter for continuing education, and renumber the rule regarding organization of the Board.

Any interested person may make written comments on the proposed rules no later than October 19, 2000, addressed to Rosalie Steele, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The Division revised these rules according to Executive Order Number 8. The Division sent letters to the public for comment and four letters were received in return. Division staff also had input on these rules. The comments received were discussed by the Board, and decisions were based on need, clarity, intent and statutory authority, cost and fairness.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A public hearing will be held on October 19, 2000, from 9 to 11 a.m., Fifth Floor, Room E, Room 524, Lucas State Office Building, at which time persons may pre-sent their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

The following amendments are proposed.

ITEM 1. Rescind rule **645—300.8(272C)** and renumber rule **645—300.11(147)** as **645—300.8(147)**.

ITEM 2. Rescind and reserve rules **645—300.9(272C)** and **645—300.10(272C)**.

ITEM 3. Amend 645—Chapter 301, title, as follows:

CHAPTER 301

~~SPEECH PATHOLOGY AND AUDIOLOGY~~

~~CONTINUING EDUCATION AND~~

~~DISCIPLINARY PROCEDURES FOR~~

~~SPEECH PATHOLOGISTS AND AUDIOLOGISTS~~

ITEM 4. Rescind rule **645—301.1(272C)** and renumber rule **645—301.112(272C)** as **645—301.1(272C)**.

ITEM 5. Rescind and reserve rules **645—301.2(272C)** through **645—301.7(272C)**.

ITEM 6. Adopt **new** 645—Chapter 303 as follows:

CHAPTER 303

CONTINUING EDUCATION FOR

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—303.1(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 speech pathology and audiology 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 speech pathology and audiology 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 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 speech pathology or audiology or both in the state of Iowa.

645—303.2(154) Continuing education requirements.

303.2(1) The biennial continuing education compliance period shall extend for a two-year period between January 1 of each even-numbered year and December 31 of each odd-numbered year. Each biennium, each person who is licensed to practice as a speech pathology or audiology licensee in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board. A person holding licensure in both speech pathology and audiology must meet the requirements for each profession.

303.2(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 30 hours of continuing education per biennium for each subsequent license renewal.

303.2(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.

303.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for second renewal.

303.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—303.3(154) Standards for approval.

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

303.3(2) Specific criteria.

a. Subject matters that integrally relate to the practice of speech pathology or audiology or both that will be considered for approval are:

(1) Basic communication processes. Information (beyond the basic certification requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information which would enable expansion of knowledge in the basic communication processes. Any computer course used for continuing education must involve the actual application to the communicatively impaired population.

(2) Professional areas. Information pertaining to disorders of speech, language, and hearing, i.e., various types of disorders of communication, their manifestations, classification and causes; evaluation skills, including procedures, techniques, and instrumentation for assessment; and management procedures and principles in habilitation and rehabilitation of communication disorders. The board shall accept dysphagia courses provided by qualified instructors.

(3) Related areas. Study pertaining to the understanding of human behavior, both normal and abnormal, as well as services available from related professions which apply to the contemporary practice of speech-language pathology/audiology, e.g., theories of learning and behavior; services available from related professions that also deal with persons who have disorders of communication; information from these professions about the sensory, physical, emotional, social or intellectual states of child or adult; and other areas such as general principles of program management, professional ethics, clinical supervision, counseling and interviewing.

Unacceptable subject matter includes personal development, human relations, collective bargaining, and tours. While desirable, these subjects are not applicable to the licensees' skill, knowledge and competence as expressed in Iowa Code section 272C.2, paragraph "g." Such courses will receive no credit toward the minimum 30 hours required for license renewal.

b. Poster sessions may be approved as independent study pursuant to the rules that govern independent study in these rules.

c. All activities of an approved sponsor which are relevant to speech pathology and audiology shall be deemed automatically approved for continuing education credit.

d. A licensee may elect to take the National Teacher Examination in speech pathology or audiology in lieu of earning continuing education credits. The licensee shall have the results of the examination sent to the board by the agency administering the examination.

e. Independent study. The independent study plan must be submitted and approved before the licensee begins the study. The projected date of completion must be recorded on the board-provided application form. An independent study report must be filed within 30 days after the projected date of completion. One 30-day extension may be granted upon the condition that such a request in writing is received within 30 days of the projected date of completion. A reminder will not be sent by the board.

(1) The maximum number of hours for independent study is 16 hours.

(2) Criteria for presentations are as follows:

1. A maximum of 10 hours of the maximum 16 hours of independent study credit will be given for presenting professional programs that meet the criteria as listed in standards for approval.

2. Two hours of credit will be awarded for each hour of new presentation material.

3. A course schedule or brochure must be maintained for audit, and an independent study plan must be submitted and approved prior to the presentation.

4. An independent study report shall be filed within 30 days after the completion of the presentation.

f. A combined total of six hours per biennium may be used for the following activities:

(1) Government regulations;

(2) CPR, child abuse and dependent adult abuse; and

(3) A maximum of two hours may be used for business-related topics.

645—303.4(154) Approval of sponsors, programs, and activities for continuing education.

303.4(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.

a. The form shall include the following:

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

(2) Total hours of instruction presented;

(3) Names and qualifications of instructors including résumés 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) Course 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 for a minimum of four years from the date of the continuing education activity:

(1) The continuing education activity;

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

(3) Number of continuing education clock hours awarded.

e. 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 include:

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

(2) Total hours of instruction to be presented;

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

(4) Evaluation form(s); and

(5) A summary of the evaluations completed by the licensees.

303.4(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 accreditation 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.

303.4(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).

303.4(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.

303.4(5) Voluntary relinquishment. The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—303.5(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.

303.5(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; or

g. The date on which and location where the licensee successfully completed the National Teacher Examination in speech pathology and audiology.

303.5(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, location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;
- (2) Number of contact hours for program attended; and
- (3) Indication of the successful completion of the 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—303.6(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 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 following fees to a maximum of \$350:
 - Renewal fees then due;
 - Penalty fees which have been assessed by the board for failure to renew; and
 - Reinstatement fees which have been assessed by the board for failure to renew; and
3. Provides evidence of satisfactory completion of Iowa continuing education requirements computed by multiplying 30 times the number of years since the license had lapsed to a maximum of 90 hours.

645—303.7(154,272C) Continuing education waiver for active practitioners. A person licensed to practice speech pathology or audiology or both 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 speech pathologist or audiologist.

645—303.8(154,272C) Continuing education exemption for inactive practitioners. A licensee who is not engaged in

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

practice in the state of Iowa may be granted an exemption of continuing education compliance and obtain a certificate of exemption 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 exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board. The licensee shall have completed the required continuing education at the time of reinstatement.

645—303.9(154,272C) Continuing education waiver for disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum educational 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 is 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 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—303.10(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 speech pathology or audiology or both in the state of Iowa, satisfy the following requirements for reinstatement.

303.10(1) Submit written application for reinstatement to the board upon forms provided by the board accompanied by current license fee; and

303.10(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 30 times the number of bienniums a certificate of exemption shall be in effect for such applicant not to exceed 90 hours; or

c. Successful completion of the National Teacher Examination in speech pathology or audiology successfully completed within one year immediately prior to the submission of such application for reinstatement.

d. Payment of the current biennial license renewal fee and reinstatement fee.

645—303.11(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 147.

ARC 0140B**REVENUE AND FINANCE
DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 422.68, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 17, "Exempt Sales," and Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," Iowa Administrative Code.

These amendments concern three exemptions enacted by the 2000 General Assembly. In 2000 Iowa Acts, House File 2569, the Legislature created an exemption from sales and use tax applicable to livestock ear tags sold by nonprofit organizations if the proceeds from the ear tag sales are used in bovine research programs selected or approved by the selling organization.

The Legislature also created, retroactively in 2000 Iowa Acts, House File 2563, an exemption from sales and use tax in favor of goods, wares, merchandise, and taxable services purchased by a nonprofit hospital for use in the fulfillment of written construction contracts. The exemption is applicable only to a limited period. In connection with that exemption, the Legislature also created a right of refund for taxes paid, and this right of refund is applicable to future as well as past periods.

A third enactment, 2000 Iowa Acts, House File 2205, expands the exemption from sales tax applicable to Internet access charges. The exemption is expanded to include the service of providing any information made available through a computer server.

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

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code Supplement section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code Supplement section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 23, 2000, to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

Any interested person may make written suggestions or comments on these proposed amendments on or before October 20, 2000. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 13, 2000.

These amendments are intended to implement Iowa Code Supplement section 422.45 as amended by 2000 Iowa Acts, House Files 2569 and 2563, and Iowa Code Supplement section 422.45, subsection 56, as amended by 2000 Iowa Acts, House File 2205, section 29.

The following amendments are proposed.

ITEM 1. Amend 701—Chapter 17 by adopting the following **new** rule:

701—17.35(422,423) Sales of livestock ear tags. On and after July 1, 2000, sales of livestock ear tags by a nonprofit organization, the income of which is exempt from federal taxation under Section 501(c)(6) of the Internal Revenue Code, are exempt from tax if the proceeds of those sales are used in bovine research programs selected or approved by the nonprofit organization. For the purposes of this rule, the definition of “livestock” is found in subrule 17.9(1).

This rule is intended to implement Iowa Code Supplement section 422.45 as amended by 2000 Iowa Acts, House File 2569.

ITEM 2. Amend subrule 18.20(5) as follows:

18.20(5) Prior to July 1, 1999, charges for access to or use of what is commonly referred to as the “Internet” or charges for other contracted on-line services are the gross receipts from the performance of a taxable service if access is by way of a local or in-state long distance telephone number and if the predominant service offered is two-way transmission and receipt of information from one site to another as described in paragraph “a” of subrule 18.20(1). If a user’s billing address is located in Iowa, a service provider should assume that Internet access or contracted on-line service is provided to that user in Iowa unless the user presents suitable evidence that the site or sites at which these services are furnished are located outside this state.

On and after July 1, 1999, gross receipts from charges paid to a provider for access to an on-line computer service are exempt from tax. An “on-line computer service” is one which provides for or enables multiple users to have computer access to the Internet. Charges paid to a provider for other contracted on-line services which do not provide access to the Internet and which are communication services remain subject to Iowa tax through May 14, 2000.

On and after May 15, 2000, the furnishing of any contracted on-line service is exempt from Iowa tax if the information is made available through a computer server. The exemption applies to all contracted on-line services, as long as they provide access to information through a computer server.

ITEM 3. Amend the implementation clause for rule **701—18.20(422)** as follows:

This rule is intended to implement Iowa Code sections 34A.7(1)“c”(2), 422.42(2), 422.42(3), 422.43(9),

422.45(5), 422.45(8), 422.45 and 422.51(1) as amended by 1999 Iowa Acts, House File 748, and Iowa Code Supplement section 422.45 as amended by 2000 Iowa Acts, House File 2205, section 29.

ITEM 4. Amend rule 701—18.59(422,423) as follows:

701—18.59(422,423) Exempt sales to nonprofit hospitals. On and after July 1, 1998, the gross receipts from sales or rentals of tangible personal property to and from the rendering, furnishing, or performing of services for a nonprofit hospital licensed under Iowa Code chapter 135B are exempt from tax if the property or service purchased is used in the operation of the hospital. A hospital is not entitled to claim a refund for tax paid by a contractor on the sale or use of tangible personal property or the performance of services in the fulfillment of a written construction contract with the hospital. *However, see the circumstances set out below in which sales of goods, wares or merchandise, or taxable services to a hospital for use in the fulfillment of a construction contract, are exempt from Iowa tax.*

For the purposes of this rule, the word “hospital” means a place which is devoted primarily to the maintenance and operation of facilities for diagnosis, treatment, or care, over a period exceeding 24 hours, of two or more nonrelated individuals suffering from illness, injury, or a medical condition (such as pregnancy). The word “hospital” includes general hospitals, specialized hospitals (e.g., pediatric, mental, and orthopedic hospitals, and cancer treatment centers), sanatoriums, and other hospitals licensed under Iowa Code chapter 135B. Also included are institutions, places, buildings, or agencies in which any accommodation is primarily maintained, furnished, or offered for the care, over a period exceeding 24 hours, of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care. Excluded from the meaning of the term “hospital” are institutions for well children; day nursery and child care centers; foster boarding homes and houses; homes for handicapped children; homes, houses, or institutions for aged persons which limit their function to providing food, lodging, and provide no medical or nursing care, and house no bedridden person; dispensaries or first-aid stations maintained for the care of employees, students, customers, members of any commercial or industrial plant, educational institution, or convent; freestanding hospice facilities which operate a hospice program in accordance with 42 CFR § 418 and freestanding clinics which do not provide diagnosis, treatment, or care for periods exceeding 24 hours. This list of inclusions and exclusions is not exclusive. For additional information see 481—Chapter 51.

Ordinarily, goods, wares, or merchandise (such as building materials, supplies, and equipment; see rule 701—19.3(422,423) for definitions) which is purchased by a hospital and used by a contractor in the fulfillment of a written contract with the hospital cannot be purchased exempt from Iowa tax. The goods, wares, and merchandise used in the fulfillment of these construction contracts are not used in the “operation” of a hospital but in activities at least one step removed from that operation. See Polich v. Anderson-Robinson Coal Co., 227 Iowa 553, 288 N.W. 650 (1939).

However, for a limited period, the gross receipts from all sales of goods, wares, or merchandise or from services rendered, furnished, or performed are exempt from tax (or a claim for refund may be filed for tax paid) if the tangible personal property or the taxable service is used in the fulfillment of a written construction contract with a hospital and all of the following circumstances exist:

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

1. *Deliveries under contracts of sale of the goods, wares, or merchandise occurred or the taxable services were rendered, furnished, or performed between July 1, 1998, and December 31, 2001, inclusive. A claim for refund may be filed for any tax paid for this period, so long as the claim is filed prior to April 1, 2002, and the requirements of "2" and "3" below are also met. Claims for refunds of tax, interest, or penalty paid for the period of July 1, 1998, to December 31, 2001, are limited to \$25,000 in the aggregate. If the amount of the claimed refunds for this period totals more than \$25,000, the department must prorate the \$25,000 among all claimants in relation to the amounts of the claimants' valid claims.*

2. *The written construction contract was entered into prior to December 31, 1999, or bonds to fund the construction were issued prior to December 31, 1999.*

3. *The property or services were purchased directly by the hospital or by a contractor as an agent of the hospital. For the purposes of this exemption, no hospital can retroactively designate a contractor to be its agent and by this means transform a contractor's purchases of goods, wares, merchandise, or services into its own. Upon the department's request, a hospital claiming that a contractor is or has been its purchasing agent must present suitable evidence of a principal-agent relationship between itself and the contractor during any period for which exempt sales or a refund is claimed. The best evidence of a principal and purchasing agent relationship is a written document setting out the terms of the relationship and the period for which the agency is in effect; however, other evidence, which is the equivalent of a written document in reliability, will be considered by the department when necessary.*

This rule is intended to implement Iowa Code Supplement section 422.45 as amended by ~~1998 Iowa Acts, House File 2513~~ 2000 Iowa Acts, House File 2563.

ARC 0139B

REVENUE AND FINANCE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 422.68, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," Iowa Administrative Code.

The year 2000 session of the legislature excluded from the definition of a taxable "sale" of tangible personal property any transaction the substance of which is delivered to a purchaser digitally, electronically, or by utilizing cable, radio waves, microwaves, satellites, or fiber optics. The legislation is retroactive to March 15, 1995, and is repealed December 31, 2002. A new rule is created to explain the legislation and certain ramifications.

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

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code Supplement section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code Supplement section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 23, 2000, to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before October 20, 2000. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 13, 2000.

This amendment is intended to implement Iowa Code Supplement section 422.43 as amended by 2000 Iowa Acts, House File 2562, section 2.

The following amendment is proposed.

Amend 701—Chapter 18 by adding the following new rule:

701—18.61(422,423) Exclusion from tax for property delivered by certain media. For the period beginning March 15, 1995, and ending December 31, 2002, inclusive, a taxable "sale" of tangible personal property does not occur if the substance of the transaction is delivered to the purchaser digitally, electronically, or by utilizing cable, radio waves, microwaves, satellites, or fiber optics. This exclusion from tax is not applicable to any leasing of tangible personal property, a lease not being a "sale" of tangible personal property for the purposes of Iowa sales and use tax law, Cedar Valley Leasing, Inc. v. Iowa Department of Revenue, 274 N.W.2d 357 (Iowa 1979). The exclusion is also not applicable to property delivered by any medium other than those listed above. Sales of items such as artwork, drawings, photographs, music, electronic greeting cards, "canned" software (see subrule 18.34(1)), entertainment properties (e.g., films, concerts, books, and television and radio programs), and all other digitized products delivered as described above are not taxable, except the exclusion does not repeal by implication the tax on the service of providing pay television. See rule 701—26.56(422). If an order for a product is placed by way of any of the media described above but the product ordered is delivered by conventional, physical means, e.g., the U.S. Postal Service or common carrier, sale of the product is not excluded from tax under this rule.

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

This rule is intended to implement Iowa Code Supplement section 422.43 as amended by 2000 Iowa Acts, House File 2562, section 2.

ARC 0129B

SECRETARY OF STATE[721]

Notice of Termination

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby terminates the rule making initiated by the Notice of Intended Action published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9890A**, which proposed to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code, by amending rule 721—22.261(52). These amendments were simultaneously Adopted and Filed Emergency as **ARC 9891A**. The period for public comment on the Notice has passed. No comments were received. The Secretary finds no further purpose for the continuation of the rule-making process, since the rule is currently in effect. The rule-making process with regard to **ARC 9890A** is therefore terminated.

**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 September is 8.00%.

**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 September 13, 2000, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 5.70%
- 32-89 days Minimum 5.80%
- 90-179 days Minimum 6.00%
- 180-364 days Minimum 6.00%
- One year to 397 days Minimum 6.00%
- More than 397 days Minimum 6.00%

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

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

ARC 0127B**COMMUNITY ACTION AGENCIES
DIVISION[427]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 216A.92B(2) and chapter 17A, the Commission on Community Action Agencies hereby amends Chapter 10, "Low-Income Home Energy Assistance Program," Iowa Administrative Code.

The purpose of this amendment is to change the closing date for the application period set out in rule 427—10.4(216A,PL97-35,PL98-558). The date in the current rules is not consistent with the closing dates for energy assistance applications in bordering states that end 15 to 30 days after those states' winter moratorium on disconnections. Iowa's moratorium ends on March 31.

Pursuant to Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary and impractical. This finding is based upon the fact that statewide notice and public hearings were held to take public comments regarding the FY 2001 Low-Income Home Energy Assistance Program (LIHEAP) state plan. The extension of the application period to April 15 was part of the proposed plan. All public comments regarding application extension were supportive.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and this amendment should

become effective upon filing on August 25, 2000, as it confers a benefit upon the LIHEAP recipient households. The process of public notification regarding LIHEAP by utilities, community action agencies, and others has commenced due to increased citizen interest resulting from rising fuel prices. Any uncertainty regarding application period would cause public confusion and might result in eligible households not participating in the LIHEAP Program.

This amendment is intended to implement Iowa Code section 216A.92 and PL97-35 as amended by PL98-558.

This amendment became effective August 25, 2000.

The following amendment is adopted.

Amend rule 427—10.4(216A,PL97-35,PL98-558) as follows:

427—10.4(216A,PL97-35,PL98-558) Application period. Clients may apply for energy assistance between the first working day of October and ~~the last working day of February each year.~~ *April 15 of each year.* Applications will be processed and the applicant and the appropriate energy suppliers notified of eligibility within 30 days of the date of application to comply with the terms of the winter moratorium on disconnections. ~~For calendar year 2000 only, the application period shall be extended to the last working day of March.~~

[Filed Emergency 8/25/00, effective 8/25/00]

[Published 9/20/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/20/00.

ARC 0132B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 514I.5(8), the Department of Human Services hereby amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," appearing in the Iowa Administrative Code.

This amendment increases the income limits for the HAWK-I Program from 185 percent of the federal poverty level to 200 percent of the federal poverty level, the maximum amount allowable under federal law.

Under current policy, income limits for children under the HAWK-I Program are from 133 percent to 185 percent of the federal poverty level. The Seventy-eighth General Assembly directed the Department to increase the income limits to 200 percent of the federal poverty level, providing coverage to as many uninsured children as possible. This amendment increases the income limits of the HAWK-I Program to the full extent allowed under federal law.

The Department projects that an additional 6,075 children will be eligible for the HAWK-I Program for state fiscal year 2001. An additional \$669,793 in state dollars was requested to fund HAWK-I expansion to 200 percent of the federal poverty level. The General Assembly did not specifically appropriate any additional state dollars to fund the expansion. Rather, moneys in the HAWK-I trust fund shall be used to offset any program costs for state fiscal year 2001.

This amendment does not provide for waiver in specified situations because it confers a benefit by allowing the Department of Human Services to provide for coverage of medical services for more children under the HAWK-I Program.

This amendment was previously Adopted and Filed Emergency and published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9869A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9868A**.

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

The HAWK-I Board adopted this amendment August 28, 2000.

This amendment is intended to implement Iowa Code section 514I.8(2)"c" as amended by 2000 Iowa Acts, House File 2555, section 9.

This amendment shall become effective November 1, 2000, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subrule 86.2(2), introductory paragraph, as follows:

86.2(2) Income. Countable income shall not exceed 185 200 percent of the federal poverty level for a family of the same size when determining initial and ongoing eligibility for the program.

[Filed 8/30/00, effective 11/1/00]

[Published 9/20/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/20/00.

ARC 0137B

INSPECTIONS AND APPEALS
DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code section 10A.104(5), the Department of Inspections and Appeals hereby amends Chapter 1, "Administration," Iowa Administrative Code.

The amendments are intended to implement 2000 Iowa Acts, Senate File 2390, and relate to the duties and functions of the Department's Investigations, Inspections and Health Facilities Divisions. The Department of Inspections and Appeals (DIA) was created in 1986 as part of the state government reorganization when portions of 15 other state agencies were transferred to DIA. Shortly after DIA was created, the Department's first Director used the authority granted to the director in Iowa Code section 10A.106 to reallocate all health care facility functions into a single division. These amendments formally recognize the Department's structure along the same lines as the appropriations process. Duties formerly assigned to the Inspections and Investigations Divisions are reassigned to the already existing Health Facilities Division. In addition, pursuant to Iowa Code chapter 99B, licensing procedures related to social and charitable gambling are defined within the Department's Inspections Division.

A waiver provision has not been included in the amendments. A waiver provision is not applicable to Chapter 1 because the chapter details the purpose, duties and organizational structure of the Department.

Notice of Intended Action was published in the July 26, 2000, Iowa Administrative Bulletin as **ARC 0002B**.

Written comment was received from the Iowa Department of Human Services correcting the terminology used to describe the family investment program. A change has been made in Item 1 since its publication under Notice of Intended Action. The term "aid to dependent children program" has been amended to read "family investment program."

The Department adopted these amendments on August 30, 2000.

These amendments are intended to implement 2000 Iowa Acts, Senate File 2390.

These amendments will become effective October 25, 2000.

The following amendments are adopted.

ITEM 1. Amend rule 481—1.4(10A) as follows:

481—1.4(10A) Investigations division. This division conducts investigations including but not limited to the following:

1. Investigations relative to the practice of regulated professions and occupations, except those within the jurisdiction of the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.

2. Investigations relative to proposed sales within the state of subdivided land situated outside of the state.

3. Investigations relative to applications for beer and liquor licenses.

4. ~~Investigations relative to the standards and practices of hospitals, hospices, and health care facilities.~~

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

5 4. Investigations relative to the liquidation of overpayment debts owed to the department of human services.

6 5. Investigations relative to the operations of the department of elder affairs.

7 6. Investigations relative to the administration of the state supplemental assistance program, the state medical assistance program, the food stamp program, and the ~~aid to dependent children program~~ *family investment program*.

8 7. Investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.

ITEM 2. Amend rule 481—1.5(10A) as follows:

481—1.5(10A) Inspections division. This division conducts inspections including but not limited to the following:

1. ~~Land situated outside of the state which is proposed for sale within the state.~~ *Licensing procedures related to social and charitable gambling pursuant to Iowa Code chapter 99B.*

2. Food establishments, including groceries, restaurants, hotels, food and beverage vending machines, state educational or charitable institutions for licensing determination, and sanitation inspections in any locality of the state upon the written petition of five or more residents of a particular locality. Correctional and penal institutions are also inspected for sanitary conditions.

3. ~~Licensing procedures relative to the hospice program, hospitals, and health care facilities. The division shall be the sole designated licensing authority for these programs and facilities.~~

4. ~~Hospital and health care facility construction projects and licensing boards established within the department of public health, except the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.~~

5. ~~Child foster care facilities and private institutions for the care of dependent, neglected, and delinquent children.~~

ITEM 3. Adopt the following **new** rule:

481—1.12(10A) Health facilities division. This division conducts inspections and investigations including but not limited to the following:

1. Investigations relative to the standards and practices of hospitals, hospices, and health care facilities.

2. Inspections and other licensing procedures relative to the hospice program, hospitals, and health care facilities. The division shall be the sole designated licensing authority for these programs and facilities.

3. Inspections relative to hospital and health care facility construction projects.

4. Inspections of child foster care facilities and private institutions for the care of dependent, neglected, and delinquent children.

ITEM 4. Amend **481—Chapter 1**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections 10A.104, ~~10A.106~~, and 17A.3(1), paragraph "a," *and Iowa Code Supplement section 10A.106 as amended by 2000 Iowa Acts, Senate File 2390, section 2.*

[Filed 9/1/00, effective 10/25/00]

[Published 9/20/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/20/00.

ARC 0143B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology Examiners hereby amends Chapter 240, "Board of Psychology Examiners," and adopts new Chapter 241, "Continuing Education for Psychologists," Iowa Administrative Code.

The amendments rescind the current continuing education rules; adopt a new chapter for continuing education; renumber the rule regarding grounds for discipline; amend cross references to rules that are no longer in use; and revise the current examination fee.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 12, 2000, as **ARC 9984A**. A public hearing was held on August 2, 2000, from 9 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa. No public comments were received at the hearing.

There is one change from the Notice. In subparagraph 241.3(2)"a"(1), "and" was changed to "or." The organizations listed do not usually cosponsor continuing education activities.

These amendments were adopted by the Board of Psychology Examiners on August 18, 2000.

These amendments will become effective October 25, 2000.

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

The following amendments are adopted.

ITEM 1. Amend subrule **240.10(2)** as follows:

240.10(2) Examination fee for license to practice psychology is \$150. Effective May 1, 1993, the examination fee for a license to practice is \$275. The fee for the Examination for Professional Practice in Psychology is \$350. Effective July 1, 2001, the fee will be \$450.

ITEM 2. Rescind rule **645—240.100(272C)** and renumber rule **645—240.212(272C)** as **645—240.100(272C)**.

ITEM 3. Amend renumbered subrule 240.100(13) as follows:

240.100(13) Failure to report to the board as provided in rule ~~645—240.201(272C)~~ 645—Chapter 13 any violation by another licensee of the reasons for the disciplinary action as listed in this rule.

ITEM 4. Rescind and reserve rules **645—240.101(272C)** to **645—240.103(272C)** and **645—240.105(272C)** to **645—240.109(272C)**.

ITEM 5. Adopt **new** 645—Chapter 241 as follows:

CHAPTER 241

CONTINUING EDUCATION FOR PSYCHOLOGISTS

645—241.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

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

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of psychology 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 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 an approved continuing education activity.

“Inactive license” means the license of a person who is not 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 failed to meet stated obligations within a stated time.

“License” means license to practice.

“Licensee” means any person licensed to practice as a psychologist in the state of Iowa.

“Practice of psychology” means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes, but is not limited to, counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

645—241.2(272C) Continuing education requirements.

241.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board. For the 2001 renewal cycle only, 50 hours of continuing education will be due by June 30, 2002. Continuing education credit earned from December 31, 2000, through June 30, 2001, may be used for either the 2001 renewal cycle or the following biennium. The licensee may use the earned continuing education credit hours only once. Credit may not be duplicated for both compliance periods. This applies for the renewal biennium of 2001 and for the following renewal biennium. Continuing education hours will return to 40 hours each biennium at the end of this prorated compliance period.

241.2(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 40 hours of continuing education per biennium for each subsequent license renewal.

241.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must meet the requirements herein and be approved by the board pursuant to statutory provisions and the rules that implement them.

241.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

241.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—241.3(272C) Standards for approval.

241.3(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 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) Number of program contact hours (One contact hour equals one hour of continuing education credit.); and
 - (3) Official signature or verification by program sponsor.

241.3(2) Specific criteria.

- a. A licensee may obtain continuing education hours of credit by:
 - (1) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.
 - (2) Completing academic coursework that meets the criteria set forth in the rules. Continuing education credit equivalents are as follows:
 - 1 academic semester hour = 15 continuing education hours
 - 1 academic quarter hour = 10 continuing education hours
 - (3) Conducting scholarly research or other activities that integrally relate to the practice of psychology, the results of which are published in a recognized professional publication.
 - (4) Preparing new courses that have received prior approval from the board.
 - (5) Completing home study courses that issue a certificate of completion.
 - (6) Completing courses that are electronically transmitted and issue a certificate of completion.
 - (7) Attending workshops, conferences, or symposiums that meet the criteria in 645—241.3(272C).

b. A combined maximum of 20 hours of credit per biennium may be used for scholarly research and preparation of new courses.

645—241.4(272C) Reporting continuing education by licensee. At the time of license renewal, each licensee shall be

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

required to submit a report on continuing education to the board on a board-approved form.

241.4(1) The information on the form shall include:

- a. Title of continuing education activity;
- b. Date(s);
- c. Sponsor of the activity;
- d. Number of continuing education hours earned; and
- e. Teaching method used.

241.4(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 certificate of attendance or verification for all reported activities that includes the following information:

- (1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;
 - (2) Number of contact hours for program attended; and
 - (3) Indication of the successful completion of the 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 the 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—241.5(272C) Reinstatement of lapsed license. Failure of the licensee to renew within 30 days after the expiration date shall cause the license to lapse. A person who allows the license 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 must 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 and statement of competence to the board;
2. Pays all the renewal fees then due;
3. Pays all the penalty fees which have been assessed by the board for failure to renew;
4. Pays the reinstatement fee; and
5. Provides evidence of satisfactory completion of 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 40 by the number of bienniums since the license lapsed with a maximum of 80 hours. The continuing education hours must be completed within the prior two bienniums of date of application for reinstatement.

645—241.6(272C) Continuing education waiver for active practitioners. A psychologist licensed to practice psychology 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 mili-

tary services or as a government employee outside the United States as a practicing psychologist.

645—241.7(272C) Continuing education exemption for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa may be granted an exemption of continuing education compliance and obtain a certificate of exemption 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 exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board. The licensee shall have completed the required continuing education at the time of reinstatement.

645—241.8(272C) Continuing education waiver for disability or illness. The board may, in individual cases involving 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 is 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 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—241.9(272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and have obtained a certificate of waiver shall, prior to engaging in the practice of psychology in the state of Iowa, satisfy the following requirements for reinstatement.

241.9(1) Reinstatement of the inactive license may be granted by the board if the applicant:

- a. Submits a written application for reinstatement to the board;
- b. Pays all the renewal fees then due; and
- c. Pays the reinstatement fee.

241.9(2) The applicant shall 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 40 by the number of bienniums that the certificate of exemption has been in effect for such applicant, with a maximum of 80 hours. The continuing education hours must be completed within the two most recent bienniums prior to the date of application for reinstatement.

645—241.10(272C) Hearings. In the event of denial, in whole or part, of any application for approval of a continuing education activity for continuing education credit, the applicant or licensee 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 re-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ceipt 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 154B.

[Filed 9/1/00, effective 10/25/00]

[Published 9/20/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/20/00.

ARC 0128B**PUBLIC BROADCASTING
DIVISION[288]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.84(9), the Public Broadcasting Board adopts Chapter 14, "Criteria for Grants," Iowa Administrative Code.

The new chapter sets criteria used for awarding grants or contracts.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 26, 2000, as **ARC 0004B**.

This new chapter is identical to that published under Notice of Intended Action.

This chapter will become effective October 25, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement Iowa Code sections 256.80 to 256.90.

The following **new** chapter is adopted.

**CHAPTER 14
CRITERIA FOR GRANTS**

288—14.1(256) Purpose. The division provides grant funding and contracts to a variety of entities throughout the state for support of educational telecommunications programs. To ensure objective evaluation of applicants for these funds, grant and contract application materials shall contain, at minimum, specific content. Program grant and contract application packets shall be developed by the division in accordance with these rules unless prohibited by or in conflict with appropriation language, the Iowa Code, the Iowa Administrative Code, federal regulations, or interagency agreements between the division and other state agencies.

288—14.2(256) Definitions. For the purpose of these rules, the following definitions shall apply:

"Division" means Iowa Public Television.

"Program grant or contract" means the collective activities of a grant or contract funded through the division.

"Program period" means the period of time during which the division intends to support the program without requiring recompetition for funds. The program period is specified within the grant application.

"Service delivery area" means the defined geographic area for delivery of program services.

288—14.3(256) Requirements. The following shall be included in all program grant and contract application materials made available by the division:

1. Funding source.
2. Program period.

3. Description of eligible applicants.
4. Services to be delivered.
5. Service delivery area.
6. Target population to be served (if applicable).
7. Funding purpose.
8. Funding restrictions.
9. Funding formula (if any).
10. Matching requirement (if any).
11. Reporting requirements.
12. Performance criteria (if any).
13. Need for letters of support or other materials (if applicable).
14. Application due date.
15. Anticipated date of awarding grant/contract.
16. Required components of submitted grant applications.
17. An explanation of the review process and the review criteria to be used by application evaluators, including, if applicable, the number of points allocated per required component.
18. Appeal process in the event an application is denied (only with competitive grant/contract process).

288—14.4(256) Review process (for competitive grants and contracts). The review process to be followed in determining the amount of funds to be approved for any competitive program grant or contract shall be described in the application. The review criteria and point allocation for each criterion shall also be described in the grant application material.

288—14.5(256) Appeal of grant or contract denial or termination. Any applicant may appeal to the administrator the denial of a properly submitted competitive program grant or contract application or the unilateral termination of a competitive program grant or contract. Appeals must be in writing and received within ten working days of the date of the notice of decision and must be based on a contention that the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members. The contested case procedures found in 288—Chapter 13 that govern the administrator's decision shall be applicable to any appeal of denial or termination.

In the notice of appeal, the applicant shall give a short and plain statement of the reasons for the appeal.

The administrator shall issue a decision within a reasonable time, not to exceed 60 days from the date of the appeal.

These rules are intended to implement Iowa Code sections 256.80 to 256.90.

[Filed 8/28/00, effective 10/25/00]

[Published 9/20/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/20/00.

ARC 0142B**REVENUE AND FINANCE
DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14, 421.17 and 422.68, the Department of Revenue and Finance

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

hereby amends Chapter 7, "Practice and Procedure Before the Department of Revenue and Finance," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXIII, Number 1, page 52, on July 12, 2000, as **ARC 9954B**.

Chapter 7 is amended to set forth a new Division III titled "Waiver or Variance." The purpose of this new division is to provide a rule that implements waiver and variance provisions pursuant to 2000 Iowa Acts, House File 2206.

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

This amendment will become effective October 25, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This amendment is intended to implement 2000 Iowa Acts, House File 2206.

The following amendment is adopted.

Amend 701—Chapter 7 by adopting new Division III as follows:

DIVISION III
WAIVER OR VARIANCE

701—7.60(78GA, HF2206) Waiver or variance of certain department rules. All discretionary rules or discretionary provisions in a rule over which the department has jurisdiction, in whole or in part, may be subject to waiver or variance. See subrules 7.60(3) and 7.60(4).

7.60(1) Definitions. The following terms apply to the interpretation and application of this rule:

"Discretionary rule" or "discretionary provisions in a rule" means rules or provisions in rules resulting from a delegation by the legislature to the department to create a binding rule to govern a given issue or area. The department is not interpreting any statutory provision of the law promulgated by the legislature in a discretionary rule. Instead, a discretionary rule is authorized by the legislature when the legislature has delegated the creation of binding rules to the department and the contents of such rules are at the discretion of the department. A rule that contains both discretionary and interpretive provisions is deemed to be a discretionary rule to the extent of the discretionary provisions in the rule.

"Interpretive rules" or "interpretive provisions in rules" means rules or provisions in rules which define the meaning of a statute or other provision of law or precedent where the department does not possess the delegated authority to bind the courts to any extent with its definition.

"Waiver or variance" means an agency action which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

7.60(2) Scope of rule. This rule creates generally applicable standards and a generally applicable process for granting individual waivers or variances from the discretionary rules or discretionary provisions in rules adopted by the department in situations where no other specifically applicable law provides for waivers or variances. To the extent another more specific provision of law purports to govern the issuance of a waiver or variance from a particular rule, the more specific waiver or variance provision shall supersede this rule with respect to any waiver or variance from that rule.

The waiver or variance provisions set forth in this rule do not apply to rules over which the department does not have jurisdiction or when issuance of the waiver or variance

would be inconsistent with any applicable statute, constitutional provision or other provision of law.

7.60(3) Applicability of this rule. This rule applies only to waiver or variance of those departmental rules that are within the exclusive rule-making authority of the department. This rule shall not apply to interpretive rules that merely interpret or construe the meaning of a statute, or other provision of law or precedent, if the department does not possess statutory authority to bind a court, to any extent, with its interpretation or construction. Thus, this waiver or variance rule applies to discretionary rules and discretionary provisions in rules, and not to interpretive rules.

The application of this rule is strictly limited to petitions for waiver or variance filed outside of a contested case proceeding. Petitions for waiver or variance from a discretionary rule or discretionary provisions in rules filed after the commencement of a contested case as provided in 701—7.47(17A) will be treated as an issue of the contested case to be determined by the presiding officer of the contested case.

7.60(4) Authority to grant a waiver or variance. The director may not issue a waiver or variance under this rule unless:

a. The legislature has delegated authority sufficient to justify the action; and

b. The waiver or variance is consistent with statutes and other provisions of law. No waiver or variance from any mandatory requirement imposed by statute may be granted under this rule.

7.60(5) Criteria for waiver or variance. The director may, in the director's sole discretion, issue an order in response to a petition, granting a waiver or variance from a discretionary rule or a discretionary provision in a rule adopted by the department, in whole or in part, as applied to the circumstances of a specified person, if the director finds that the waiver or variance is consistent with subrules 7.60(3) and 7.60(4), and if all of the following criteria are also met:

a. The waiver or variance would not prejudice the substantial legal rights of any person;

b. The rule or provisions of the rule are not specifically mandated by statute or another provision of law;

c. The application of the rule or rule provision would result in an undue hardship or injustice to the petitioner; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the rule or rule provision for which the waiver or variance is requested.

7.60(6) Director's discretion. The final decision to grant or deny a waiver or variance shall be vested in the director of revenue and finance. This decision shall be made at the sole discretion of the director based upon consideration of relevant facts.

7.60(7) Burden of persuasion. The burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the director should exercise discretion to grant the petitioner a waiver or variance based upon the criteria contained in subrule 7.60(5).

7.60(8) Contents of petition. A petition for waiver or variance must be in the following format:

Iowa Department of Revenue and Finance

Name of Petitioner	*	Petition for Waiver
Address of Petitioner	*	
Type of Tax at Issue	*	Docket No. _____

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

A petition for waiver or variance must contain all of the following, where applicable and known to the petitioner:

a. The name, address, telephone number, and case number or state identification number of the person or entity for whom a waiver or variance is being requested;

b. A description and citation of the specific rule or rule provisions from which a waiver or variance is being requested;

c. The specific waiver or variance requested, including a description of the precise scope and operative period for which the petitioner wants the waiver or variance to extend;

d. The relevant facts that the petitioner believes would justify a waiver or variance. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts represented in the petition, and a statement of reasons that the petitioner believes will justify a waiver or variance;

e. A complete history of any prior contacts between the petitioner and the department relating to the activity affected by the proposed waiver or variance, including audits, notices of assessment, refund claims, contested case hearings, or investigative reports relating to the activity within the last five years;

f. Any information known to the petitioner relating to the department's treatment of similar cases;

g. The name, address, and telephone number of any public agency or political subdivision which might be affected by the grant of a waiver or variance;

h. The name, address, and telephone number of any person or entity who would be adversely affected by the granting of the waiver or variance;

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver or variance;

j. Signed releases of information authorizing persons with knowledge of relevant facts to furnish the department with information relating to the waiver or variance;

k. If the petitioner seeks to have identifying details deleted, which deletion is authorized by statute, such details must be listed with the statutory authority for the deletion; and

l. Signature by the petitioner at the conclusion of the petition attesting to the accuracy and truthfulness of the information set forth in the petition.

7.60(9) Filing of petition. A petition for waiver or variance must be filed with the clerk of the hearings section for the Department of Revenue and Finance, Hoover State Office Building, Fourth Floor, Des Moines, Iowa 50309.

7.60(10) Additional information. Prior to issuing an order granting or denying a waiver or variance, the director may request additional information from the petitioner relating to the petition and surrounding circumstances. The director may, on the director's own motion, or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner or the petitioner's representative, or both, and the director to discuss the petition and surrounding circumstances.

7.60(11) Notice of petition for waiver or variance. The petitioner shall provide, within 30 days of filing the petition for waiver or variance, a notice consisting of a concise summary of the contents of the petition for waiver or variance and stating that the petition is pending. Such notice shall be mailed by the petitioner to all persons entitled to such notice. Such persons to whom notice must be mailed include, but are not limited to, the director and all parties to the petition for waiver or variance, or the parties' representatives. The peti-

tioner must then file written notice with the clerk of the hearings section for the department (address indicated above) attesting that the notice has been mailed. The names, addresses and telephone numbers of the persons to whom the notices were mailed shall be included in the filed written notice. The department has the discretion to give such notice to persons other than those persons notified by the petitioner.

7.60(12) Ruling on a petition for waiver or variance. An order granting or denying a waiver or variance must conform to the following:

a. An order granting or denying a waiver or variance shall be in writing and shall contain a reference to the particular person and rule or rule provision to which the order pertains, a statement of the relevant facts and reasons upon which the action is based and a description of the narrow and precise scope and operative time period of a waiver or variance, if one is issued.

b. If a petition requested the deletion of identifying details, then the order must either redact the details prior to the placement of the order in the public record file referenced in subrule 7.60(17) or set forth the grounds for denying the deletion of identifying details as requested.

c. Conditions. The director may condition the grant of a waiver or variance on any conditions which the director deems to be reasonable and appropriate in order to protect the public health, safety and welfare.

7.60(13) Time period for waiver or variance; extension. Unless otherwise provided, an order granting a petition for waiver or variance will be effective for 12 months from the date the order granting the waiver or variance is issued. Renewal of a granted waiver or variance is not automatic. To renew the waiver or variance beyond the 12-month period, the petitioner must file a new petition requesting a waiver or variance. The renewal petition will be governed by the provisions in this rule and must be filed prior to the expiration date of the previously issued waiver or variance or extension of waiver or variance. Even if the order granting the waiver or variance was issued in a contested case proceeding, any request for an extension shall be filed with and acted upon by the director. However, renewal petitions must request an extension of a previously issued waiver or variance. Granting the extension of the waiver or variance is at the director's sole discretion and must be based upon whether the factors set out in subrules 7.60(4) and 7.60(5) remain valid.

7.60(14) Time for ruling. The director shall grant or deny a petition for waiver or variance as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees in writing to a later date or the director indicates in a written order that it is impracticable to issue the order within the 120-day period.

7.60(15) When deemed denied. Failure of the director to grant or deny a waiver or variance within the 120-day or the extended time period shall be deemed a denial of that petition.

7.60(16) Service of orders. Within seven days of its issuance, any order issued under this rule shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

7.60(17) Record keeping. The department is required to maintain a record of all petitions for waiver or variance and rulings granting or denying petitions for waiver or variance.

a. Petitions for waiver or variance. The department shall maintain a record of all petitions for waiver or variance available for public inspection. Such records will be indexed and filed and made available for public inspection at the

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

clerk of the hearings section for the department at the address previously set forth in subrule 7.60(9).

b. Report of orders granting or denying a waiver or variance. All orders granting or denying a waiver or variance shall be summarized in a semiannual report to be drafted by the department and submitted to the administrative rules coordinator and the administrative rules review committee.

7.60(18) Cancellation of waiver or variance. A waiver or variance issued pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice, the director issues an order finding any of the following:

a. The person who obtained the waiver or variance order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver or variance; or

b. The alternative means for ensuring that public health, safety, and welfare will be adequately protected after issuance of the waiver or variance order have been demonstrated to be insufficient, and no other means exist to protect the substantial legal rights of any person; or

c. The person who obtained the waiver or variance has failed to comply with all of the conditions in the waiver or variance order.

7.60(19) Violations. A violation of a condition in a waiver or variance order shall be treated as a violation of the particular rule or rule provision for which the waiver or variance was granted. As a result, the recipient of a waiver or variance under this rule who violates a condition of the waiver or variance may be subject to the same remedies or penalties as a person who violates the rule or rule provision at issue.

7.60(20) Defense. After an order granting a waiver or variance is issued, the order shall constitute a defense, within the terms and the specific facts indicated therein, for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked, unless subrules 7.60(18) and 7.60(19) are applicable.

7.60(21) Hearing and appeals. Appeals from a decision granting or denying a waiver or variance in a contested case proceeding shall be in accordance with 701—Chapter 7 governing hearings and appeals from decisions in contested cases. These appeals shall be taken within 30 days of the issuance of the ruling granting or denying the waiver or variance request, unless a different time is provided by rule or statute, such as provided in the area of license revocation (see 701—7.55(17A)).

The provisions of Iowa Code sections 17A.10 to 17A.18A and the department rules 701—Chapter 7 regarding contested case proceedings shall apply to any petition for waiver or variance of a rule or provisions in a rule filed within a contested case proceeding. A petition for waiver or variance of a rule provision in a rule outside of a contested case proceeding will not be considered under the statutes or the department's rules relating to contested case proceedings. Instead, the director's decision on the petition for waiver or variance is considered to be "other agency action."

This rule is intended to implement 2000 Iowa Acts, House File 2206.

[Filed 9/1/00, effective 10/25/00]
[Published 9/20/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/20/00.

ARC 0141B

REVENUE AND FINANCE
DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue and Finance hereby amends Chapter 20, "Foods for Human Consumption, Prescription Drugs, Insulin, Hypodermic Syringes, Diabetic Testing Materials, Prosthetic, Orthotic or Orthopedic Devices," Iowa Administrative Code.

The Legislature recently amended the Iowa Code to exempt purchases of certain types of clothing and footwear from Iowa sales and use tax during a two-day period in August. The Department has drafted a new rule interpreting and explaining the exemption in some detail.

Notice of Intended Action was published in IAB Volume XXIII, Number 1, page 55, on July 12, 2000, as **ARC 9953A**. This rule making was simultaneously Adopted and Filed Emergency as **ARC 9952A**.

One corrective amendment has been added to this rule making, which is otherwise identical to that published under Notice of Intended Action. The amendment, which should have been included in **ARC 9959A**, July 12, 2000, reads as follows:

"g. Persons licensed by the board of chiropractic examiners to practice chiropractic in Iowa when lawfully dispensing ~~prescription devices~~ *in accordance with Iowa Code chapter 151.*"

These amendments will become effective October 25, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin at which time the Adopted and Filed Emergency rule is hereby rescinded.

These amendments are intended to implement Iowa Code Supplement section 422.45 as amended by 2000 Iowa Acts, House File 2351.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [20.9(9)"g," 20.12] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 9953A**, IAB 7/12/00.

[Filed 9/1/00, effective 10/25/00]
[Published 9/20/00]

[For replacement pages for IAC, see IAC Supplement 9/20/00.]

ARC 0138B

REVENUE AND FINANCE
DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14, 422.68, 422B.9, and 422E.3, the Department of Revenue and Finance hereby amends Chapter 107, "Local Option Sales and Service Tax," and Chapter 108, "Local Option School

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

Infrastructure Sales and Service Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXIII, Number 2, page 132, on July 26, 2000, as **ARC 0003B**.

Items 1 and 2 amend 701—Chapters 107 and 108 by adopting new rule 701—107.16(422B) and amending 701—108.4(422E) to reference 701—107.16(422B) as being applicable to 701—Chapter 108. Both of these amendments provide that the Director may charge a fee to local option tax jurisdictions to recover direct costs incurred by the Department related to the collection and distribution of such taxes.

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

On August 15, 2000, the Department of Revenue and Finance held a public hearing on these amendments at 1:30 p.m. in the Fourth Floor Conference Room, Hoover State Office Building, Des Moines, Iowa. Approximately 12 people attended the public hearing and 8 of those attending spoke. During the public hearing the following issues relating to the charging of the fee were raised:

1. The primary issue of concern involved interest income earned on revenues. The general opinion was that the Department should be given the interest income earned during the period in which the Department holds the revenues prior to complete distribution. It was suggested that such interest income would be sufficient to pay the Department's costs in administering local option taxes. The interest income could be given to the Department and credited against the Department's direct costs in administering the local option taxes. The remainder of the interest income, after being applied to the cost, could then be distributed to the jurisdictions according to the Department's distribution formula or, if the interest income were deficient in paying the Department's costs, the Department could bill the jurisdictions for the balance.

2. Another concern was that a precedent was being set for the charging of fees for the collection of taxes. Retailers collect tax on behalf of the Department and do not charge a fee.

3. Voters implemented the local option taxes with the understanding that all of the revenues would be redistributed to the jurisdictions. With the implementation of this fee, all the revenues will not be distributed to the jurisdictions.

4. There is no guarantee that the fee will remain fixed.

5. Computation and charging of the fee is cumbersome. The concept of a flat fee should be considered.

6. The imposition of the fee is, in effect, a second tax on jurisdictions.

These amendments will become effective October 25, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement 2000 Iowa Acts, House File 2545, section 28.

The following amendments are adopted.

ITEM 1. Amend 701—Chapter 107 by adopting the following **new** rule:

701—107.16(422B) Recovery of fees. Beginning on and after July 1, 2000, the department will charge all jurisdictions imposing local option sales and service taxes a fee to recover direct costs incurred by the department on and after July 1, 2000, in the administration of the local option sales and service taxes. The term "local option sales and service taxes" includes local option sales and service taxes imposed pursuant to Iowa Code chapter 422B, as implemented by 701—Chapter 107, and also includes local option school infrastruc-

ture sales and service taxes imposed pursuant to Iowa Code chapter 422E and implemented by 701—Chapter 108.

107.16(1) How fees are determined. Fees to be imposed on local option sales and service tax jurisdictions are for recovery of direct costs incurred by the department beginning on and after July 1, 2000, in the collection and distribution of the local option sales and service tax. "Direct costs" include, but are not limited to, costs related to taxpayer contacts and presentations, return processing, additional data entry, increased error processing, estimation, audits, and distribution of revenues. Fees do not include such indirect costs as policy and systems development, general agency administrative costs and collection costs.

107.16(2) Computation of fees for each county. Fees imposed to recover direct costs of administering local option sales and service taxes by the department shall be based on the number of times the county occurs on the returns processed by the department during the 2001 fiscal year. An "occurrence" is defined as an entry on a quarterly sales tax return reporting local option sales and service tax for a county. Each occurrence represents the total taxable transactions for a county for the given tax period. The department will divide the cost to be recovered into four quarterly amounts. The number of occurrences in each quarter will be divided into the quarterly cost to arrive at a cost per occurrence. This amount is multiplied by the number of occurrences for a county which will determine the amount to be charged to each county.

107.16(3) Allocation of costs to eligible jurisdictions within a county. The department will apply charges for each eligible jurisdiction within each county against the estimated local option sales and service tax payments due each eligible jurisdiction for the months of October, January, April, and July of each fiscal year. For the purpose of this rule, an eligible jurisdiction is an area entitled to receive local option sales and service taxes. Each city or unincorporated area shall receive the same proportionate shares of the cost as received in revenues for that jurisdiction. Computation for the distribution of costs will be based on the formula used for distribution of revenues for each jurisdiction. For additional information regarding estimated payments see 701—107.10(422B).

This rule is intended to implement 2000 Iowa Acts, House File 2545, section 28.

ITEM 2. Amend rule 701—108.4(422E) as follows:

701—108.4(422E) Similarities to the local option sales and service tax imposed in Iowa Code chapter 422B and 701—Chapter 107. The administration of the tax imposed under this chapter is similar to the local option tax imposed under Iowa Code chapter 422B and 701—Chapter 107. As a result, a few of the rules set forth in 701—Chapter 107 are also applicable and govern the local option sales and service school infrastructure tax as well. Accordingly, the following rules are incorporated by reference into this chapter and will govern their respective topics in relation to the local option sales and school infrastructure tax:

1. to 5. No change.

6. **701—107.16(422B) Recovery of fees.**

This rule is intended to implement Iowa Code section 422E.3 and 2000 Iowa Acts, House File 2545, section 28.

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