



IOWA ADMINISTRATIVE BULLETIN

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December 27, 2000

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Pages 981 to 1024

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PREFACE

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

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

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

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

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Iowa Administrative Bulletin

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CITATION of Administrative Rules

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

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

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

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

Schedule for Rule Making 2001

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. 22 '00	Jan. 10 '01	Jan. 30 '01	Feb. 14 '01	Feb. 16 '01	Mar. 7 '01	Apr. 11 '01	July 9 '01
Jan. 5	Jan. 24	Feb. 13	Feb. 28	Mar. 2	Mar. 21	Apr. 25	July 23
Jan. 19	Feb. 7	Feb. 27	Mar. 14	Mar. 16	Apr. 4	May 9	Aug. 6
Feb. 2	Feb. 21	Mar. 13	Mar. 28	Mar. 30	Apr. 18	May 23	Aug. 20
Feb. 16	Mar. 7	Mar. 27	Apr. 11	Apr. 13	May 2	June 6	Sept. 3
Mar. 2	Mar. 21	Apr. 10	Apr. 25	Apr. 27	May 16	June 20	Sept. 17
Mar. 16	Apr. 4	Apr. 24	May 9	May 11	May 30	July 4	Oct. 1
Mar. 30	Apr. 18	May 8	May 23	May 25	June 13	July 18	Oct. 15
Apr. 13	May 2	May 22	June 6	June 8	June 27	Aug. 1	Oct. 29
Apr. 27	May 16	June 5	June 20	June 22	July 11	Aug. 15	Nov. 12
May 11	May 30	June 19	July 4	July 6	July 25	Aug. 29	Nov. 26
May 25	June 13	July 3	July 18	July 20	Aug. 8	Sept. 12	Dec. 10
June 8	June 27	July 17	Aug. 1	Aug. 3	Aug. 22	Sept. 26	Dec. 24
June 22	July 11	July 31	Aug. 15	Aug. 17	Sept. 5	Oct. 10	Jan. 7 '02
July 6	July 25	Aug. 14	Aug. 29	Aug. 31	Sept. 19	Oct. 24	Jan. 21 '02
July 20	Aug. 8	Aug. 28	Sept. 12	Sept. 14	Oct. 3	Nov. 7	Feb. 4 '02
Aug. 3	Aug. 22	Sept. 11	Sept. 26	Sept. 28	Oct. 17	Nov. 21	Feb. 18 '02
Aug. 17	Sept. 5	Sept. 25	Oct. 10	Oct. 12	Oct. 31	Dec. 5	Mar. 4 '02
Aug. 31	Sept. 19	Oct. 9	Oct. 24	Oct. 26	Nov. 14	Dec. 19	Mar. 18 '02
Sept. 14	Oct. 3	Oct. 23	Nov. 7	Nov. 9	Nov. 28	Jan. 2 '02	Apr. 1 '02
Sept. 28	Oct. 17	Nov. 6	Nov. 21	Nov. 23	Dec. 12	Jan. 16 '02	Apr. 15 '02
Oct. 12	Oct. 31	Nov. 20	Dec. 5	Dec. 7	Dec. 26	Jan. 30 '02	Apr. 29 '02
Oct. 26	Nov. 14	Dec. 4	Dec. 19	Dec. 21	Jan. 9 '02	Feb. 13 '02	May 13 '02
Nov. 9	Nov. 28	Dec. 18	Jan. 2 '02	Jan. 4 '02	Jan. 23 '02	Feb. 27 '02	May 27 '02
Nov. 23	Dec. 12	Jan. 1 '02	Jan. 16 '02	Jan. 18 '02	Feb. 6 '02	Mar. 13 '02	June 10 '02
Dec. 7	Dec. 26	Jan. 15 '02	Jan. 30 '02	Feb. 1 '02	Feb. 20 '02	Mar. 27 '02	June 24 '02
Dec. 21	Jan. 9 '02	Jan. 29 '02	Feb. 13 '02	Feb. 15 '02	Mar. 6 '02	Apr. 10 '02	July 8 '02
Jan. 4 '02	Jan. 23 '02	Feb. 12 '02	Feb. 27 '02	Mar. 1 '02	Mar. 20 '02	Apr. 24 '02	July 22 '02

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
15	Friday, January 5, 2001	January 24, 2001
16	Friday, January 19, 2001	February 7, 2001
17	Friday, February 2, 2001	February 21, 2001

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, First Floor South, Grimes 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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lsbinfo@staff.legis.state.ia.us

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

The Administrative Rules Review Committee will hold a special meeting on Wednesday, January 3, 2001, at 9 a.m. in the Ronald Reagan Committee Room (G19), State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP[21]

Remediation of agricultural sites, ch 51, Notice **ARC 0361B**, also Filed Emergency **ARC 0362B** 12/27/00

ATTORNEY GENERAL[61]

Crime victim compensation program, 9.25 to 9.36, Filed **ARC 0366B** 12/27/00

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Examinations, ch 3, Filed **ARC 0347B** 12/13/00

CORRECTIONS DEPARTMENT[201]

Risk assessment and appeal process for sex offenders, 38.2, 38.3, Notice **ARC 0339B** 12/13/00

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Accelerated career education (ACE) program, 20.3(3), ch 20 division IV, 20.18, Filed Emergency **ARC 0343B** 12/13/00

Rural resource coordination programs for fire services, 42.3(3), 42.7, Filed Emergency **ARC 0342B** 12/13/00

New jobs and income program, 58.2, 58.4(3)"a" and "c" to "f," Notice **ARC 0340B** 12/13/00

Enterprise zones, 59.2, 59.3, 59.3(3)"d," 59.3(4), 59.3(5), 59.6(3)"c" and "f," 59.7(2)"f," Notice **ARC 0341B** 12/13/00

EDUCATION DEPARTMENT[281]

Waivers or variances from administrative rules, ch 4, Notice **ARC 0346B** 12/13/00

EMERGENCY MANAGEMENT DIVISION[605]

PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

Iowa emergency response commission, 101.2, 101.7, 101.9, Notice **ARC 0359B**,
also Filed Emergency **ARC 0360B** 12/27/00

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Animal feeding operations—removal and application of manure from a manure storage structure,
65.16(3), Filed Emergency **ARC 0348B** 12/13/00

Operator certification: public water supply systems and wastewater
treatment systems, ch 81, Filed **ARC 0349B** 12/13/00

Financial assurance requirements for municipal solid waste landfills, ch 111, Notice **ARC 0365B** 12/27/00

HUMAN SERVICES DEPARTMENT[441]

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78.37, 78.37(9), 78.37(11), 78.37(15)"a"(9), 78.37(15)"d," "e" and "g" to "i," 78.38(8)"a"(9),
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INSPECTIONS AND APPEALS DEPARTMENT[481]

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Quality-based inspection, ch 66, Notice **ARC 0345B** 12/13/00

MEDICAL EXAMINERS BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Administrative and regulatory authority; agency procedures, chs 1, 2, 10, 14, and 17, Filed **ARC 0357B** 12/27/00

Waivers and variances, ch 3, 11.9(3), 11.36, 12.4, 13.12, 14.4(6), 14.5(10), 14.11, 14.30, Filed **ARC 0358B** 12/27/00

License to practice as a resident physician; fees for verification of licensure status,

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Standards of practice—chelation therapy, 13.4, Notice **ARC 0356B** 12/27/00

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Lands and waters conservation fund program—applications for cost-sharing grants,

27.5(5), Filed Emergency **ARC 0363B** 12/27/00Nonresident deer hunting, 94.8, 94.10, 94.11, Notice **ARC 0364B** 12/27/00**PROFESSIONAL LICENSING AND REGULATION DIVISION[193]**

COMMERCE DEPARTMENT[181]"umbrella"

Waivers and variances from rules, ch 5, Notice **ARC 0351B** 12/27/00**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Chiropractic examiners, 40.1, 40.8 to 40.14, 40.14(6), 40.15 to 40.24, 40.36 to 40.41, 40.51, 40.52, 40.62 to 40.67,

40.69 to 40.73, chs 43 and 44, Filed **ARC 0367B** 12/27/00Respiratory care examiners, 260.1, 260.9 to 260.17, 260.28, 260.29, ch 261, Filed **ARC 0368B** 12/27/00**PUBLIC HEALTH DEPARTMENT[641]**Child death review team—cases expanded to include those for children under age 18, 90.1, Filed **ARC 0352B** 12/27/00**PUBLIC SAFETY DEPARTMENT[661]**

Bail enforcement, private investigation and private security

businesses—identification cards, 2.11, Notice **ARC 0354B**, also Filed Emergency **ARC 0355B** 12/27/00Parking for persons with disabilities, ch 18, Filed **ARC 0350B** 12/13/00**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

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

Senator H. Cay Hedge
3208 335th Street
Fremont, Iowa 52561

Senator Merlin E. Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Patricia M. Harper
3336 Santa Maria Drive
Waterloo, Iowa 50702

Senator John P. Kibbie
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Emmetsburg, Iowa 50536

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Altoona, Iowa 50009

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

To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Remediation of agrichemical sites, ch 51 IAB 12/27/00 ARC 0361B (See also ARC 0362B herein)	First Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 16, 2001 9 a.m.
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CORRECTIONS DEPARTMENT[201]

Sex offender management and treatment, 38.2, 38.3 IAB 12/13/00 ARC 0339B	Conference Room—2nd Floor 420 Watson Powell Jr. Way Des Moines, Iowa	January 2, 2001 11 a.m. to 1 p.m.
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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

New jobs and income program, 58.2, 58.4(3) IAB 12/13/00 ARC 0340B	IDED Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	January 2, 2001 3:30 p.m.
Enterprise zones, 59.2, 59.3, 59.6(3), 59.7(2) IAB 12/13/00 ARC 0341B	IDED Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	January 3, 2001 3:30 p.m.

EDUCATION DEPARTMENT[281]

Waivers or variances from administrative rules, ch 4 IAB 12/13/00 ARC 0346B	State Board Room Grimes State Office Bldg. Des Moines, Iowa	January 2, 2001 1 p.m.
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EMERGENCY MANAGEMENT DIVISION[605]

Iowa emergency response commission, 101.2, 101.7, 101.9 IAB 12/27/00 ARC 0359B (See also ARC 0360B herein)	Division Conference Room Hoover State Office Bldg. Des Moines, Iowa	January 17, 2001 10 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Financial assurance requirements for municipal solid waste landfills, ch 111 IAB 12/27/00 ARC 0365B (ICN Network)	Veterans Administration Room Federal Bldg. 210 Walnut St. Des Moines, Iowa	January 19, 2001 1:30 to 4:30 p.m.
	NIACC 500 College Dr. Mason City, Iowa	January 19, 2001 1:30 to 4:30 p.m.
	Carnegie-Stout Public Library 360 W. 11th St. Dubuque, Iowa	January 19, 2001 1:30 to 4:30 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)
(ICN Network)

Iowa Lakes Community College 1950 Grand Ave. Spencer, Iowa	January 19, 2001 1:30 to 4:30 p.m.
Fort Dodge High School 819 N. 25th St. Fort Dodge, Iowa	January 19, 2001 1:30 to 4:30 p.m.
Public Library 123 S. Linn St. Iowa City, Iowa	January 19, 2001 1:30 to 4:30 p.m.
Public Library 507 Poplar Atlantic, Iowa	January 19, 2001 1:30 to 4:30 p.m.
Indian Hills Community College 651 Indian Hills Dr. Ottumwa, Iowa	January 19, 2001 1:30 to 4:30 p.m.

HUMAN SERVICES DEPARTMENT[441]

Home- and community-based (HCBS) waiver programs, amendments to chs 77 to 79 and 83 IAB 12/13/00 ARC 0344B	Sixth Floor Conference Room Suite 600, Iowa Bldg. 411 Third St. SE Cedar Rapids, Iowa	January 4, 2001 10 a.m.
	Administrative Conference Room 417 E. Kanesville Blvd. Council Bluffs, Iowa	January 5, 2001 10 a.m.
	Large Conference Room Fifth Floor, Bicentennial Bldg. 428 Western Davenport, Iowa	January 4, 2001 1:30 p.m.
	Conference Room 104 City View Plaza 1200 University Des Moines, Iowa	January 3, 2001 10 a.m.
	Liberty Room, Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	January 4, 2001 11 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	January 4, 2001 10 a.m.
	Fifth Floor 520 Nebraska St. Sioux City, Iowa	January 4, 2001 1:30 p.m.
	Conference Room 420 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	January 3, 2001 11 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Quality-based inspections, ch 66 IAB 12/13/00 ARC 0345B (ICN Network)	Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	January 4, 2001 10 a.m.
	Bettendorf Public Library Information Center 2950 Learning Campus Dr. Bettendorf, Iowa	January 4, 2001 10 a.m.
	Burlington Public Library 501 N. Fourth St. Burlington, Iowa	January 4, 2001 10 a.m.
	Cedar Rapids Public Library 500 First St. SE Cedar Rapids, Iowa	January 4, 2001 10 a.m.
	Luther College 700 College Dr. Decorah, Iowa	January 4, 2001 10 a.m.
	Carnegie-Stout Public Library 360 W. 11th St. Dubuque, Iowa	January 4, 2001 10 a.m.
	Iowa City Public Library 123 S. Linn St. Iowa City, Iowa	January 4, 2001 10 a.m.
	National Guard Armory 1160 19th St. SW Mason City, Iowa	January 4, 2001 10 a.m.
	Sioux City Public Library 529 Pierce St. Sioux City, Iowa	January 4, 2001 10 a.m.
	Waterloo Public Library 415 Commercial St. Waterloo, Iowa	January 4, 2001 10 a.m.

MEDICAL EXAMINERS BOARD[653]

EDTA chelation therapy, 13.4 IAB 12/27/00 ARC 0356B	Board Conference Room Suite C 400 SW Eighth St. Des Moines, Iowa	January 16, 2001 4 p.m.
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NATURAL RESOURCE COMMISSION[571]

Nonresident deer hunting, 94.8, 94.10, 94.11 IAB 12/27/00 ARC 0364B	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 17, 2001 10 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Identification cards, 2.11
IAB 12/27/00 **ARC 0354B**
(See also **ARC 0355B** herein)

Third Floor Conference Room
Wallace State Office Bldg.
Des Moines, Iowa

January 19, 2001
9:30 a.m.

SUBSTANCE ABUSE COMMISSION[643]

Regions for substance abuse prevention and treatment, ch 9
IAB 11/29/00 **ARC 0324B**

Room 417
Lucas State Office Bldg.
Des Moines, Iowa

January 4, 2001
1 p.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]

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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 0361B**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 Chapter 51, "Remediation of Agrichemical Sites," Iowa Administrative Code.

The proposed new chapter is intended to implement 2000 Iowa Acts, chapter 1184, section 3, which establishes an Agrichemical Remediation Board. The proposed rules establish the operating procedures of the Agrichemical Remediation Board.

The Department will not grant a waiver of these rules because they set forth the Agrichemical Remediation Board's basic rules of procedure.

Interested persons may make written comments or suggestions on the proposed chapter on or before January 16, 2001. Written materials should be addressed to Daryl D. Frey, Director, Laboratory Division, Department of Agriculture and Land Stewardship, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, or faxed to (515)242-6497. E-mail may be sent to Daryl.Frey@idals.state.ia.us.

Also, there will be a public hearing on January 16, 2001, at 9 a.m. in the First Floor Conference Room, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa, at which time persons may present their views.

These rules are intended to implement 2000 Iowa Acts, chapter 1183, section 3.

These rules are also being simultaneously Adopted and Filed Emergency and are published herein as **ARC 0362B**. The content of that submission is incorporated by reference.

ARC 0359B**EMERGENCY MANAGEMENT
DIVISION[605]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 30.5, the Emergency Management Division hereby gives Notice of Intended Action to amend Chapter 101, "Operations of Commission," Iowa Administrative Code.

These amendments implement the provisions of Iowa Code section 30.2 as amended by 2000 Iowa Acts, chapter

1020, section 7, and chapter 1232, section 45, by changing the total number of members on the Iowa Emergency Response Commission; delineating voting and nonvoting members; establishing a quorum requirement; and setting forth a time frame for the election of officers.

Any interested person may make written suggestions or comments on these proposed amendments prior to January 17, 2001. Such written materials should be sent to the Administrator, Emergency Management Division, Hoover State Office Building, Des Moines, Iowa 50319, or faxed to (515)281-7539.

There will be a public hearing on these proposed amendments on January 17, 2001, at 10 a.m. in the Emergency Management Division Conference Room, Hoover State Office Building, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of these amendments.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 0360B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code section 30.2 as amended by 2000 Iowa Acts, chapter 1020, section 7, and chapter 1232, section 45.

ARC 0365B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455B.304(8), the Commission hereby gives Notice of Intended Action to rescind Chapter 111, "Financial Assurance Requirements for Municipal Solid Waste Landfills," Iowa Administrative Code, and adopt a new Chapter 111 with the same title.

Proposed Chapter 111 is a reorganization and amendment of the former chapter. The new chapter requires municipal solid waste landfills to set aside funds for closure and post-closure as a primary means of financial assurance and also to implement a secondary financial assurance mechanism while the funds are being accumulated. The proposed amendment also adopts procedures for review of financial assurance instruments by the Department. The chapter is reorganized to effectuate these changes. The proposed amendment is intended to satisfy the concerns raised in the Petition for Rule Making filed by the City of Henderson on May 31, 2000.

Any interested person may make written suggestions or comments on the proposed rules on or before January 19, 2001. Written comments should be directed to Jon Tack, Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034; fax (515)281-8895; E-mail jtack1@dnr.state.ia.us.

A public hearing will be held on Friday, January 19, 2001, from 1:30 to 4:30 p.m. via ICN. The hearing will originate

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

from the Veterans Administration Room of the Federal Building, 210 Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Sites to participate in the public hearing via ICN are:

North Iowa Area Community College
500 College Drive
Mason City, Iowa

Carnegie-Stout Public Library
360 West 11th Street
Dubuque, Iowa

Iowa Lakes Community College
1950 Grand Avenue
Spencer, Iowa

Fort Dodge High School
819 North 25th Street
Fort Dodge, Iowa

Iowa City Public Library
123 South Linn Street
Iowa City, Iowa

Atlantic Public Library
507 Poplar
Atlantic, Iowa

Indian Hills Community College
651 Indian Hills Drive
Ottumwa, Iowa

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

This amendment is intended to implement Iowa Code section 455B.304(8).

The following amendment is proposed.

Rescind 567—Chapter 111 and adopt in lieu thereof the following **new** chapter:

CHAPTER 111

FINANCIAL ASSURANCE REQUIREMENTS FOR
MUNICIPAL SOLID WASTE LANDFILLS

567—111.1(455B) Purpose. The purpose of this chapter is to implement Iowa Code sections 455B.304(8) and 455B.306(8) by providing the criteria for establishing financial assurance for closure, postclosure care and corrective action at municipal solid waste landfills.

567—111.2(455B) Applicability. The requirements of this chapter apply to all owners and operators of municipal solid waste landfills (MSWLF) except owners or operators who are state or federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States.

567—111.3(455B) Financial assurance for closure.

111.3(1) The owner or operator must have a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to close the MSWLF in accordance with the closure plan as required by 567—subrule 103.2(13) and subrule 102.12(10). Such estimate must be available at any time during the active life of the landfill. The owner or operator must submit to the department by December 31 of each year the estimate and financial assurance documentation.

a. The cost estimate must equal the cost of closing the MSWLF at any time during the active life of the facility when the extent and manner of its operation would make closure the most expensive.

b. During the active life of the MSWLF, the owner or operator must annually adjust the closure cost estimate for inflation.

c. The owner or operator must increase the closure cost estimate and the amount of financial assurance provided if changes to the closure plan or MSWLF conditions increase the maximum cost of closure at any time during the remaining active life of the facility.

d. The owner or operator may reduce the amount of financial assurance for closure if the most recent estimate of the maximum cost of closure at any time during the active life of the facility is less than the amount of financial assurance currently provided. The owner or operator must submit to the department the justification for the reduction of the closure cost estimate and the updated documentation required by subrule 111.3(3).

111.3(2) The owner or operator of an MSWLF must establish financial assurance for closure in accordance with the criteria in this chapter. The owner or operator must provide continuous coverage for closure until released from this requirement by demonstrating compliance with 567—subrules 103.2(13) and 102.12(10). Certification of compliance must be signed by the owner or operator and an Iowa-licensed professional engineer and approved by the department.

111.3(3) The owner or operator of a sanitary landfill must verify that adequate financial assurance is in place in regard to closure. In order to comply with this rule, the owner or operator must comply with the following procedures:

a. The owner or operator must submit a complete copy of the financial assurance instrument or the documents that establish the financial assurance instrument each year by December 31. The documents submitted shall contain, but are not limited to, the amount of the financial assurance, the current balance on hand, and any projections of the balance expected at closure.

b. The owner or operator must submit a complete updated copy of the estimate, certified by an Iowa-licensed professional engineer, that forms the basis for the amount of financial assurance held by the owner or operator each year by December 31.

c. The financial assurance instrument must be in an amount equal to or greater than the third-party estimate.

d. The third-party estimate submitted to the department must account for at least those factors determined by the department to be the minimal necessary costs for closure. The department shall publish a list of these factors and update this list as necessary.

e. The cost estimates contained in the third-party estimate of closure costs must be accurate and reasonable when compared to the cost estimates used by other similarly situated landfills in Iowa.

567—111.4(455B) Financial assurance for postclosure care.

111.4(1) The owner or operator must have a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to conduct postclosure care for the MSWLF in compliance with the plan developed pursuant to 567—subrules 103.2(14) and 102.12(10). The cost estimate must account

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for the total cost of conducting postclosure care, as described in the plan, for the entire postclosure care period.

a. The cost estimate for postclosure care must be based on the most expensive costs of that care during the entire postclosure care period.

b. During the active life of the MSWLF and during the postclosure care period, the owner or operator must annually adjust the postclosure cost estimate for inflation.

c. The owner or operator must increase the estimate and the amount of financial assurance provided if changes in the postclosure plan or MSWLF conditions increase the maximum cost of postclosure care.

d. The owner or operator may reduce the estimate and the amount of financial assurance if the cost estimate exceeds the maximum cost of postclosure care remaining in the postclosure care period. The owner or operator must submit to the department the justification for the reduction of the cost estimate and the updated documentation required by subrule 111.4(3).

111.4(2) The owner or operator of an MSWLF must establish financial assurance for the costs of postclosure care required by 567—subrules 103.2(14) and 102.12(10). The owner or operator must provide continuous coverage for postclosure care until released from this requirement by demonstrating compliance with the postclosure plan and the closure permit. Certification of compliance must be signed by the owner or operator and an Iowa-licensed professional engineer and approved by the department.

111.4(3) The owner or operator of a sanitary landfill must verify that adequate financial assurance is in place in regard to postclosure. In order to comply with this rule, the owner or operator must comply with the following procedures:

a. The owner or operator must submit a complete copy of the financial assurance instrument or the documents that establish the financial assurance instrument each year by December 31. The documents submitted shall contain, but are not limited to, the amount of the financial assurance, the current balance on hand, and any projections of the balance expected at closure.

b. The owner or operator must submit a complete updated copy of the third-party estimate that forms the basis for the amount of financial assurance held by the owner or operator.

c. The financial assurance instrument must be in an amount equal to or greater than the third-party estimate.

d. The third-party estimate submitted to the department must account for at least those factors determined by the department to be the minimal necessary costs for postclosure. The department shall publish a list of these factors and update this list as necessary.

e. The cost estimates contained in the third-party estimate of postclosure care costs must be accurate and reasonable when compared to the cost estimates used by other similarly situated landfills in Iowa.

567—111.5(455B) Financial assurance for corrective action.

111.5(1) An owner or operator required to undertake corrective action pursuant to 567—subrules 103.2(4) through 103.2(9), inclusive, must have a detailed written estimate prepared by an Iowa-licensed professional engineer, in current dollars, of the cost of hiring a third party to perform the required corrective action. The estimate must account for the total costs of the activities described in the approved corrective action plan for the entire corrective action period.

The owner or operator must submit to the department the estimate and financial assurance documentation within 30 days of departmental approval of the corrective action plan.

a. The owner or operator must annually adjust the estimate for inflation until the corrective action program is completed.

b. The owner or operator must increase the cost estimate and the amount of financial assurance provided if changes in the corrective action program or MSWLF conditions increase the maximum cost of corrective action.

c. The owner or operator may reduce the amount of the cost estimate and the amount of financial assurance provided if the estimate exceeds the maximum remaining costs of the remaining corrective action. The owner or operator must submit to the department the justification for the reduction of the cost estimate and documentation of financial assurance.

111.5(2) The owner or operator of an MSWLF required to undertake a corrective action program must establish financial assurance for the most recent corrective action program by one of the mechanisms prescribed in 567—111.6(455B) and, if necessary, one of the mechanisms prescribed in 567—111.7(455B). The owner or operator must provide continuous coverage for corrective action until released from financial assurance requirements by demonstrating compliance with the following:

a. Upon completion of the remedy, the owner or operator must submit to the department a certification of compliance with the approved corrective action plan. The certification must be signed by the owner or operator and by an Iowa-licensed professional engineer.

b. Upon departmental approval of completion of the corrective action remedy the owner or operator shall be released from the requirements for financial assurance for corrective action.

567—111.6(455B) Primary financial assurance mechanisms. The mechanisms used to demonstrate financial assurance must ensure that the funds necessary to meet the costs of closure, postclosure care, and corrective action for known releases will be available whenever the funds are needed. Owners or operators must choose from one of the two options provided by this rule for their primary financial assurance mechanism. The primary financial assurance mechanisms must satisfy the requirements of Iowa Code section 455B.306(8)“b.”

111.6(1) Trust fund.

a. An owner or operator may demonstrate financial assurance for closure, postclosure care and corrective action, whichever is applicable, by establishing a trust fund which conforms to the requirements of this subrule. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. A copy of the trust agreement must be submitted pursuant to subrules 111.3(3) and 111.4(3) and placed in the facility's official files.

b. Payments into the trust fund must be made annually by the owner or operator for ten years or over the remaining life of the MSWLF, whichever is shorter, in the case of a trust fund for closure or postclosure care, or over one-half of the estimated length of an approved corrective action program in the case of a response to a known release. This is referred to as the “pay-in period.”

c. For a trust fund used to demonstrate financial assurance for closure or postclosure care, the first payment into the fund must be at least equal to the current cost estimate di-

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vided by the number of years in the pay-in period as defined in 111.6(1)"b." The amount of subsequent payments must be determined by the following formula:

$$\text{Payment} = \frac{\text{CE} - \text{CV}}{\text{Y}}$$

where CE is the current updated cost estimate for closure or postclosure care, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

d. For a trust fund used to demonstrate financial assurance for corrective action, the first payment into the trust fund must be at least one-half of the current cost estimate divided by the number of years in the corrective action pay-in period as defined in 111.6(1)"b." The amount of subsequent payments must be determined by the following formula:

$$\text{Payment} = \frac{\text{RB} - \text{CV}}{\text{Y}}$$

where RB is the most recent estimate of the required trust fund balance, which is the total cost that will be incurred during the second half of the corrective action period, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

e. The initial payment into the trust fund must be made before the initial receipt of waste in the case of closure and postclosure care or no later than 120 days after the corrective action plan has been approved by the department.

f. If the owner or operator establishes a trust fund after having used one or more alternate mechanisms, the initial payment into that trust fund must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made as required by this subrule.

g. The owner or operator, or other person authorized to conduct closure, postclosure care, or corrective action activities may request reimbursement from the trustee for closure, postclosure, or corrective action expenditures, including partial closure, as they are incurred. Requests for reimbursement will be granted by the trustee only if sufficient funds are remaining to cover the remaining costs of closure, postclosure care, or corrective action and if justification and documentation of the costs are placed in the facility's official files. The owner or operator must submit to the department documentation of the justification for reimbursement and verification that the reimbursement has been received.

111.6(2) Local government dedicated fund. The owner or operator of a publicly owned MSWLF or local government serving as a guarantor may demonstrate financial assurance for closure, postclosure or corrective action, whichever is applicable, by establishing a dedicated fund or account that conforms to the requirements of this subrule. A dedicated fund will be considered eligible if it complies with "a" or "b" below, and all other provisions of this subrule, and documentation of this compliance has been submitted to the department.

a. The fund is dedicated by state constitutional provision or local government statute, charter, ordinance, or order to pay for closure, postclosure or corrective action costs, whichever is applicable, arising from the operation of the MSWLF and is funded for the full amount of coverage or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage; or

b. The fund is dedicated by state constitutional provision or local government statute, charter, ordinance, or order as a reserve fund and is funded for no less than the full amount of coverage or funded for part of the required amount of cover-

age and used in combination with other mechanism(s) that provide the remaining coverage.

c. Payments into the dedicated fund must be made annually by the owner or operator for ten years or over the remaining life of the MSWLF, whichever is shorter, in the case of a dedicated fund for closure or postclosure care, or over one-half of the estimated length of an approved corrective action program in the case of a response to a known release. This is referred to as the "pay-in period." The initial payment into the dedicated fund must be made before the initial receipt of waste in the case of closure and postclosure care or no later than 120 days after the corrective action plan has been approved by the department.

d. For a dedicated fund used to demonstrate financial assurance for closure and postclosure care, the first payment into the fund must be at least equal to the current cost estimate, divided by the number of years in the pay-in period as defined in this subrule. The amount of subsequent payments must be determined by the following formula:

$$\text{Payment} = \frac{\text{TF} - \text{CF}}{\text{Y}}$$

where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in period.

e. For a dedicated fund used to demonstrate financial assurance for corrective action, the first payment into the dedicated fund must be at least one-half of the current cost estimate, divided by the number of years in the corrective action pay-in period as defined in this subrule. The amount of subsequent payments must be determined by the following formula:

$$\text{Payment} = \frac{\text{RB} - \text{CF}}{\text{Y}}$$

where RB is the most recent estimate of the required dedicated fund balance, which is the total cost that will be incurred during the second half of the corrective action period, CF is the current amount in the dedicated fund, and Y is the number of years remaining in the pay-in period.

567—111.7(455B) Secondary financial assurance mechanisms. Until the primary financial assurance mechanism has become fully funded, the owner or operator must supplement the primary financial assurance mechanism with a secondary financial assurance mechanism in an amount equal to the difference between the cost of closure, postclosure, or corrective action and the current balance of the primary financial assurance mechanism.

111.7(1) Surety bond.

a. An owner or operator may demonstrate financial assurance for closure or postclosure care by obtaining a payment or performance surety bond which conforms to the requirements of this subrule. An owner or operator may demonstrate financial assurance for corrective action by obtaining a performance bond which conforms to the requirements of this subrule. The bond must be effective before the initial receipt of waste in the case of closure and postclosure care or no later than 120 days after the corrective action plan has been approved by the department. The owner or operator must submit a copy of the bond to the department. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

b. The penal sum of the bond must be in an amount at least equal to the current closure, postclosure or corrective action cost estimate, whichever is applicable.

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c. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond and also upon notice from the department pursuant to paragraph "f" of this subrule.

d. The owners or operators must establish a standby trust fund. The standby trust fund must meet the requirements of subrule 111.6(1) except the requirements for initial payment and subsequent annual payments specified in paragraphs 111.6(1)"b" through "f."

e. Payment made under the terms of the bond will be deposited by the surety directly into the standby trust fund. Payments from the trust fund must be approved by the trustee and the department.

f. Under the terms of the bond, the surety may only cancel the bond by sending notice of intent to cancel by certified mail to the owner and operator and to the department 120 days in advance of the cancellation. When such notice is provided, the owner or operator shall, within 60 days, provide to the department adequate proof of alternate financial assurance, notice from the surety of withdrawal of the cancellation, or proof of a deposit into the standby trust of a sum equal to the amount of the bond. If the owner or operator has not complied with this rule within the 60-day time period, this shall constitute a failure to perform and the department shall notify the surety, prior to the expiration of the 120-day notice period, that such a failure has occurred.

g. The bond must be conditioned upon faithful performance by the owner or operator of all the closure, postclosure, or corrective action requirements of the Code of Iowa and the rules adopted by the department. A failure to comply with 111.7(1)"f" shall also constitute a failure to perform under the terms of the bond.

h. Liability under the bond shall be for the duration of the operation, closure, and postclosure period.

111.7(2) Letter of credit.

a. An owner or operator may demonstrate financial assurance for closure, postclosure care, or corrective action, whichever is applicable, by obtaining an irrevocable standby letter of credit which conforms to the requirements of this subrule. The letter of credit must be effective before the initial receipt of waste in the case of closure and postclosure care or no later than 120 days after the corrective action plan is approved by the department. The owner or operator must submit to the department a copy of the letter of credit. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

b. A letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the name and address of the facility, and the amount of funds assured, must be included with the letter of credit in the facility's official files.

c. The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to the current cost estimate for closure, postclosure or corrective action, whichever is applicable. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by certified mail to the owner or operator and the department 120 days in advance of cancellation. If the letter of credit is canceled by the issuing institution, the owner or operator must obtain alternate financial assurance.

111.7(3) Insurance.

a. An owner or operator may demonstrate financial assurance for closure and postclosure care by obtaining insurance which conforms to the requirements of this subrule. The insurance must be effective before the initial receipt of wastes. At a minimum, the insurer must be authorized to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in Iowa. The owner or operator must submit to the department a copy of the insurance policy.

b. The closure or postclosure care insurance policy must guarantee that funds will be available to close the MSWLF whenever final closure occurs or to provide postclosure care when the postclosure period begins. The policy must also guarantee that once closure or postclosure care begins, the insurer will be responsible for the paying out of funds to the owner or operator or other person authorized to conduct the closure or postclosure care, up to an amount equal to the face amount of the policy.

c. The insurance policy must be issued for a face amount at least equal to the current cost estimate for closure or postclosure care, whichever is applicable. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

d. An owner or operator, or any other person authorized to conduct closure or postclosure care, may receive reimbursements for those expenditures. Requests for reimbursement will be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or postclosure care, and if justification and documentation of the cost are placed in the facility's official files. The owner or operator must notify the department that the documentation of the justification for reimbursement has been placed in the facility's official files and that reimbursement has been received.

e. Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

f. The insurance policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner and operator and to the department 120 days in advance of cancellation. When such notice is provided, the owner or operator shall, within 60 days, provide to the department adequate proof of alternate secondary financial assurance, notice from the surety of withdrawal of the cancellation, or proof of a deposit into the primary financial assurance account of a sum equal to the amount of the insurance coverage.

g. For insurance policies providing coverage for postclosure care, commencing on the date that liability to make payment pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week treasury securities.

111.7(4) Self-insurance.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

a. An owner or operator may demonstrate financial assurance for closure, postclosure care or corrective action, whichever is applicable, by demonstrating the ability to pass the financial test as specified in this subrule. Documentation of this demonstration shall be submitted to the department before the initial receipt of waste in the case of closure and postclosure care or no later than 120 days after the corrective action plan has been approved by the department.

b. An owner or operator may demonstrate financial assurance by submitting the following to the department:

(1) Unsubordinated debentures with market value equal to or exceeding the sum of the current closure, postclosure or corrective action estimates, whichever is applicable.

(2) A letter signed by the chief financial officer certifying that the owner or operator passes all of the following tests:

$$1. \frac{\text{total liabilities}}{\text{net worth}} = \text{less than } 2.0;$$

$$2. \frac{\text{cash flow}}{\text{total liabilities}} = \text{greater than } 0.1;$$

$$3. \frac{\text{current assets}}{\text{current liabilities}} = \text{greater than } 1.5;$$

4. Net working capital and tangible net worth at least six times the current cost estimates for the facility;

5. Tangible net worth of at least \$10 million; and

6. Assets in the United States equal to at least 90 percent of the owner's or operator's total assets or at least six times the current cost estimates for all owner-operated facilities.

(3) As an alternative to subparagraph 111.7(4)"b"(2) the owner or operator may substitute a current rating for its most recent bond issue which must be of AAA, AA, A or BBB as issued by Standard & Poor's or Aaa, Aa, A or Baa as issued by Moody's and the owner or operator shall obtain a special report from an independent certified public accountant certifying the validity of:

1. The latest financial statement;

2. The data used to pass the financial test; and

3. The valuation of the bonds submitted as collateral.

(4) A copy of the owner's or operator's financial statements for the latest completed fiscal year with an independent certified public accountant's report on examination of the financial statements.

c. An owner or operator may demonstrate financial assurance by obtaining a written corporate guarantee from a parent corporation provided the following conditions are met:

(1) The parent corporation must be the entity that issues the bonds that serve as the basis for the self-insurance.

(2) The guarantor must meet the requirements for facility owners or operators in this subrule.

(3) The terms of the corporate guarantee must ensure that:

1. The guarantor will perform closure, postclosure or corrective action in accordance with the appropriate plan or permit if the owner or operator fails to do so when required, or the guarantor may establish a trust for that purpose in the name of the owner or operator.

2. The guarantee remains in effect for at least 120 days after notifying the owner or operator of the intent to cancel the guarantee. The guarantor is responsible for obtaining a receipt from the owner or operator verifying the delivery of the notice to cancel.

3. If, subsequent to receiving the notice to cancel, the owner or operator fails to provide alternate financial assurance as specified in this rule, the guarantor shall provide al-

ternate financial assurance in the name of the owner or operator.

4. The bonds used to demonstrate financial assurance are readily salable in secondary bond markets and their market value equals or exceeds the current cost estimates for closure, postclosure or corrective action, whichever is applicable.

d. If the sum of the current cost estimates for closure, postclosure care, or corrective action, whichever is applicable, changes, the owner or operator shall compare the new estimate with the most recent annual valuation of the bonds held pursuant to this subrule. If the total market value of the bonds is less than the amounts of the new estimates, the owner or operator shall, within 60 days after the change in the cost estimates, send notice to the director that other bonds are maintained to make up the deficiency or the owner or operator shall establish other financial assurance mechanisms as specified in this rule. If other bonds are relied upon, the notice to the director must be accompanied by an independent certified public accountant's report that the new issues have a market value that equals or exceeds the amount of the deficiency.

e. If during the operating life of the facility, the market value of the bonds held pursuant to this rule exceeds the sum of the current cost estimates by an amount greater than the market value of any single bond, the owner or operator may decrease the amount of the bonds maintained by the excess amount.

f. The use of self-insurance is not allowed if:

(1) The accountant's report required by this subrule includes an adverse opinion or a disclaimer of opinion;

(2) The report includes qualifications that relate to the numbers that are used in the financial test; or

(3) In light of the qualifications, the owner or operator has failed to demonstrate that the owner or operator meets the financial test.

111.7(5) Bond rating test.

a. An owner or operator may demonstrate financial assurance for closure, postclosure or corrective action, whichever is applicable, by having a currently outstanding issue or issues of general obligation bonds of \$1 million or more, excluding refunded obligations, with an unenhanced Moody's rating of Aaa, Aa, A, or Baa, or an unenhanced Standard & Poor's rating of AAA, AA, A, or BBB. The demonstration must be placed in the facility's official files before the initial receipt of waste in the case of closure and postclosure care or no later than 120 days after the corrective action plan has been approved by the department.

b. The owner or operator must submit to the department:

(1) A copy of a dated bond rating certification signed by a representative from the bond rating agency.

(2) A copy of a letter signed by the chief financial officer of the owner or operator or guarantor certifying compliance with the bond rating test.

111.7(6) Local government guarantee. The owner or operator of an MSWLF may demonstrate financial assurance for closure, postclosure or corrective action, whichever is applicable, by submitting to the department a written guarantee certifying compliance with the following:

a. The guarantor is a local government having a substantial governmental relationship with the owner and operator pursuant to and in furtherance of the objectives of an agreement between said parties entered into under Iowa Code chapter 28E.

b. The guarantee is issued as an act incident to that relationship.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

c. A local government acting as the guarantor must:

(1) Demonstrate that it meets the bond rating test requirement of this rule and deliver a copy of the chief financial officer's letter described in subrule 111.7(5) to the owner or operator of the MSWLF; or

(2) Demonstrate that it meets the local government dedicated fund test of this rule.

d. The terms of the guarantee must provide:

(1) If the owner or operator of a facility covered by the guarantee fails to perform closure or postclosure care or corrective action in accordance with the appropriate plan or permit whenever required to do so, the guarantor shall do so or establish a standby trust fund in the name of the owner or operator.

(2) The guarantee remains in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and the director. Cancellation may not occur, however, during 120 days beginning on the date of receipt of the notice of cancellation by the director, as evidenced by the return receipt.

(3) If the owner or operator fails to provide alternate financial assurance as specified in this rule, the guarantor shall provide alternate financial assurance in the name of the owner or operator.

e. The owner or operator must submit a copy of the guarantee to the department and maintain the guarantee in the facility's official files. The guarantee must be submitted to the department before the initial receipt of waste in the case of closure and postclosure care or no later than 120 days after the corrective action plan has been approved by the department.

567—111.8(455B) General requirements.

111.8(1) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this rule by establishing more than one financial mechanism per facility. The mechanisms must be a combination of those mechanisms outlined in this chapter and must provide financial assurance for an amount at least equal to the current cost estimate for closure, postclosure or corrective action, whichever is applicable. The financial test and a guarantee provided by a corporate parent, sibling or grandparent may not be combined if the financial statements of the two firms are consolidated.

111.8(2) Use of one mechanism for multiple facilities. An owner or operator may satisfy the requirements of this rule for multiple MSWLFs by the use of one mechanism if the owner or operator ensures that the mechanism provides financial assurance for an amount at least equal to the current cost estimates for closure, postclosure or corrective action, whichever is applicable, for all MSWLFs covered.

111.8(3) Criteria. The language of the mechanisms listed in this rule must ensure that the instruments satisfy the following criteria:

a. The financial assurance mechanisms must ensure that the amount of funds assured is sufficient to cover the costs of closure, postclosure, or corrective action for known releases, whichever is applicable;

b. The financial assurance mechanisms must ensure that funds will be available in a timely fashion when needed;

c. The financial assurance mechanisms must be obtained by the owner or operator prior to the initial receipt of solid waste and no later than 120 days after the corrective action remedy has been approved by the department until the owner or operator is released from the financial assurance requirements; and

d. The financial assurance mechanisms must be legally valid, binding, and enforceable under Iowa law.

These rules are intended to implement Iowa Code sections 455B.304 and 455B.306.

ARC 0369B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 10A.104(5), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 30, "Food and Consumer Safety," Iowa Administrative Code.

The proposed amendments establish an Excellence in Food Safety Award for food establishments licensed under Iowa Code chapter 137F. The proposed amendments include a set of nomination and evaluation criteria, eligibility requirements and award distribution. Food Safety Awards will be presented at both the local and statewide levels to food establishments from various license categories. Categories are defined by type of ownership and foods prepared and served to the public.

Any interested person may make written comments or suggestions on the proposed amendments on or before January 16, 2001. Written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, East 12th and Grand Avenue, Des Moines, Iowa 50319-0083. Faxes may be sent to (515)242-6863; E-mail may be sent to Jennifer.Fihr@dia.state.ia.us.

A waiver provision has not been included in these amendments. A waiver provision is not applicable to the Excellence in Food Safety Award because an establishment's participation is completely voluntary.

These amendments are intended to implement Iowa Code section 10A.104 and Iowa Code chapter 137F.

The following amendments are proposed.

ITEM 1. Amend **481—30.2(10A)** by adopting the following new definition in alphabetical sequence:

"Hazard analysis critical control point (HACCP) plan" means the written document that delineates step-by-step procedures to evaluate and monitor the flow of food through a food establishment from receiving to service. The system enables operators to: (1) identify the foods and procedures that are most likely to cause illness; (2) establish procedures to reduce risks of foodborne illness outbreaks; and (3) monitor to ensure food safety.

ITEM 2. Amend 481—Chapter 30 by adopting the following new rule:

481—30.15(10A) Excellence in food safety awards. The department may annually recognize food establishments licensed under Iowa Code chapter 137F for excellence in food safety.

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

30.15(1) Food establishments licensed under Iowa Code chapter 137F shall be eligible for nomination. Food establishments open for less than six months per year, also known as seasonal operations, are ineligible for consideration.

30.15(2) The environmental specialist or a sanitarian or contractor responsible for conducting food inspections for the department may nominate a maximum of 1 percent of the licensed establishments licensed by that particular contractor or the department. Nominees may be from the following categories as specified on the establishment's inspection report:

- a. Low-Risk, Chain Establishment.
- b. Low-Risk, Privately Owned Establishment.
- c. Medium-Risk, Chain Establishment.
- d. Medium-Risk, Privately Owned Establishment.
- e. High-Risk, Chain Establishment.
- f. High-Risk, Privately Owned Establishment.

Nomination forms must be completed annually by March 1 and submitted to the director of the local regulatory agency.

30.15(3) Nominations shall be evaluated independently of the local environmental specialist or sanitarians by the department of inspections and appeals or a neighboring local regulatory authority. Evaluations shall be reviewed by using the following criteria:

- a. The food establishment received no more than one critical violation during the previous calendar year.
- b. The food establishment demonstrates exemplary food safety and sanitation.
- c. An evaluation of the complaints reported to the local regulatory authority or the department, the nature of the complaints verified and the resolution of those complaints is taken into consideration and reviewed.
- d. The food establishment has not repeatedly violated specific code requirements since the last inspection.
- e. The food establishment complies with all licensing requirements as required by Iowa Code chapter 137F.
- f. The food establishment has operated under the same ownership for at least three years prior to nomination.
- g. The food establishment has received no more than one critical violation per year beginning January 1, 2000.

30.15(4) Final evaluation criteria.

CRITERIA	POINT VALUE
Written standard operation procedures regarding bare hand contact	0-5
Written procedure for ill food handlers	0-4
Documented formal food safety training of staff	0-4
"Certified" manager Graduate of Serv-Safe or equivalent course	0-3
Maintaining food at proper temperatures	0-3
Adequate date marking procedure	0-2
HACCP knowledge	0-2
Following an HACCP plan	0-2
Documentation of proper temperatures	0-2
Multi-lingual materials available or posted	0-2
Adherence to a cleaning schedule	0-1
Maximum points = 30	

30.15(5) The contractor shall issue the excellence in food safety awards annually on or before April 30.

30.15(6) Contractors may nominate one recipient of a local award per category (specified in 30.15(2)) to the depart-

ment for consideration of a statewide excellence in food safety award by June 30.

30.15(7) The department may recognize up to 18 establishments with no more than one establishment per category and per region. Regions shall include Eastern, Central and Western Iowa. The department will notify statewide award recipients by September 30.

This rule is intended to implement Iowa Code section 10A.104 and Iowa Code chapter 137F.

ARC 0356B

MEDICAL EXAMINERS BOARD[653]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 13, "Standards of Practice and Professional Ethics," Iowa Administrative Code.

The Board of Medical Examiners approved the amendment during a meeting held via telephone conference call on November 29, 2000.

The proposed amendment allows physicians to utilize EDTA chelation therapy for heavy metal poisoning. EDTA may also be used in treating other diseases or medical conditions in the clinical setting when a licensee experienced in clinical investigations conducts a carefully controlled clinical investigation of its effectiveness under a research protocol that has been approved by an institutional review board of the University of Iowa or Des Moines University—Osteopathic Medical Center.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4 p.m. on January 16, 2001. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686.

There will be a public hearing held in the Board's conference room on January 16, 2001, at 4 p.m. at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa. Interested persons may present their views either orally or in writing.

This amendment is intended to implement Iowa Code sections 147.55 and 148.6.

The following new rule is proposed.

653—13.4(147,148,150) Standards of practice—chelation therapy. Chelation therapy or disodium ethylene diamine tetra acetic acid (EDTA) may only be used for the treatment of heavy metal poisoning or in the clinical setting when a licensee experienced in clinical investigations conducts a carefully controlled clinical investigation of its effectiveness in treating other diseases or medical conditions under a research protocol that has been approved by an institutional review board of the University of Iowa or Des Moines University—Osteopathic Medical Center.

MEDICAL EXAMINERS BOARD[653](cont'd)

This rule is intended to implement Iowa Code chapters 147, 148, and 150.

ARC 0364B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 94, “Nonresident Deer Hunting,” Iowa Administrative Code.

These rules give the regulations for hunting deer and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of taking and transportation tag requirements.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 17, 2001. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on January 17, 2001, at 10 a.m. in the Fourth Floor Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

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

The following amendments are proposed.

ITEM 1. Rescind rule 571—94.8(483A) and adopt the following new rule in lieu thereof:

571—94.8(483A) Application procedure. Applications for nonresident deer hunting licenses must be made through the electronic licensing system for Iowa (ELSI) telephone order system. Applications will be accepted from the first Saturday in May through the last Sunday in May. No one may submit more than one application during the application period. If applications have been sold in excess of the license quota for any zone or hunting period, a drawing will be held to determine which applicants receive licenses. Licenses or refunds of license fees will be mailed to applicants after the drawing is completed. License agent writing fees, department administrative fees and telephone order charges will not be refunded. If any zone’s license quota has not been filled, the excess licenses will be sold on a first-come, first-served

basis through the telephone ordering system beginning the third Saturday after the close of the application period until the quota has been filled or the last day of the hunting period for which the license is valid, whichever occurs first. No one may obtain more than one nonresident deer hunting license. Hunters may apply as individuals or as a group of up to 15 applicants. All members of a group will be accepted or rejected together in the drawing. Members of a group that is rejected may purchase licenses individually if excess licenses are available.

Each individual applicant that is unsuccessful in the drawing will be assigned one preference point for each consecutive year that the applicant applies and is unsuccessful. Preference points will not accrue in a year in which an applicant fails to apply, but the applicant will retain any preference points previously earned. Once an applicant receives a license, all preference points will be removed until the applicant is again unsuccessful in a drawing. Preference points will apply to any zone or hunting period for which a hunter applies.

The first license drawing each year will be made from the pool of applicants with the most preference points. If licenses are still available after the first drawing, subsequent drawings will be made from pools of applicants with successively fewer preference points and continue until the license quota is reached or all applicants have received licenses. Applicants who apply as a group will be included in a pool of applicants with the same number of preference points as that of the member of the group with the fewest preference points assigned.

ITEM 2. Adopt the following new rule 571—94.10(481A):

571—94.10(481A) Harvest reporting system. A harvest report card will be attached to each transportation tag. Each hunter that bags a deer must fill out and sign the harvest report card immediately after the transportation tag is attached to the deer. The completed harvest report card must be taken to any ELSI license agent within 48 hours after the time the deer is tagged or before the hunter leaves the state. The license agent will enter the harvest report information into the ELSI terminal and print out a harvest verification tag. The verification tag must be placed on the deer and remain there until the deer is processed for consumption. A deer carcass or part of a carcass shall not be taken to a locker plant for processing unless the proper verification tag is attached.

ITEM 3. Adopt the following new rule 571—94.11(481A):

571—94.11(481A) Deer hunting season for severely disabled persons.

94.11(1) Licenses. A nonresident meeting the requirements of Iowa Code section 321L.1(8) may apply for a nonresident deer hunting license to participate in a special deer hunting season for severely disabled persons. Nonresidents applying for this license must have on file with the department of natural resources either a copy of a disabilities parking permit issued by a state department of transportation or an Iowa DNR form signed by a physician that verifies their disability.

94.11(2) Season dates. Any deer or antlerless deer may be taken in the hunting zone indicated on the deer license from the third Saturday in September through the first Sunday in October.

NATURAL RESOURCE COMMISSION[571](cont'd)

94.11(3) Shooting hours. Legal shooting hours will be from one-half hour before sunrise until one-half hour after sunset each day regardless of the type of weapon used.

94.11(4) Limits. Daily bag and possession limit is one deer. A person may shoot and tag only one deer by utilizing the license and tag issued in the person's name.

94.11(5) License quotas. Licenses for the special hunting season for severely disabled persons shall be issued from the quotas established in 571—94.6(483A). A special quota will not be set aside for severely disabled persons.

94.11(6) Method of take and other regulations. Deer may be taken with shotgun, bow, muzzleloading rifle or pistol as defined in 571—94.7(483A). All participants must meet the hunter orange requirement in Iowa Code section 481A.122. All other regulations for taking deer with a gun or bow shall apply.

94.11(7) Application procedures. Persons meeting the requirements for this season must apply following the procedures described in 571—94.8(483A). A person who does not have a form on file to verify a disability will not be entered into the drawing and will have the license fee refunded, less a \$10 administrative fee to cover the cost of handling the application as provided in 571—subrule 15.11(1). License agent writing fees, department administrative fees and telephone order charges will not be refunded.

ARC 0351B

PROFESSIONAL LICENSING AND
REGULATION DIVISION[193]

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 546.2, the Professional Licensing and Regulation Division hereby gives Notice of Intended Action to adopt Chapter 5, “Waivers and Variances from Rules,” Iowa Administrative Code.

Proposed Chapter 5 outlines a uniform process for the granting of waivers or variances from rules adopted by all boards of the Division. This chapter is proposed in response to Governor Vilsack’s Executive Order Number 11 and 2000 Iowa Acts, chapter 1176.

Consideration will be given to all written suggestions or comments on the proposed chapter received on or before January 16, 2001. Comments should be addressed to Glenda Loving, Professional Licensing and Regulation Division, 1918 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515) 281-7411. E-mail may be sent to glenda.loving@comm7.state.ia.us.

This amendment is intended to implement Iowa Code chapter 546 and 2000 Iowa Acts, chapter 1176.

The following **new** chapter is proposed.

CHAPTER 5

WAIVERS AND VARIANCES FROM RULES

193—5.1(17A,546) Definition. For purposes of this chapter, a “waiver or variance” means action by a division board 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. For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”

193—5.2(17A,546) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by division boards in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

193—5.3(17A,546) Applicability of chapter. A division board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. A division board may not waive requirements created or duties imposed by statute.

193—5.4(17A,546) Criteria for waiver or variance. In response to a petition completed pursuant to rule 5.6(17A,546), a division board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

193—5.5(17A,546) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

5.5(1) License application. If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

5.5(2) Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

5.5(3) Other. If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the board’s executive secretary.

193—5.6(17A,546) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person or entity for whom a waiver is being requested and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 5.4(17A,546). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.
5. A history of any prior contacts between the board and the petitioner relating to the regulated activity or license af-

PROFESSIONAL LICENSING AND REGULATION DIVISION[193](cont'd)

affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the past five years.

6. Any information known to the requester regarding the board's treatment of similar cases.

7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the grant of a waiver.

8. The name, address and telephone number of any person or entity that would be adversely affected by the grant of a petition.

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

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

193—5.7(17A,546) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's executive secretary, a committee of the board, or a quorum of the board.

193—5.8(17A,546) Notice. The board shall acknowledge a petition upon receipt. The board shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, within 30 days of the receipt of the petition. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided.

193—5.9(17A,546) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the board so provides by rule or order or is required to do so by statute.

193—5.10(17A,546) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

5.10(1) Board discretion. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the board based on the unique, individual circumstances set out in the petition.

5.10(2) Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

5.10(3) Narrowly tailored. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

5.10(4) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

5.10(5) Conditions. The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

5.10(6) Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

5.10(7) Time for ruling. The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

5.10(8) When deemed denied. Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

5.10(9) Service of order. Within seven days of its issuance, any order issued under this chapter 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.

193—5.11(17A,546) Public availability. All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

193—5.12(17A,546) Summary reports. Semiannually, each division board shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

193—5.13(17A,546) Cancellation of a waiver. A waiver issued by a division board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety, and welfare will be adequately protected after

PROFESSIONAL LICENSING AND REGULATION DIVISION[193](cont'd)

issuance of the waiver order have been demonstrated to be insufficient; or

3. The subject of the waiver order has failed to comply with all conditions contained in the order.

193—5.14(17A,546) Violations. Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

193—5.15(17A,546) Defense. After the board issues an order granting a waiver, the order is a defense within its 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.

193—5.16(17A,546) Judicial review. Judicial review of a board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapter 546 and 2000 Iowa Acts, chapter 1176.

ence Room of the Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Bureau office at least one day prior to the public hearing.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 0355B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 80A.15.

ARC 0354B**PUBLIC SAFETY
DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 80A.15, the Department of Public Safety hereby proposes to amend Chapter 2, "Bail Enforcement, Private Investigation and Private Security Businesses," Iowa Administrative Code.

A public hearing was held on November 9, 2000, pursuant to the Department's Administrative Rules Improvement Plan, which sets out a process for reviewing all of the Department's existing rules and was established pursuant to Executive Order Number 8. During the hearing, an objection was raised to a provision of Chapter 2 which requires the display of a person's social security number on the person's identification (ID) card. Chapter 2 provides, with limited exceptions, that a person who holds an ID card and is employed as a bail enforcement agent or private investigator or in private security work produce the card on demand while operating within the scope of the person's employment. Chapter 2 also provides that a person requesting to see the ID card be afforded an opportunity to record any information from the card. The objection to the current requirement for display of the social security number was based upon concerns about privacy and the potential for identity theft.

The Department finds that the objection to requiring the display of the social security number is well-founded and, in the absence of a statutory requirement to display the social security number on an ID card, the Department has decided to remove this language now rather than at the conclusion of the rules review process.

A public hearing on this proposed amendment will be held on January 19, 2001, at 9:30 a.m. in the Third Floor Confer-

**REVENUE AND FINANCE
DEPARTMENT****Notice of Electric and Natural Gas Delivery Tax Rates
and Municipal Electric and Natural Gas
Transfer Replacement Tax Rates
for Each Competitive Service Area**

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue and Finance hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2000 by each taxpayer to determine the tax due for each taxpayer in the 2001-2002 fiscal year.

**2000 ELECTRIC DELIVERY TAX RATES
BY SERVICE AREA**

<u>CO. #</u>	<u>MUNICIPAL ELECTRICS</u>	<u>DELIVERY TAX RATE</u>
3226	Akron Municipal Utilities	0.00008338
3201	Algona Municipal Utilities	0.00027701
3205	Alta Municipal Power Plant	0.00009747
3207	Ames Municipal Electric System	0.00000188
3209	Atlantic Municipal Utilities	0.00024840
3211	Bancroft Municipal Utilities	0.00101504
3213	Bellevue Municipal Utilities	0.00015474
3228	Bigelow Municipal Electric Utility	0.00240854
3229	Bloomfield Municipal Electric Utility	0.00002962
3216	Buffalo Municipal Electric System	0.00000360
3221	Cedar Falls Municipal Elec. Utility	0.00039541
3242	Corning Municipal Utilities	0.00035053
3243	Danville Municipal Electric Utility	0.00000413
3244	Denison Municipal Utilities	0.00001595
3256	Graettinger Municipal Light Plant	0.00045969
3258	Grand Junction Municipal Utilities	0.00000484

REVENUE AND FINANCE DEPARTMENT(cont'd)

3263	Harlan Municipal Utilities	0.00137185	3085	Earlville Municipal Utilities	0.00149960
3267	Hopkinton Municipal Utilities	0.00000930	3087	Ellsworth Municipal Utilities	0.00000000
3271	Indianola Municipal Utilities	0.00001301	3088	City of Estherville	0.00000000
3233	Lake View Municipal Utilities	0.00020820	3089	City of Fairbank	0.00000000
3274	Lamoni Municipal Utilities	0.00155795	3090	City of Farnhamville	0.00000000
3276	LaPorte City Utilities	0.00000943	3091	Fonda Municipal Electric	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00010590	3092	Forest City Municipal Utilities	0.00000000
3285	Maquoketa Municipal Electric	0.00005867	3093	Gowrie Municipal Utilities	0.00161035
3293	Muscatine Municipal Utilities	0.00010393	3094	Grafton Municipal Utilities	0.00000000
3297	New Hampton Municipal Light Plant	0.00007789	3095	Greenfield Municipal Utilities	0.00127783
3298	New London Municipal Utility	0.00068919	3096	Grundy Center Light & Power	0.00022883
3304	Ogden Municipal Utilities	0.00006342	3097	Hartley Municipal Utilities	0.00000000
3307	Osage Municipal Utilities	0.00005151	3098	Hawarden Municipal Utility	0.00000000
3309	Panora Municipal Electric Utility	0.00009932	3099	Hinton Municipal Electric/Water	0.00011001
3311	City of Pella	0.00007414	3100	Hudson Municipal Utilities	0.00000000
3318	Rock Rapids Municipal Utilities	0.00000479	3101	Independence Light & Power	0.00000000
3321	Sioux Center Municipal Utilities	0.00000505	3102	Keosauqua Light & Power	0.00000000
3326	State Center Municipal Light Plant	0.00034439	3103	Kimballton Municipal Utilities	0.00000000
3327	Story City Municipal Electric Utility	0.00011571	3104	Lake Mills Municipal Utilities	0.00000000
3328	Sumner Municipal Light Plant	0.00021044	3105	Lake Park Municipal Utilities	0.00000000
3330	Tipton Municipal Utilities	0.00149179	3106	City of Larchwood	0.00000000
3332	Traer Municipal Utilities	0.00053468	3107	City of Lawler	0.00000000
3337	Villisca Municipal Power Plant	0.00020736	3108	City of Lehigh	0.00000000
3338	Waverly Light & Power	0.00079900	3109	Lenox Mun. Light & Power	0.00038900
3342	Webster City Municipal Utilities	0.00038453	3110	Livermore Municipal Utilities	0.00000000
3345	West Bend Municipal Power Plant	0.00113443	3111	Long Grove Mun. Elec./Water	0.00000000
3346	West Liberty Municipal Electric Util.	0.00001182	3112	Manning Municipal Electric	0.00020927
3347	West Point Municipal Utility System	0.00010420	3113	City of Marathon	0.00000000
3351	Winterset Municipal Utilities	0.00138591	3114	Montezuma Municipal Light & Power	0.00000000
3237	Coon Rapids Municipal Utilities	0.00069896	3115	Mount Pleasant Municipal Utilities	0.00000000
3277	Laurens Municipal Utilities	0.00045044	3116	Neola Light & Water System	0.00000000
3291	Milford Municipal Utilities	0.00015128	3117	Orange City Municipal Utilities	0.00000000
3324	Spencer Municipal Utilities	0.00014636	3118	Orient Municipal Utilities	0.00000000
3245	Denver Municipal Electric Utility	0.00020566	3119	Paton Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00013893	3120	Paulina Municipal Utilities	0.00000000
3217	Burt Municipal Electric Utility	0.00000190	3121	Pocahontas Municipal Utilities	0.00000000
3236	Coggon Municipal Light Plant	0.00004827	3122	Preston Municipal Utilities	0.00000000
3252	Fontanelle Municipal Utilities	0.00036448	3123	Readlyn Municipal Utilities	0.00000000
3230	City of Fredericksburg	0.00000301	3124	Remsen Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000235	3125	City of Renwick	0.00000000
3232	Guttenberg Municipal Electric	0.00003664	3126	Rockford Municipal Light Plant	0.00000000
3284	Mapleton Municipal Utilities	0.00010382	3127	Sabula Municipal Utilities	0.00000000
3288	McGregor Municipal Utilities	0.00000795	3128	Sanborn Municipal Light & Plant	0.00000000
3234	Onawa Municipal Utilities	0.00010932	3129	City of Sergeant Bluff	0.00000000
3315	Primghar Municipal Light Plant	0.00002288	3130	Shelby Municipal Utilities	0.00000000
3323	Southern Minnesota Mun. Power	0.00000000	3131	Sibley Municipal Utilities	0.00000000
3068	City of Afton	0.00000000	3132	Stanhope Municipal Utilities	0.00000000
3069	Alta Vista Municipal Utilities	0.00000000	3133	Stanton Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000	3134	Stratford Municipal Utilities	0.00000000
3071	Anita Municipal Utilities	0.00000000	3135	Strawberry Point Electric Utility	0.00000000
3072	City of Aplington	0.00000000	3136	Stuart Municipal Utilities	0.00143006
3073	Auburn Municipal Utility	0.00000000	3137	Vinton Municipal Utilities	0.00000000
3074	Aurelia Mun. Electric Utility	0.00011374	3138	Wall Lake Municipal Utilities	0.00000000
3075	Breda Mun. Electric System	0.00000000	3139	City of Westfield	0.00000000
3076	Brooklyn Municipal Utilities	0.00165903	3140	Whittemore Municipal Utilities	0.00000000
3077	Callender Electric	0.00000000	3141	Wilton Municipal Light & Power	0.00000000
3078	Carlisle Municipal Utilities	0.00000000	3142	Woodbine Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00142089	3143	City of Woolstock	0.00000000
3080	Corwith Municipal Utilities	0.00000000			
3081	Dayton Light & Power	0.00000000			
3082	City of Dike	0.00000000			
3083	Durant Municipal Electric Plant	0.00000000			
3084	Dysart Municipal Utilities	0.00000000			
			CO. #	IQU's - ELECTRIC	DELIVERY TAX RATE
			7206	Amana Society Service Co.	0.00049316

REVENUE AND FINANCE DEPARTMENT(cont'd)

7248	Eldridge Electric & Water Utilities	0.00077234
7272	Interstate Power	0.00112694
7270	IES Utilities	0.00253530
7289	MidAmerican Energy	0.00278584
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Public Service Co.	0.00000000
7305	Omaha Public Power District	0.00151957
7334	Union Electric	0.00000000
7354	Geneseo Municipal Utilities	0.00000000
7359	BFC Electric Co. LC	0.00000000

<u>CO. #</u>	<u>REC's</u>	<u>DELIVERY TAX RATE</u>
4200	Southwest Iowa Service Coop	0.00289110
4203	Allamakee Clayton Electric Coop	0.00093586
4208	Atchison-Holt Electric Coop	0.00097519
4214	Boone Valley Electric Coop	0.00095212
4246	East-Central Iowa REC	0.00234065
4218	Butler County REC	0.00146712
4219	Calhoun County Electric Coop	0.00154802
4220	Cass Electric Coop	0.00004637
4223	Heartland Power Coop	0.00077206
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00116694
4235	Clarke Electric Coop	0.00312618
4240	Corn Belt Power Coop	0.00000000
4247	Eastern Iowa Light & Power	0.00089985
4249	Farmers Electric Coop - Kalona	0.00043783
4250	Farmers Electric Coop - Greenfield	0.00237767
4253	Franklin Rural Electric Coop	0.00087592
4255	Glidden Rural Electric Coop	0.00132896
4259	Grundy County REC	0.00076201
4260	Grundy Electric Cooperative	0.00055899
4261	Guthrie County REC	0.00254000
4262	Hancock County REC	0.00131670
4265	Harrison County REC	0.00142200
4266	Hawkeye Tri-County Electric Coop	0.00076862
4268	Humboldt County REC	0.00124397
4279	Linn County REC	0.00223621
4280	Lyon Rural Electric Coop	0.00082636
4286	Maquoketa Valley Electric Coop	0.00221287
4287	Marshall County Rural Electric Coop	0.00250237
4295	Nebraska Elec. G & T Coop	0.00000000
4299	Nishnabotna Valley REC	0.00095793
4336	United Electric Coop	0.00113198
4294	NW Electric Power Coop	0.00000000
4301	Northwest Iowa Power Coop	0.00000000
4300	North West Rural Electric Coop	0.00073490
4308	Osceola Electric Coop	0.00054754
4310	Pella Cooperative Electric	0.00218118
4313	Pleasant Hill Community Line	0.00032604
4316	Rideta Electric Coop	0.00310243
4319	S.E. Iowa Coop Electric Assn.	0.00084479
4320	Sac County Rural Electric Coop	0.00110413
4348	Western Iowa Power Coop	0.00101276
4322	Southern Iowa Electric Coop	0.00165227
4329	T.I.P. Rural Electric Coop	0.00230989
4352	Woodbury County Rural Electric Coop	0.00127894
4353	Wright County Rural Electric Coop	0.00054353
4251	Federated Rural Electric Association	0.00055753
4254	Freeborn-Mower Cooperative Services	0.00093016
4333	Tri County Electric Coop	0.00133788

4273	Iowa Lakes Electric Coop	0.00103630
4290	Midland Power Cooperative	0.00199594

2000 NATURAL GAS DELIVERY TAX RATES
BY SERVICE AREA

<u>CO. #</u>	<u>MUNICIPAL GAS</u>	<u>DELIVERY TAX RATE</u>
5340	Wayland Municipal Gas	0.00319456
5349	Winfield Municipal Gas	0.00045468
5275	Lamoni Municipal Gas	0.00080185
5281	Manilla Municipal Gas	0.00409584
5283	Manning Municipal Gas	0.00015239
5306	Osage Municipal Gas	0.00003370
5241	Corning Municipal Gas	0.00000103
5238	Coon Rapids Municipal Gas	0.00002167
5344	West Bend Municipal Gas	0.00202550
5317	Rock Rapids Municipal Gas	0.00007831
5215	Brighton Gas	0.01228388
5021	Bedford Municipal Gas	0.00000000
5022	City of Bloomfield	0.00000000
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00000000
5026	City of Clearfield	0.00000000
5027	Emmetsburg Municipal Gas	0.00000000
5028	City of Everly	0.00000000
5029	City of Fairbank	0.00000000
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.00000000
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00000000
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.00000000
5036	Lake Park Municipal Gas	0.00000000
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.00000000
5058	Sac City Municipal Gas	0.00000000
5059	Sanborn Municipal Gas	0.00000000
5060	Sioux Center Municipal Gas	0.00000000
5061	Tipton Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.00000000
5064	Wellman Municipal Gas	0.00000000
5065	Whittemore Municipal Gas	0.00000000
5066	Woodbine Gas	0.00000000

<u>CO. #</u>	<u>IOU's - GAS</u>	<u>DELIVERY TAX RATE</u>
5204	Allerton Gas	0.01415549
5272	Interstate Power	0.01583867
5270	IES Utilities	0.01261502
5289	MidAmerican Energy	0.01103529
5312	Peoples Natural Gas	0.00961232
5335	United Cities Gas	0.00640727

REVENUE AND FINANCE DEPARTMENT(cont'd)

2000 MUNICIPAL ELECTRIC TRANSFER
REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE			
3226	Akron Municipal Utilities	*	3258	Grand Junction Municipal Utilities	*
3201	Algona Municipal Utilities	0.00177058	3095	Greenfield Municipal Utilities	0.00240442
3205	Alta Municipal Power Plant	0.00091544	3096	Grundy Center Light & Power	0.00050761
3069	Alta Vista Municipal Utilities	0.00000000	3232	Guttenberg Municipal Electric	0.00560487
3070	Alton Municipal Light & Power	0.00142336	3263	Harlan Municipal Utilities	0.00283052
3207	Ames Municipal Electric System	0.00211070	3097	Hartley Municipal Utilities	0.00000000
3071	Anita Municipal Utilities	0.00000000	3098	Hawarden Municipal Utility	0.01587265
3227	Anthon Municipal Electric Utility	0.00846668	3099	Hinton Municipal Electric/Water	0.00326982
3209	Atlantic Municipal Utilities	0.00204496	3267	Hopkinton Municipal Utilities	0.00000000
3073	Auburn Municipal Utility	0.02038237	3100	Hudson Municipal Utilities	0.01940669
3074	Aurelia Municipal Electric Utility	*	3101	Independence Light & Power	0.00211175
3211	Bancroft Municipal Utilities	0.00523913	3271	Indianola Municipal Utilities	0.00142132
3213	Bellevue Municipal Utilities	*	3102	Keosauqua Light & Power	0.00000000
3229	Bloomfield Municipal Electric Utility	0.01226683	3103	Kimballton Municipal Utilities	0.00000000
3075	Breda Municipal Electric System	0.00000000	3104	Lake Mills Municipal Utilities	0.00054495
3076	Brooklyn Municipal Utilities	0.00000000	3105	Lake Park Municipal Utilities	0.00143281
3216	Buffalo Municipal Electric System	0.00000000	3233	Lake View Municipal Utilities	0.00948126
3217	Burt Municipal Electric Utility	0.00181988	3274	Lamoni Municipal Utilities	0.00215020
3077	Callender Electric	0.00674097	3276	LaPorte City Utilities	0.00025451
3078	Carlisle Municipal Utilities	0.00000000	3277	Laurens Municipal Utilities	0.00302780
3079	Cascade Municipal Utilities	0.00000000	3109	Lenox Municipal Light & Power	0.00001727
3221	Cedar Falls Mun. Electric Utility	0.00353542	3110	Livermore Municipal Utilities	0.00570241
3068	City of Afton	0.00393846	3111	Long Grove Mun. Elec./Water	0.00000000
3072	City of Aplington	0.00640187	3282	Manilla Municipal Elec. Utilities	0.00240140
3082	City of Dike	*	3112	Manning Municipal Electric	0.00076152
3088	City of Estherville	0.01074788	3284	Mapleton Municipal Utilities	0.00649540
3089	City of Fairbank	0.00199946	3285	Maquoketa Municipal Electric	0.00168966
3090	City of Farnhamville	0.00000000	3288	McGregor Municipal Utilities	0.00195201
3230	City of Fredericksburg	0.00569837	3291	Milford Municipal Utilities	0.00000000
3106	City of Larchwood	0.00000000	3114	Montezuma Municipal Light & Power	0.00153912
3107	City of Lawler	0.01135874	3115	Mount Pleasant Municipal Utilities	0.00000000
3108	City of Lehigh	0.00586206	3293	Muscataine Municipal Utilities	0.00000000
3113	City of Marathon	0.00265094	3116	Neola Light & Water System	0.00000000
3311	City of Pella	0.00271127	3297	New Hampton Municipal Light Plant	0.00127669
3125	City of Renwick	0.00000000	3298	New London Municipal Utility	0.00000000
3129	City of Sergeant Bluff	*	3304	Ogden Municipal Utilities	0.00240039
3139	City of Westfield	0.01786242	3234	Onawa Municipal Utilities	0.00194517
3143	City of Woolstock	0.00000000	3117	Orange City Municipal Utilities	0.00150370
3236	Coggon Municipal Light Plant	0.00000000	3118	Orient Municipal Utilities	0.00250033
3237	Coon Rapids Municipal Utilities	0.00174311	3307	Osage Municipal Utilities	0.00084880
3242	Corning Municipal Utilities	0.00000000	3309	Panora Municipal Electric Utility	*
3080	Corwith Municipal Utilities	0.00000000	3119	Paton Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000000	3120	Paullina Municipal Utilities	0.01362358
3081	Dayton Light & Power	0.00103770	3121	Pocahontas Municipal Utilities	0.00438308
3244	Denison Municipal Utilities	0.00117240	3122	Preston Municipal Utilities	0.03147792
3245	Denver Municipal Electric Utility	*	3315	Primghar Municipal Light Plant	*
3083	Durant Municipal Electric Plant	0.00000000	3123	Readlyn Municipal Utilities	0.00000000
3084	Dysart Municipal Utilities	0.00547898	3124	Remsen Municipal Utilities	0.00095064
3085	Earlville Municipal Utilities	*	3318	Rock Rapids Municipal Utilities	0.00436349
3086	Eldridge Electric & Water Utility	0.00092302	3126	Rockford Municipal Light Plant	0.00000000
3087	Ellsworth Municipal Utilities	0.00000000	3127	Sabula Municipal Utilities	0.00205564
3091	Fonda Municipal Electric	0.01087240	3128	Sanborn Municipal Light & Plant	0.00623929
3252	Fontanelle Municipal Utilities	0.00000000	3130	Shelby Municipal Utilities	*
3092	Forest City Municipal Utilities	0.00181099	3131	Sibley Municipal Utilities	0.01195558
3231	Glidden Municipal Electric Utility	0.02661001	3321	Sioux Center Municipal Utilities	0.00207172
3093	Gowrie Municipal Utilities	0.00141983	3324	Spencer Municipal Utilities	0.00662037
3256	Graettinger Municipal Light Plant	0.00072888	3132	Stanhope Municipal Utilities	0.01506379
3094	Grafton Municipal Utilities	*	3133	Stanton Municipal Utilities	0.00000000
			3326	State Center Municipal Light Plant	0.00000000
			3327	Story City Municipal Electric Utility	*
			3134	Stratford Municipal Utilities	0.00000000
			3135	Strawberry Point Electric Utility	0.00173416
			3136	Stuart Municipal Utilities	0.00037589

REVENUE AND FINANCE DEPARTMENT(cont'd)

3328	Sumner Municipal Light Plant	0.00117406
3330	Tipton Municipal Utilities	*
3332	Traer Municipal Utilities	0.00000000
3337	Villisca Municipal Power Plant	0.00000000
3137	Vinton Municipal Utilities	0.00538730
3138	Wall Lake Municipal Utilities	0.00288038
3338	Waverly Light & Power	0.00383080
3342	Webster City Municipal Utilities	0.00123161
3345	West Bend Municipal Power Plant	0.00185818
3346	West Liberty Municipal Electric Util.	0.00439109
3347	West Point Municipal Utility System	0.00000000
3140	Whittemore Municipal Utilities	0.00416937
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00000000
3142	Woodbine Municipal Utilities	0.00028162

*No rate provided to the Department by the Municipal

2000 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
5340	Wayland Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00000000
5275	Lamoni Municipal Gas	0.00421908
5281	Manilla Municipal Gas	0.13195671
5283	Manning Municipal Gas	0.02840008
5306	Osage Municipal Gas	0.00853204
5241	Corning Municipal Gas	0.00000000
5238	Coon Rapids Municipal Gas	0.00165272
5344	West Bend Municipal Gas	0.43723795
5317	Rock Rapids Municipal Gas	0.00132005
5215	Brighton Gas	0.00000000
5021	Bedford Municipal Gas	0.07038084
5022	City of Bloomfield	0.60653178
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.01094841
5026	City of Clearfield	*
5027	Emmetsburg Municipal Gas	0.44760223
5028	City of Everly	0.00000000
5029	City of Fairbank	0.00000000
5030	Gilmore City Municipal Gas	0.34694959
5031	Graettinger Municipal Gas	0.14837018
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00417271
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.13778006
5036	Lake Park Municipal Gas	0.00320669
5037	Lenox Municipal Gas	0.04123401
5038	Lineville City Natural Gas	*
5039	Lorimor Municipal Gas	0.00979327
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.03570709
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.19483990
5055	Remsen Municipal Gas	0.11161573
5056	Rolfe Municipal Gas	0.06593552

5057	Sabula Municipal Gas	0.00891058
5058	Sac City Municipal Gas	0.08736807
5059	Sanborn Municipal Gas	0.02324850
5060	Sioux Center Municipal Gas	0.01504355
5061	Tipton Municipal Gas	0.02958401
5063	Waukee Municipal Gas	0.02245134
5064	Wellman Municipal Gas	0.01501883
5065	Whittemore Municipal Gas	0.04581901
5066	Woodbine Gas	0.27273941

*No rate provided to the Department by the Municipal

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 December is 7.75%.

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 December 9, 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 5.90%
180-364 days	Minimum 5.80%
One year to 397 days	Minimum 5.80%
More than 397 days	Minimum 5.80%

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 0362B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 159.5(11), the Department of Agriculture and Land Stewardship hereby adopts Chapter 51, "Remediation of Agrichemical Sites," Iowa Administrative Code.

The new chapter is intended to implement 2000 Iowa Acts, chapter 1184, section 3, which establishes an Agrichemical Remediation Board. These rules establish the operating procedures of the Agrichemical Remediation Board.

The Department will not grant a waiver of these rules because they set forth the Agrichemical Remediation Board's basic rules of procedure.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for rules to establish the operating procedures of the Agrichemical Remediation Board in implementing provisions of this new law.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department also finds that the normal effective date of these rules should be waived and these rules should be made effective upon filing on December 8, 2000, because they confer a benefit upon the public by enabling the Agrichemical Remediation Board to establish organizational rules which are necessary to expedite the implementation of the Iowa Agrichemical Remediation Act, 2000 Iowa Acts, chapter 1184.

These rules are also published herein under Notice of Intended Action as **ARC 0361B** to allow public comment. This emergency filing permits the Department to implement provisions of the new law.

These rules are intended to implement 2000 Iowa Acts, chapter 1184, section 3.

These rules became effective December 8, 2000.

The following new chapter is adopted.

CHAPTER 51

REMEDIATION OF AGRICHEMICAL SITES

21—51.1(78GA,ch1184) Definitions. As used in this chapter:

"Department" means department of agriculture and land stewardship.

21—51.2(78GA,ch1184) Agrichemical remediation board. The agrichemical remediation board was established by 2000 Iowa Acts, chapter 1184, section 3, and is charged with the responsibility of executing remediation agreements; reviewing and determining the eligibility for site remediation; approving administrative costs of the department; and consulting with the department in the adoption of rules necessary to carry out the provisions of 2000 Iowa Acts, chapter 1184, section 3.

51.2(1) Organization and operation location. The agrichemical remediation board is located within the Department of Agriculture and Land Stewardship, Henry A. Wallace Building, East 9th and Grand, Des Moines, Iowa 50319. The department's office hours are from 8 a.m. to 4:30 p.m., Monday through Friday.

51.2(2) Membership. The agrichemical remediation board consists of seven members as set forth in 2000 Iowa Acts, chapter 1184, section 3.

51.2(3) Staff. Staff assistance is provided through the department as designated by the secretary of agriculture.

51.2(4) Advisors. The agrichemical remediation board may solicit input from advisors without restriction as determined by the board.

51.2(5) Meetings. The agrichemical remediation board shall meet on a regular basis and annually to elect a chairperson. The board shall meet at other times at the call of the chairperson or upon written request to the chairperson by two or more members. Meetings may be in person or via telephone conference as determined by the chairperson.

a. All board meetings shall comply with Iowa Code chapter 21. A quorum of an absolute majority of the board members must be present to transact business. Action by the board requires the approval of an absolute majority of board members.

b. Meetings will follow Robert's Rules of Order. Minutes of each meeting will be available from the Secretary of Agriculture, Department of Agriculture and Land Stewardship, Henry A. Wallace Building, East 9th and Grand, Des Moines, Iowa 50319.

51.2(6) Open records. All public records of the board are available for public inspection during business hours. Requests to obtain records may be made by regular mail, by electronic mail, by telephone or in person to the secretary's office, department of agriculture and land stewardship. Minutes of the board meetings may be obtained without charge. Other records requiring more than five copies may be obtained upon payment of the actual cost of copying.

51.2(7) Budget. The agrichemical remediation board shall submit a proposed budget to the secretary of agriculture no later than May 1 of each year.

51.2(8) Reports. The agrichemical remediation board shall submit a report to the general assembly by January 10 of each odd-numbered year. The report shall provide a summary and a detailed accounting of the board's financial condition including expected revenue and expenses during the following two years.

These rules are intended to implement 2000 Iowa Acts, chapter 1184, section 3.

[Filed Emergency 12/8/00, effective 12/8/00]

[Published 12/27/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/27/00.

ARC 0360B

EMERGENCY MANAGEMENT DIVISION[605]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 30.5, the Emergency Management Division hereby amends Chapter 101, "Operations of Commission," Iowa Administrative Code.

These amendments implement the provisions of Iowa Code section 30.2 as amended by 2000 Iowa Acts, chapter 1020, section 7, and chapter 1232, section 45, by changing the total number of members on the Iowa Emergency Response Commission; delineating voting and nonvoting

EMERGENCY MANAGEMENT DIVISION[605](cont'd)

members; establishing a quorum requirement; and setting forth a time frame for the election of officers.

In compliance with Iowa Code section 17A.4(2), the Division finds that notice and public participation are impracticable because of the need for changes in the rules to implement Iowa Code section 30.2 as amended by 2000 Iowa Acts, chapter 1020, section 7, and chapter 1232, section 45.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon publication on December 27, 2000. These amendments confer a benefit upon local emergency planning commissions and other governmental subdivisions of the state and allow the Iowa Emergency Response Commission to continue to conduct business as provided in Iowa Code chapter 30.

These amendments are also published herein under Notice of Intended Action as **ARC 0359B** to allow public comment. This emergency filing permits the Division to implement new provisions of law.

These amendments are intended to implement Iowa Code section 30.2 as amended by 2000 Iowa Acts, chapter 1020, section 7, and chapter 1232, section 45.

These amendments became effective December 27, 2000.

The following amendments are adopted.

ITEM 1. Rescind rule 605—101.2(30) and adopt the following new rule in lieu thereof:

605—101.2(30) Membership. The Iowa emergency response commission is composed of 15 members appointed by the governor.

101.2(1) Voting members. Members representing the departments of workforce development, natural resources, public defense, public safety, and transportation, and one of the private industry representatives, who is designated by the commission at the first meeting of the commission each year, serve as voting members of the commission.

101.2(2) Nonvoting members. The remaining members of the commission, representing the department of agriculture and land stewardship, the department of justice, the department of public health, the state fire service emergency response council, a local emergency planning committee, the Iowa hazardous materials task force, the office of the governor, and two members representing private industry serve as nonvoting, advisory members of the commission. Nonvoting members may fully participate in discussion of matters before the commission, serve on committees formed by the commission and serve as officers of the commission.

ITEM 2. Rescind rule 605—101.7(17A,21,30) and adopt the following new rule in lieu thereof:

605—101.7(17A,21,30) Quorum and voting requirements.

101.7(1) Quorum. Four of the six voting members of the commission constitute a quorum.

101.7(2) Majority voting. All votes shall be determined by a majority of voting members present at a meeting of the commission. A quorum of the commission must be present at the time any vote is taken by the commission.

101.7(3) Voting procedures. The chairperson shall rule as to whether the vote will be by voice vote or roll call. A roll call vote shall be taken anytime a voice vote is not unanimous. Minutes of the commission shall indicate the vote of each member.

ITEM 3. Rescind rule 605—101.9(17A,21,30) and adopt the following new rule in lieu thereof:

605—101.9(17A,21,30) Officers and election.

101.9(1) Officers. The officers of the IERC are the chairperson and the vice chairperson.

101.9(2) Elections. Election of officers shall take place at the first commission meeting held each calendar year. If an officer does not serve out the elected term, a special election shall be held at the first meeting held after notice is provided to the commission to elect a member to serve out the remainder of the term.

ITEM 4. Amend **605—Chapter 1**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter 30 and ~~1992 Iowa Acts, chapter 1139~~ as amended by 2000 Iowa Acts, chapter 1020, section 7, and chapter 1232, section 45.

[Filed Emergency 12/7/00, effective 12/27/00]

[Published 12/27/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/27/00.

ARC 0363B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 455A.5(6)"a," the Natural Resource Commission hereby amends Chapter 27, "Lands and Waters Conservation Fund Program," Iowa Administrative Code.

The amendment removes reference to specific dates for submission and review of applications for cost-sharing grants from the National Park Service. These specific dates (March 15 for submittal and April for review) are replaced with general wording to reflect the necessity of expedient review and approval of project applications for the state's share of annual apportionments as soon as practical and feasible upon notification by the National Park Service of the state's total apportionment amount.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are impracticable because of the immediate need for changes in the rules to allow obligation of state and federal funds and to facilitate bidding and construction of cost-shared projects.

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 be made effective upon filing with the Administrative Rules Coordinator on December 8, 2000, as it confers a benefit upon members of the public who utilize the outdoor recreational facilities built with federal Land and Water Conservation Fund cost sharing.

This amendment is intended to implement Iowa Code sections 456A.27 to 456A.35.

This amendment became effective December 8, 2000.

The following amendment is adopted.

Amend rule 571—27.5(456A) by rescinding subrule 27.5(5) and adopting the following new subrule in lieu thereof:

27.5(5) Application timing. The following applies only to state projects. Grant applications and amendments to existing approved projects which exceed 10 percent of the orig-

NATURAL RESOURCE COMMISSION[571](cont'd)

inal grant amount will be reviewed, evaluated and submitted to the National Park Service for approval as soon as practicable upon notification of Iowa's apportionment.

[Filed Emergency 12/8/00, effective 12/8/00]
[Published 12/27/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/27/00.

ARC 0355B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 80A.15, the Department of Public Safety hereby amends Chapter 2, "Bail Enforcement, Private Investigation and Private Security Businesses," Iowa Administrative Code.

A public hearing was held on November 9, 2000, pursuant to the Department's Administrative Rules Improvement Plan, which sets out a process for reviewing all of the Department's existing rules and was established pursuant to Executive Order Number 8. During the hearing, an objection was raised to a provision of Chapter 2 which requires the display of a person's social security number on the person's identification (ID) card. Chapter 2 provides, with limited exceptions, that a person who holds an ID card and is employed as a bail enforcement agent or private investigator or in private security work produce the card on demand while operating within the scope of the person's employment. Chapter 2 also provides that a person requesting to see the ID card be afforded an opportunity to record any information from the card. The objection to the current requirement for display of the social security number was based upon concerns about privacy and the potential for identity theft.

The Department finds that the objection to requiring the display of the social security number is well-founded and, in the absence of a statutory requirement to display the social security number on an ID card, the Department has decided to remove this language now rather than at the conclusion of the rules review process.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable, as it is desirable that the requirement for including the social security number on ID cards be removed as soon as possible, in order to reduce any risk to persons who carry and display these cards.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective December 1, 2000, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by removing an un-

necessary requirement for display of social security numbers on ID cards issued to bail enforcement agents, private investigators, and private security personnel. Removing the requirement may reduce the risk of unauthorized use of social security numbers.

This amendment is also published herein under Notice of Intended Action as **ARC 0354B**. The Notice of Intended Action provides for a period of public comment and participation, including a public hearing. This process will culminate in adoption of the amendment through the normal rule-making process, after consideration of any public input received during the comment period.

This amendment is intended to implement Iowa Code section 80A.15.

This amendment became effective December 1, 2000.

The following amendment is adopted.

Amend rule 661—2.11(80A), introductory paragraph, as follows:

661—2.11(80A) Identification (ID) cards. Upon the issuance of a license, a pocket ID card of the following content shall be issued by the commissioner.

Full legal name	Social security number
Date of birth	Color of eyes
Address	Licensee's name
Sex	Type of business
Height	License number
Weight	Date of issuance
Hair color	
1" x 1" color photo	

This ID card is invalid without the commissioner's signature and the department's seal embossed on it. The ID card shall be evidence that the holder is duly licensed, and the holder shall have this card in the holder's possession at all times when the holder is within the scope of employment. Failure to do so may result in suspension or revocation of the ID card or the licensee's license. This ID card shall remain the department's property. When any person to whom a card is issued terminates the person's position for any reason, the card must be surrendered to the commissioner within seven days. In the event of loss, destruction, or theft of this card, the licensee shall report (to the commissioner) in writing the circumstances surrounding the loss, destruction, or theft within five days of such discovery. The fee for each original, temporary, replacement or renewal ID card is \$10. If the agency license has been terminated or revoked, the agency must return the license and all ID cards to the commissioner within seven days. The penalty for any knowing or willful misconduct in the use of the ID card may be suspension or revocation of the ID card or the licensee's license, depending on the nature and degree of the misconduct.

[Filed Emergency 11/30/00, effective 12/1/00]
[Published 12/27/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/27/00.

ARC 0366B

ATTORNEY GENERAL[61]

Adopted and Filed

Pursuant to the authority of Iowa Code section 915.82(2), the Attorney General's Crime Victim Assistance Board amends Chapter 9, "Victim Assistance Program," Iowa Administrative Code.

Chapter 9, Division II, provides for the general administration of the Crime Victim Compensation Program as authorized in Iowa Code chapter 915. The amendment rescinds the rules in Division II of Chapter 9 and adopts new rules in lieu thereof. The adopted rules establish program definitions, eligibility determination and award computation procedures, and claimant appeal processes.

Notice of Intended Action was published in the November 1, 2000, Iowa Administrative Bulletin as **ARC 0242B**. These rules include the following substantive changes from the Notice of Intended Action:

1. In paragraphs 9.35(1)"h" and 9.35(1)"i," the mileage cost for transportation by private vehicle has been changed to the state rate for boards and commissions rather than 25 cents per mile.

2. In subrule 9.35(12), crime scene cleanup benefits have been changed to include the cost of cleaning a private vehicle as well as cleanup of a home that is the scene of crime. The subrule reads as follows:

"**9.35(12)** Residential crime scene cleanup. Compensation may be paid for the reasonable costs of an eligible victim or applicant for cleaning a residential crime scene, which includes a home, or a private vehicle in which the crime was committed. Cleaning a residential crime scene means to remove, or attempt to remove, from the crime scene blood, dirt, stains, or other debris caused by the crime or the processing of the crime scene. Compensation shall be paid for the reasonable out-of-pocket cost of cleaning supplies, equipment rental, labor, and the value of property which is essential to the victim and which is held by law enforcement for evidentiary purposes. Cleaning a residential crime scene does not include replacement or repair of property damaged in the crime."

3. New subrule 9.36(4), which describes the district court appeal period for applicants aggrieved by the decision of the Crime Victim Assistance Board, has been added. It reads as follows:

"**9.36(4)** District court appeal period. An applicant shall submit a petition for judicial review to the district court within 30 days of the receipt of the notice of the board's decision."

The Crime Victim Assistance Board, at their December 6, 2000, meeting, approved these rules.

These rules will become effective on January 31, 2001.

These rules are intended to implement Iowa Code sections 915.80 through 915.94.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [9.25 to 9.36] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 0242B**, IAB 11/1/00.

[Filed 12/8/00, effective 1/31/01]

[Published 12/27/00]

[For replacement pages for IAC, see IAC Supplement 12/27/00.]

ARC 0357B

MEDICAL EXAMINERS
BOARD[653]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76, 148.13, 148E.7 and 272C.3, the Board of Medical Examiners hereby amends Chapter 1, "Public Records and Fair Information Practices," Chapter 2, "Impaired Physician Review Committee," Chapter 10, "Medical Examiners—Administrative Regulatory Authority," and Chapter 14, "Licensure of Acupuncturists," Iowa Administrative Code.

The amendments renumber current Chapter 1, "Public Records and Fair Information Practices," as Chapter 2; current Chapter 2, "Impaired Physician Review Committee," as Chapter 14; current Chapter 10, "Medical Examiners—Administrative Regulatory Authority," as Chapter 1, "Administrative and Regulatory Authority"; and current Chapter 14, "Licensure of Acupuncturists," as Chapter 17.

Amendments to renumbered Chapter 1 include the following:

- The title is changed to reflect the content of the chapter.
- The chapter shows compliance with more current laws, e.g., statutes that address student loan default, default on child support payment, acupuncture practice, and the sale of goods and services by Board members and members of the Impaired Physician Review Committee.
- Registered peer review now includes a peer review consultant as well as a peer review committee.
- Unnecessary repetition of the law is eliminated.
- Committee work is described in terms of committees' current duties.
- Robert's Rules of Order, Revised, does not govern the Board's proceedings and is no longer recognized for doing so.
- The Board's address is updated.
- References are updated.
- The chairperson, rather than the Board, may appoint a presiding officer at public hearings.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 18, 2000, as **ARC 0210B**. The following revisions have been made from the Notice of Intended Action:

- Revised subrule 1.3(3) allows an alternative to electing officers at the last regular Board meeting prior to May 1. A phrase was added to allow the Board to conduct the election at another date in April scheduled by the Board. The subrule now reads:

"**1.3(3)** Elects a chairperson, a vice chairperson and a secretary from its membership at the last regular board meeting prior to May 1 or at another date in April scheduled by the board."

- In subparagraph 1.3(5)"1"(5), second bulleted paragraph, the phrase "registration of acupuncturists" was changed to "licensure of acupuncturists."

The Board approved the revised amendments during a meeting held via telephone conference call on November 29, 2000.

These amendments are intended to implement Iowa Code sections 147.76, 148.13, 148E.7 and 272C.3.

These amendments will become effective on January 31, 2001.

MEDICAL EXAMINERS BOARD[653](cont'd)

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 1, 2, 10, 14, 17] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 0210B**, IAB 10/18/00.

[Filed 12/1/00, effective 1/31/01]
[Published 12/27/00]

[For replacement pages for IAC, see IAC Supplement 12/27/00.]

ARC 0358B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby adopts Chapter 3, "Waivers and Variances," and amends Chapter 11, "Licensure Requirements," Chapter 12, "Mandatory Reporting and Grounds for Discipline," Chapter 13, "Standards of Practice and Professional Ethics," and Chapter 14*, "Licensure of Acupuncturists," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 18, 2000, as **ARC 0212B**. These amendments are identical to those published under Notice of Intended Action.

The Board approved the amendments during a meeting held via telephone conference call on November 29, 2000.

Chapter 3 adopts uniform rules regarding petitions for waiver or variance from provisions of Board rules. Executive Order Number 11 directs state rule-making authorities to adopt uniform rules regarding waivers and variances from rules of the authority.

The Board rescinded subrule 11.9(3) regarding waivers that apply only to licensure applications. The adopted new Chapter 3 on waivers and variances replaces this subrule.

The Board disallowed waivers or variances of the grounds for discipline for physicians; the grounds for discipline for acupuncturists; the standards of professional practice and ethics for physicians; fees; and eligibility and application requirements for acupuncturists.

These amendments are intended to implement Iowa Code sections 17A.22, 147.76, 272C.3, and 272C.4.

These amendments will become effective on January 31, 2001.

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 [Ch 3, 11.9(3), 11.36, 12.4, 13.12, 14.4(6), 14.5(10), 14.11, 14.30] is being omitted. These amendments are identical to those published under Notice as **ARC 0212B**, IAB 10/18/00.

[Filed 12/1/00, effective 1/31/01]
[Published 12/27/00]

[For replacement pages for IAC, see IAC Supplement 12/27/00.]

*Renumbered as Chapter 17 pursuant to Adopted and Filed **ARC 0357B**, page 1013 herein.

ARC 0353B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby amends Chapter 11, "Licensure Requirements," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 18, 2000, as **ARC 0214B**. These amendments are identical to those published under Notice of Intended Action.

The Board approved the amendments during a meeting held via telephone conference call on November 29, 2000.

The amendments revise the current Chapter 11 as follows:

- In accordance with Iowa Code section 148.5 as amended by 2000 Iowa Acts, chapter 1140, section 32, the period of a resident license is being changed from one year to an initial license period of two years followed by annual renewals for those who do not get a permanent license. Renewal will require completion of an application, payment of a fee, and a statement from the residency program. The rule is also being revised to add a statement that the Board may take disciplinary action on a resident's license for the same reasons it may take action against a permanent license.

- A subscriber to a password-protected Web site will be able to receive verification of licensure status by payment of an individual verification charge of \$3 or an annual subscription of \$2,000 for unlimited verifications in 12 months.

These amendments will become effective January 31, 2001.

These amendments are intended to implement Iowa Code sections 147.55, 147.76, 148.13, 148E.7 and 272C.3.

The following amendments are adopted.

ITEM 1. Amend rule 653—11.6(148) as follows:

653—11.6(148) License to practice as a resident physician.

11.6(1) General provisions. The license shall be designated "Resident Physician License" and shall authorize the licensee to practice as a resident physician, while under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery, in an institution or program approved for this purpose by the board. A resident physician license shall expire ~~one year~~ *two years* following the date of issuance and may be annually renewed *thereafter* at the discretion of the ~~medical examiners at a fee of \$25~~ *board*.

11.6(2) Requirements for the initial resident physician license. Each applicant shall:

a. Submit a completed application form accompanied by a fee of ~~\$50~~ *\$75*.

b. Present a notarized photocopy of a diploma issued by a school or college of medicine and surgery or a school or college of osteopathic medicine and surgery approved by the board, or present other evidence of equivalent medical education approved by the board. The board may accept, in lieu of a diploma from a school or college of medicine approved by it, all of the following:

(1) A notarized photocopy of a diploma issued by a school or college of medicine which has been neither approved nor disapproved by the board.

MEDICAL EXAMINERS BOARD[653](cont'd)

(2) The standard certificate issued by the Educational Commission for Foreign Medical Graduates or the completion of a fifth pathway program in accordance with criteria established by the American Medical Association.

11.6(3) c. Candidates may be required to satisfactorily complete an examination prescribed by the ~~medical examiners board~~.

a. (1) The board may require written, oral or practical examination.

b. (2) The candidate may be required to appear for a personal interview before the board or a committee of the board.

d. *The board may refuse to grant renewal of the license pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code section 147.55.*

11.6(3) Requirements for renewal of a resident physician license.

a. *If the resident physician licensee has not qualified for and received a permanent license, the board shall send a renewal notice by mail at least 60 days prior to the expiration date of the resident physician license.*

b. *The resident physician shall be qualified for renewal for one year by submitting a completed renewal application that documents why the individual has not obtained a permanent license, the renewal fee of \$25, and a statement by the residency program of the individual's progress in the program and any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action. No documentation of continuing medical education is required since a resident is in training.*

c. *Failure of the licensee to renew a license within 30 days following its expiration date shall cause the license to lapse and shall invalidate it. A licensee whose license has lapsed and become invalid is prohibited from the practice of medicine and surgery or osteopathic medicine and surgery until the lapsed license is renewed or replaced by a permanent medical license.*

11.6(4) Discipline of a resident license. *The board may discipline a license for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code section 147.55 or 148.6 or Iowa Code chapter 272C.*

ITEM 2. Amend subparagraph **11.31(4)"a"(3)** as follows:

(3) ~~For an unlimited number of verifications verification of licensure status from a password-protected Web site in a 12-month period, the board shall charge a subscriber \$3 per verification or an annual subscription fee of \$2,000 for an unlimited number of verifications in 12 months.~~

[Filed 11/28/00, effective 1/31/01]

[Published 12/27/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/27/00.

ARC 0367B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby amends Chapter 40, "Board of Chiropractic Examiners," and adopts new

Chapter 43, "Continuing Education for Chiropractic Physicians," and Chapter 44, "Discipline for Chiropractic Physicians," Iowa Administrative Code.

The amendments correct cross references to rules, rescind the current continuing education rules, renumber rules, adopt a new chapter for continuing education and adopt a new chapter for discipline.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 18, 2000, as **ARC 0219B**. A public hearing was held on November 14, 2000, from 1 to 3 p.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa.

The following public comments were received: Requests were made to change all references from "chiropractor" to "chiropractic physician." Comments were made indicating that the term "approved sponsor" should be defined the same as "accredited sponsor" in the current rules. The new rules that propose to open up the definition of approved sponsors to any "persons" or "organization" will adversely affect the high quality education required. Commenters stated that it is disturbing that virtually anyone could sponsor continuing education. A concern was expressed that opening sponsorship to virtually anyone will promote a decline in the quality of the seminars presented in the state. A concern was expressed that programs will focus on sales and promotion. Vendors have an opportunity to do sales and promotion at meetings, seminars, etc., but this should not be part of a continuing education offering. These changes will have a direct result on the overall quality of continuing education.

The term "hour of continuing education" clarifies that an hour of continuing education is a clock hour; however, the term "contact hour" is also used. "Contact hour" needs to be defined or "clock hour" needs to be used. The term "professional boundaries" should be defined. Subrule 44.1(19) appears to require an annual continuing education report. There is no such requirement in the rules. Subrule 43.4(1) provides the requirements for becoming an approved sponsor. It appears the approval is indefinite and that the only way to have the "approval" revoked is through subrule 43.4(3). Commenters stated that the Board should be able to reevaluate at any time. The Board should have some kind of reporting mechanism whereby a chiropractic physician can raise concerns. A commenter stated that the rules for granting continuing education result in an overall, well-rounded program; the approval process is easily understood; having approved sponsors, prior approval and postapproval is helpful; and the rules are easily understood.

The following changes were made to the Notice of Intended Action:

- The term "chiropractor" was changed to "chiropractic physician" throughout the rules.
- Subrule 40.14(6), regarding the fee for reinstatement of a lapsed or inactive license, has been added.
- In paragraph 43.3(2)"b," criteria were added to give the licensees direction on professional boundaries training.
- Subrule 43.3(3), "Criteria for presenters and sponsors," was added. The licensees attending continuing education activities need to know when a sponsor, instructor or presenter has a relationship with an entity promoting, developing or marketing products, services, procedures or treatment methods and presents continuing education on the same subjects. Written and verbal disclosure must be made.
- To subrule 43.10(3), reinstatement fee was added to inactive license fees to recoup the costs of this service.
- Rule 645—43.6(272C), numbered paragraph "2," was changed and now reads as follows:
"2. Pays all past due renewal fees not to exceed \$500;"

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

• To rule 645—43.6(272C), a new numbered paragraph “3” was added as follows:

“3. Pays a late fee equal to the renewal fee for one biennium;”

• To rule 645—43.6(272C), to recoup the costs of this service, a new numbered paragraph “4” was added as follows:

“4. Pays the reinstatement fee;”

• In rule 645—43.6(272C), numbered paragraphs “3” and “4” have been renumbered as “5” and “6.”

• In subrule 44.1(19), “annual report” was changed to “biennial report.”

These amendments were adopted by the Board of Chiropractic Examiners on November 29, 2000.

These amendments will become effective January 31, 2001.

These amendments are intended to implement Iowa Code sections 147.76 and chapters 151 and 272C.

The following amendments are adopted.

ITEM 1. Amend rule **645—40.1(151)** by rescinding the definitions of “accredited sponsor,” “approved program or activity,” “continuing education,” “elective credit hours,” “hour of continuing education,” “inactive license,” “non-designated credit hours,” and “prescribed credit hours.”

ITEM 2. Amend rule **645—40.1(151)**, definition of “license,” as follows:

“License” ~~shall mean means a certificate issued to a person licensed to practice chiropractic under the laws of this state.~~

ITEM 3. Rescind rule **645—40.8(151)** and renumber rule **645—40.9(151)** as **645—40.8(151)**.

ITEM 4. Rescind rule **645—40.10(151)** and renumber **645—40.12(151)** as **645—40.10(151)**.

ITEM 5. Renumber rule **645—40.11(151)** as **645—40.9(151)** and rules **645—40.13(151)** through **645—40.19(151)** as **645—40.11(151)** through **645—40.17(151)**.

ITEM 6. Adopt **new** subrule 40.14(6) as follows:

40.14(6) For reinstatement of a lapsed or inactive license the fee is \$50.

ITEM 7. Rescind rule **645—40.24(272C)** and renumber rule **645—40.51(147,272C)** as **645—40.24(147,272C)**.

ITEM 8. Renumber rules **645—40.36(151)** through **645—40.41(151)** as **645—40.18(151)** through **645—40.23(151)**.

ITEM 9. Rescind rule **645—40.52(151,272C)**.

ITEM 10. Rescind rules **645—40.62(272C)** through **645—40.67(272C)** and **645—40.69(272C)** through **645—40.73(272C)**.

ITEM 11. Adopt **new** 645—Chapter 43 as follows:

CHAPTER 43 CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS

645—43.1(151) 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 chiropractic 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 an organization, educational institution or person 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 shall 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 education provider requirements during a specified time period.

“Board” means the board of chiropractic examiners.

“Continuing education” means planned, organized learning acts acquired during licensure 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 as a chiropractic physician in the state of Iowa.

645—43.2(272C) Continuing education requirements.

43.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of each even-numbered year two years later. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 60 hours of continuing education approved by the board.

43.2(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 60 hours of continuing education per biennium for each subsequent license renewal.

43.2(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 pursuant to statutory provisions and the rules that implement them.

43.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

43.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—43.3(151) Standards for approval.

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43.3(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 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 clock hours (One clock hour equals one hour of continuing education credit.); and

(3) Official signature or verification by program sponsor.

43.3(2) Specific criteria. Continuing education hours of credit may be obtained by completing:

a. At least 36 hours of continuing education credit obtained from a board-approved program that relates to the clinical practice of chiropractic.

b. A minimum of two hours per biennium in professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training and ethics.

c. Classes on child abuse, dependent adult abuse, and OSHA training that meet the criteria in subrule 43.3(1). These classes are approved by the board and do not require prior approval or postapproval.

d. Teaching at a Council on Chiropractic Education (CCE) or board of chiropractic examiners-approved institution. Hours may be used only for the initial session and shall have prior board approval.

e. Electronically transmitted programs/activities or home study programs/activities that have a certificate of completion.

43.3(3) Specific criteria for presenters and sponsors.

a. All continuing education program sponsors must disclose in writing to participants the names of all instructors/presenters that are affiliated or employed by any entity selling or promoting products.

b. All instructors/presenters of a continuing education activity must include, as part of the continuing education activity, verbal and written statements to the participants regarding any affiliations or employment relationships with any entity promoting, developing or marketing products, services, procedures or treatment methods.

645—43.4(151) Approval of sponsors, programs, and activities for continuing education.

43.4(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:

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

(2) Total hours of instruction to be 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) Program date(s);

(2) Course title and presenter;

(3) Location;

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

(5) Name of sponsor and sponsor number;

(6) Licensee's name; and

(7) Method of presentation.

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

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 presented;

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

(4) A sample of the evaluation form(s); and

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

43.4(2) Prior approval of programs/activities. An organization or person other than an approved sponsor that desires prior approval of a course, program or other educational activity or that desires to establish approval of such activity prior to attendance shall apply to the board for approval 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. Requirements set forth in subrule 43.4(1) shall also apply to prior approval of programs/activities. 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.

43.4(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

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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).

43.4(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 continuing education hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

43.4(5) Voluntary relinquishment. The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—43.5(272C) Reporting continuing education by licensee. At the time of license renewal, each licensee shall be required to submit a report on continuing education on a board-approved form.

43.5(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.

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

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

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

(3) Indication of successful completion of the course.

c. For auditing purposes, the licensee must retain the above information for four years.

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—43.6(272C) 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 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 to the board;
2. Pays all past renewal fees not to exceed \$500;
3. Pays a late fee equal to the renewal fee for one biennium;
4. Pays the reinstatement fee;
5. Has a personal interview with the board at the board's request; and
6. 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 60 by the number of bienniums since the license lapsed to a maximum of three bienniums. Successful completion of the Special Purposes Examination Council (SPEC) examination may be required if the board finds reason to doubt the licensee's ability to practice with reasonable skill and safety.

645—43.7(272C) Continuing education waiver for active practitioners. A chiropractic physician licensed to practice as a chiropractic physician 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 chiropractic physician.

645—43.8(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—43.9(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 a 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.

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645—43.10(272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of waiver shall, prior to engaging in the practice of chiropractic in the state of Iowa, satisfy the following requirements for reinstatement.

43.10(1) Submit written application for reinstatement to the board upon forms provided by the board;

43.10(2) Submit payment of the current renewal fee;

43.10(3) Submit payment of the reinstatement fee; and

43.10(4) 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 approved continuing education hours substantially equivalent to that required under these rules computed by multiplying 60 by the number of bienniums a certificate of exemption shall have been in effect for the applicant to a maximum of three bienniums. Successful completion of the SPEC examination may be required by the board for reinstatement.

645—43.11(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 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 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 151.

ITEM 12. Adopt new 645—Chapter 44 as follows:

CHAPTER 44

DISCIPLINE FOR CHIROPRACTIC PHYSICIANS

645—44.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1,000, when the board determines that a licensee is guilty of any of the following acts or offenses:

44.1(1) Fraud in procuring a license that includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice chiropractic and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the department of public health any false or forged diploma, certificate, affidavit, identification, or qualification in making an application for a license in this state.

44.1(2) Professional incompetence that includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the chiropractic physician's practice;

b. A substantial deviation by the chiropractic physician from the standards of learning or skill ordinarily possessed

and applied by other chiropractic physicians in the state of Iowa acting in the same or similar circumstances;

c. A failure by a chiropractic physician to exercise in a substantial respect that degree of care which is ordinarily exercised by the average chiropractic physician in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of chiropractic in the state of Iowa;

e. Failure to maintain clinical and fiscal records in support of services rendered for a minimum of five years from one of the following dates as applicable. For the purposes of this rule, clinical records shall include all laboratory and diagnostic imaging studies.

(1) For an adult patient in an uncontested case, the last office visit.

(2) For a minor patient in an uncontested case, the last office visit plus the age of 18 years;

f. Failure to comply with the department of public health standards for radiation-emitting equipment as used by a chiropractic physician, set forth in Iowa Code chapter 136C.

44.1(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a chiropractic physician in the practice of chiropractic and includes any representation contrary to the chiropractic physician's legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare and may operate to the injury of another. Activities under this paragraph include, but are not limited to:

(1) Alleging superiority in any way.

(2) Guarantees of any type.

(3) Improper titles.

(4) Inflated or unjustified expectations of favorable results.

(5) Self-laudatory claims of specialty practice for which credentials do not exist.

(6) Representations that patients easily misunderstand.

(7) Claims of extraordinary skills that are not recognized by the profession.

b. Engaging in unethical conduct includes, but is not limited to, a violation of the standards and principles of chiropractic ethics and code of ethics as set out in rule 645—40.24(147,272C) as interpreted by the board.

c. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a chiropractic physician to possess and exercise that degree of skill, learning and care expected of a reasonably prudent chiropractic physician acting in the same or similar circumstances in this state, or instances in which a chiropractic physician is unable to practice chiropractic with reasonable skill and safety as a result of a mental or physical impairment or chemical abuse.

44.1(4) Habitual intoxication or addiction to the use of drugs that includes, but is not limited to, the inability of a chiropractic physician to practice chiropractic with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other types of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other types of material which may im-

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pair a chiropractic physician's ability to practice the profession with reasonable skill and safety.

44.1(5) Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence that includes, but is not limited to, the conviction of a chiropractic physician who has committed a public offense in the practice of the profession which is defined or classified as a felony under state or federal law, or who has violated a statute or law designated as a felony in this state, another state, or the United States, which statute or law relates to the practice of chiropractic, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon the licensee as a chiropractic physician in this state.

44.1(6) Fraud in representations as to skill or ability that includes, but is not limited to, a chiropractic physician's having made misleading, deceptive or untrue representations as to the chiropractic physician's competency to perform professional services for which the chiropractic physician is not qualified to perform by training or experience.

44.1(7) Use of untruthful or improbable statements in advertisements that includes, but is not limited to, an action by a chiropractic physician in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

a. Inflated or unjustified expectations of favorable results;

b. Self-laudatory claims that imply that the chiropractic physician is a skilled chiropractic physician engaged in a field or specialty of practice for which the chiropractic physician is not qualified;

c. Representations that are likely to cause the average person to misunderstand; or

d. Extravagant claims or proclamation of extraordinary skills not recognized by the chiropractic profession.

44.1(8) Willful or repeated violations of the provisions of Iowa Code chapter 272C that include, but are not limited to, a chiropractic physician's having intentionally or repeatedly violated a lawful rule or regulation promulgated by the board of chiropractic examiners or the department of public health or violated a lawful order of the board or the department of public health in a disciplinary hearing or violated the chiropractic practice Acts or rules promulgated thereunder.

44.1(9) Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of chiropractic.

44.1(10) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the board of chiropractic examiners the revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

44.1(11) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice chiropractic.

44.1(12) Willful or repeated departure from, or the failure to conform to, the chiropractic practice Acts or rules promulgated thereunder. An actual injury to a patient need not be established.

44.1(13) Inability to practice chiropractic with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

44.1(14) Willful or repeated violation of lawful rule or regulation promulgated by the board.

44.1(15) Violating a lawful order of the board, previously entered by the board in a disciplinary hearing.

44.1(16) Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

44.1(17) Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

44.1(18) Indiscriminately or promiscuously prescribing, administering or dispensing any order for other than lawful purpose.

44.1(19) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

44.1(20) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

44.1(21) Failure to comply with a subpoena issued by the board.

44.1(22) Failure to file the reports required concerning acts or omissions committed by another licensee.

44.1(23) Repeated malpractice.

44.1(24) Obtaining any fee by fraud or misrepresentation.

44.1(25) Failing to exercise due care in the delegation of chiropractic services to or supervision of assistants, employees or other individuals, whether or not injury results.

44.1(26) Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code chapter 151.

44.1(27) Failure to maintain clean and sanitary conditions at the premises in keeping with sound public health standards.

44.1(28) Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

44.1(29) Failure to report child abuse or dependent adult abuse.

44.1(30) Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

a. Reporting incorrect treatment dates for the purpose of obtaining payment;

b. Reporting charges for services not rendered;

c. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

d. Aiding a patient in fraudulently obtaining payment from a third-party payer.

44.1(31) Practicing without a current license or practicing when a license is lapsed.

44.1(32) Failure to notify the board of a change of name or address within 30 days of its occurrence.

This rule is intended to implement Iowa Code chapter 272C.

[Filed 12/8/00, effective 1/31/01]

[Published 12/27/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/27/00.

ARC 0368B**ARC 0352B****PROFESSIONAL LICENSURE
DIVISION[645]****PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Respiratory Care Examiners hereby amends Chapter 260, "Respiratory Care Practitioners," and adopts new Chapter 261, "Continuing Education for Respiratory Care Practitioners," Iowa Administrative Code.

The amendments rescind the current continuing education rules; renumber the rules regarding grounds for discipline, fees, students/graduates, and code of ethics; and adopt a new chapter for continuing education.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 4, 2000, as **ARC 0169B**.

A public hearing was held on October 24, 2000, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. No public comments were received at the hearing.

The following two changes were made to the Notice of Intended Action:

- In rule 261.6(152B,272C), numbered paragraph "3," regarding fees for reinstatement of a lapsed license, the phrase "penalty fees" was changed to "late fees," and the paragraph now reads as follows:

3. Pays all late fees, to a maximum of two bienniums, which have been assessed by the board for failure to renew;

- In subrule 261.10(1) regarding reinstatement of inactive license, the phrase "pays all of the renewal fees then due" was changed to "pays the current renewal fee then due."

These amendments were adopted by the Board of Respiratory Care Examiners on December 7, 2000.

These amendments will become effective January 31, 2001.

These amendments are intended to implement Iowa Code section 147.76 and chapters 152B and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [260.1, 260.9 to 260.17, 260.28, 260.29, Ch 261] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 0169B**, IAB 10/4/00.

[Filed 12/8/00, effective 1/31/01]

[Published 12/27/00]

[For replacement pages for IAC, see IAC Supplement 12/27/00.]

Pursuant to the authority of Iowa Code section 135.43, the Department of Public Health hereby amends Chapter 90, "Iowa Child Death Review Team," Iowa Administrative Code.

This amendment expands the review of child death cases from cases for children under age seven to those for children under age 18.

This chapter does not include a waiver provision as the statute does not provide for one.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 4, 2000, as **ARC 0161B**. The only comment received was from the Administrative Rules Review Committee. The Committee requested that the text of the amendment be consistent with that stated above in the preamble. The change has been made and is reflected in the adopted amendment.

The State Board of Health adopted the amendment during the regularly scheduled meeting on November 8, 2000.

This amendment will become effective January 31, 2001.

This amendment is intended to implement Iowa Code section 135.43(3)"a" as amended by 2000 Iowa Acts, chapter 1051.

The following amendment is adopted.

Amend rule 641—90.1(135) as follows:

641—90.1(135) Purpose. The purpose of the child death review team is to aid in the reduction of the incidence of serious injury and death to children by accurately identifying the cause and manner of *child death of children through the age of six years for children under age 18*.

[Filed 11/30/00, effective 1/31/01]

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