



IOWA ADMINISTRATIVE BULLETIN

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For Reference

Not to be taken

from this library

PUBLISHED UNDER AUTHORITY OF IOWA CODE SECTIONS 2B.5 AND 17A.6

PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and includes: Proposed Rules and Emergency Rules; Proposed and Filed Emergency Rules by State Agencies; Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analysis; and 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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Telephone: (515)242-5120**

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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

ISSUE NUMBER

SUBMISSION DEADLINE

ISSUE DATE

1

Friday, June 22, 2001

July 11, 2001

2

Friday, July 6, 2001

July 25, 2001

3

Friday, July 20, 2001

August 8, 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.

IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM 2000 WINTER EDITION

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Iowa Court Rules (updated through December 2000)

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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.

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
DENTAL EXAMINERS BOARD[650]		
Expanded function dental assistant, 20.6(3) IAB 5/30/01 ARC 0720B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	June 19, 2001 3 to 4 p.m.
ELDER AFFAIRS DEPARTMENT[321]		
Assisted living programs, 27.1, 27.8, 27.9 IAB 5/30/01 ARC 0706B	Room 316 Hotel Fort Des Moines 10th and Walnut Des Moines, Iowa	June 19, 2001 10 a.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Permits for hot mix asphalt facilities, concrete batch plants, and aggregate processing plants, 20.2, 20.3, 22.1(1), 22.8 IAB 6/13/01 ARC 0736B	Conference Rooms 1 and 2 7900 Hickman Rd. Urbandale, Iowa	July 19, 2001 1 p.m.
Manure management plans, 65.16(3) IAB 6/13/01 ARC 0731B	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 3, 2001 1 p.m.
Emergency response and remedial action plans, 102.16 IAB 6/13/01 ARC 0734B	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 5, 2001 1 p.m.
INFORMATION TECHNOLOGY DEPARTMENT[471]		
Informational technology operational standards, ch 12 IAB 5/30/01 ARC 0700B	Director's Conference Room Level B, Hoover State Office Bldg. Des Moines, Iowa	June 19, 2001 10 to 11 a.m.
LABOR SERVICES DIVISION[875]		
General, 1.55(3), 10.7, 10.19(10), 26.1, 71.6, 155.2(2), 155.6, 215.1 IAB 6/13/01 ARC 0741B	1000 East Grand Ave. Des Moines, Iowa	July 6, 2001 1:30 p.m. (If requested)
General industry safety and health rules—cotton dust and bloodborne pathogens, 10.20 IAB 6/13/01 ARC 0742B	1000 East Grand Ave. Des Moines, Iowa	July 6, 2001 10 a.m. (If requested)

NATURAL RESOURCE COMMISSION[571]

State parks and recreation areas; state forest camping, 61.2 to 61.6, 61.9, 61.12, 62.7, 62.8 IAB 5/30/01 ARC 0715B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 21, 2001 9 a.m.
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PRESERVES, STATE ADVISORY BOARD FOR[575]

Organization and operation; management of state preserves, 1.1 to 1.4, 2.1, 2.2 IAB 5/30/01 ARC 0712B	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 21, 2001 10 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Chiropractors—claims in advertising, 44.1(7) IAB 6/13/01 ARC 0740B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	July 9, 2001 1:30 to 3:30 p.m.
Dietetic examiners, chs 79, 80; 81.6, 81.10; chs 82, 83 IAB 5/30/01 ARC 0703B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 20, 2001 9 to 11 a.m.
Social work examiners, chs 279, 280; 281.3(2), 281.6, 281.10; chs 282, 283 IAB 6/13/01 ARC 0738B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	July 9, 2001 9 to 11 a.m.
Speech pathology and audiology examiners, chs 299, 300; rescind ch 302; 303.3(2), 303.6, 303.10; chs 304, 305 IAB 5/30/01 ARC 0705B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 20, 2001 9 to 11 a.m.

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Fees of neutrals, 1.8 IAB 6/13/01 ARC 0726B	Second Floor 514 E. Locust St. Des Moines, Iowa	July 3, 2001 11 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Waivers, variances, and exceptions, 5.1(5), 5.15, 10.1, 10.222 IAB 5/30/01 ARC 0717B	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 22, 2001 10:30 a.m.
Criminal justice information— aggravated offense, 8.302(11) IAB 5/30/01 ARC 0676B (See also ARC 0677B)	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 22, 2001 9:30 a.m.
Fees for building code plan reviews, 16.131(2) IAB 5/30/01 ARC 0678B	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 22, 2001 10 a.m.

TRANSPORTATION DEPARTMENT[761]

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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

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:

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NOTICE—AVAILABILITY OF HAZARDOUS MATERIALS PLANNING AND TRAINING GRANTS

The Iowa Emergency Response Commission and the Iowa Emergency Management Division announce the availability of funding for planning and training grants to support implementation of Title III of the Superfund Amendments and Reauthorization Act of 1986 (also known as the Emergency Planning and Community Right-to-Know Act, or EPCRA).

These grants are made possible through the Hazardous Materials Emergency Preparedness (HMEP) Program, which is funded by fees collected by the U.S. Department of Transportation from registered shippers and carriers of certain hazardous materials. Grant funds also include state and local matching dollars.

Grant application packages will be sent to all Local Emergency Planning Committees (LEPCs) in Iowa in July of 2001. The Iowa Emergency Management Division must receive completed applications no later than Friday, September 14th, 2001.

**** THE ONLY ELIGIBLE APPLICANTS FOR THESE GRANTS ARE ****
**** DESIGNATED LOCAL EMERGENCY PLANNING COMMITTEES (LEPCs) ****
**** IN THE STATE OF IOWA. ****

If you have questions about these grants contact Dan Lee of the Iowa Emergency Management Division at (515)281-3231.

ARC 0736B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," and Chapter 22, "Controlling Pollution," Iowa Administrative Code.

On April 16, 2001, the Asphalt Paving Association of Iowa and Cessford Construction Company submitted a petition for rule making proposing the adoption of general permits or permits by rule for hot mix asphalt facilities, concrete batch plants, and aggregate processing plants operating in Iowa.

A previous petition for rule making was submitted by the same parties on February 8, 2001. In March, the petitioners agreed to a 60-day extension for the Department to respond to the petition. In a letter to the Department dated April 16, 2001, the petitioners requested that the original petition be withdrawn, and they submitted the second petition for rule making described above.

These amendments, which are proposed in response to the petition for rule making, incorporate three new permits by rule into Chapter 22 and allow an eligible facility to seek permit-by-rule coverage in lieu of obtaining an individual construction permit. Permits by rule are proposed for hot mix asphalt facilities, concrete batch plants, and aggregate processing plants.

Item 1 adds definitions for the following: aggregate processing plant; concrete batch plant; construction aggregate; hot mix asphalt; hot mix asphalt facility; and Portland concrete.

Item 2 identifies the new forms to be used for each permit by rule contained in this Notice. These include three separate forms to be used to notify the Department that a hot mix asphalt facility, concrete batch plant, or aggregate processing plant is covered by a respective permit by rule and a fourth form to be used to notify the Department of the relocation of portable facilities, which is a condition of construction permit or permit-by-rule coverage.

Item 3 clarifies that coverage under a permit by rule would satisfy the requirement for a permit. The current language implies that a permit must be obtained and does not address permit coverage under a permit by rule.

Item 4 modifies the introductory language for the existing permit by rule for spray booths to make it consistent with the other permits by rule. The existing language is misleading with regard to the need for an operating permit and major source status. The revised language clarifies that the permit by rule may be used to satisfy construction permitting requirements.

Item 5 proposes new subrules which contain the permits by rule for hot mix asphalt facilities, concrete batch plants, and aggregate processing plants. The subrules identify who is eligible for coverage under the permit by rule and describe the notification process to the Department. The subrules also

include eligibility requirements pertaining to coverage under a permit by rule. These eligibility requirements include operating permit conditions, emission limits, record-keeping requirements, and material limits.

Any person may make written suggestions or comments about the proposed amendments on or before July 27, 2001. Written comments should be directed to Monica Wnuk, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515) 242-5094. E-mail may be sent to monica.wnuk@dnr.state.ia.us.

A public hearing will be held on July 19, 2001, at 1 p.m. in Conference Rooms 1 and 2 at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa, at which time comments may be submitted orally or in writing.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility, should contact Monica Wnuk at (515)281-7212 to advise of any specific needs.

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

The following amendments are proposed.

ITEM 1. Amend rule 567—20.2(455B) by adopting the following **new** definitions in alphabetical order:

"Aggregate processing plant" means an aggregate processing plant that includes each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station. Crushers and grinding mills at a hot mix asphalt facility that reduce the size of nonmetallic minerals embedded in recycled asphalt pavement and at subsequent affected facilities up to, but not including, the first storage silo or bin are also included.

"Concrete batch plant" means a concrete batch plant that includes all aggregate transfer, weigh hopper loading, mixer or truck loading or both; cementitious material, Portland cement, and fly ash or slag or both, silo loading and transferring at the plant.

"Construction aggregate" means the material produced when larger rock is broken, crushed, ground and screened (sized) to certain specifications for use in a great variety of construction projects from highways to home building.

"Hot mix asphalt" means a material made from a mixture of construction aggregate and oil and is used for paving highways, streets, parking lots, driveways or similar uses.

"Hot mix asphalt facility" means any facility comprised only of any combination of the following systems used to manufacture hot mix asphalt by heating and drying aggregate and mixing with asphalt cements: dryers and systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing hot asphalt; and the loading, transfer and storage systems associated with emission control systems.

"Portland concrete" means a construction material made from aggregate, Portland cement, water and other materials. It is used in the construction of highways, streets, homes, and commercial buildings and for many other related projects.

ITEM 2. Amend rule 567—20.3(455B) by adopting the following **new** subrules:

20.3(6) Notification for coverage under permit by rule for hot mix asphalt facilities. Notification provided to the department for permit coverage under 567—subrule 22.8(2), permit by rule for hot mix asphalt facilities, shall be provided on DNR Form 542-XXXX.

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20.3(7) Notification for coverage under permit by rule for concrete batch plants. Notification provided to the department for permit coverage under 567—subrule 22.8(3), permit by rule for concrete batch plants, shall be provided on DNR Form 542-XXXX.

20.3(8) Notification for coverage under permit by rule for aggregate processing plants. Notification provided to the department for permit coverage under 567—subrule 22.8(4), permit by rule for aggregate processing plants, shall be provided on DNR Form 542-XXXX.

20.3(9) Notice of relocation of portable equipment. Notification to the department for the relocation of portable equipment as required in 567—paragraph 22.3(3)“f” shall be provided on DNR Form 542-1362.

ITEM 3. Amend subrule 22.1(1), introductory paragraph, as follows:

22.1(1) Permit required. Unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph “c” of this subrule, no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit, or conditional permit, or permit coverage pursuant to 22.8(455B), or permits required pursuant to 22.4(455B) and 22.5(455B) as required in this subrule. A permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon.

ITEM 4. Amend subrule 22.8(1), introductory paragraph, as follows:

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

ITEM 5. Amend rule 567—22.8(455B) by adopting the following new subrules:

22.8(2) Permit by rule for a hot mix asphalt facility. A hot mix asphalt facility that complies with the requirements contained in this subrule will be deemed to be in compliance with the requirements to obtain an air construction permit which contains federally enforceable limits.

a. Definitions. For the purpose of this permit by rule, a “hot mix asphalt facility” is defined according to 567—20.2(455B) and includes, but is not limited to, power sources such as portable diesel generators and hot oil heaters. It also includes incidental heating and fuel storage emission unit activities at the site. The facility may be either stationary or portable.

b. Eligibility. An owner or operator of a hot mix asphalt facility operating in compliance with paragraph “e” of this subrule is eligible for coverage under this permit by rule.

c. Exclusions. The following facilities are not eligible to be covered under this permit by rule:

(1) A hot mix asphalt facility at which crushing or grinding of nonmetallic minerals embedded in recycled asphalt pavement occurs is not eligible to be covered by this permit by rule unless a permit-by-rule notification pursuant to 22.8(4) is submitted to the department.

(2) Any hot mix asphalt facility already subject to an existing air quality construction permit, other than a permit by rule under this subrule, or subject to an air quality operating

permit is not eligible for coverage under this permit by rule unless those permits are revoked concurrently with the start of coverage under this permit by rule for the facility.

(3) Any facility subject to 567—subrule 23.1(4) (emission standards for hazardous air pollutants for source categories), rule 22.4(455B) (special requirements for major stationary sources located in areas designated attainment or unclassified (PSD)), or rule 22.5(455B) (special requirements for nonattainment areas) is not eligible for coverage under this permit by rule.

(4) Any hot mix asphalt facility located in Polk or Linn County or portable facility relocating to Polk or Linn County is not eligible for coverage under this permit by rule.

(5) Any hot mix asphalt facility that is located on the same property at which emission sources are covered by an air quality construction permit, other than another hot mix asphalt facility, a batch concrete plant or aggregate processing plant covered by a permit by rule, is not eligible for coverage under this permit by rule. A hot mix asphalt facility must maintain a separation distance of 300 feet from another hot mix asphalt facility, any aggregate processing plant or concrete batch plant.

d. Effective date of permit coverage. A completed notification and certification must be provided to the department on DNR Form 542-XXXX. For a facility located in Cerro Gordo, Scott, Clinton, or Muscatine County, permit coverage will commence 30 days after the date the notification and certification are received by the department. For a facility located elsewhere in the state, permit coverage will commence 10 days after the date the notification and certification are received by the department.

e. Requirements.

(1) Facility operating requirements with the exception of generators.

1. Production shall not exceed 500 tons of hot mix asphalt per hour at any time.

2. Production must not exceed 642,000 tons of hot mix asphalt in any 12-month rolling period.

3. The asphalt facility, with the exception of any generator, can be fired with natural gas, propane gas or any fuel oil including used oil.

4. The sulfur content of any fuel used may not exceed 0.8 percent by weight.

5. Any used oil combusted in the facility must not exceed the limits specified in Table 1 of 40 CFR 279.11 as amended on May 3, 1993. Requirements specified in 40 CFR 761.20(e) as amended on June 24, 1999, for PCB testing, certification and record keeping must also be met.

6. The particulate matter emissions from any dryers, hot screens, hot bins, and mixers must be controlled by a baghouse.

7. The baghouse stack height shall be a minimum of 25 feet above ground level.

(2) Generator operating requirements.

1. No more than 1,680 gallons of fuel per day shall be used by the generator(s).

2. The maximum annual fuel use of the generator(s) shall be 192,000 gallons.

3. The generator(s) shall use only #2 or #1 diesel fuel.

4. The minimum stack height for a generator shall be 18 feet above ground level.

(3) A hot mix asphalt facility not meeting any of the requirements described in 22.8(2)“e” must apply for a permit to construct as outlined in 22.1(3).

(4) This permit by rule does not relieve the owner or operator of meeting all applicable requirements set forth in

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567— Chapters 20 through 25 and 28. Hot mix asphalt facilities that were constructed or modified after June 11, 1973, are subject to 40 CFR 60.90 (Subpart I) as amended on February 14, 1989.

(5) Visible emissions of fugitive dust shall not cross the lot line of the property on which the plant is located.

(6) Record keeping. Any hot mix asphalt facility permitted under this subrule must keep the following records and shall provide them to the department upon request:

1. Records of hot mix asphalt production (tons/hour, tons/calendar month, and tons/12-month rolling period).

2. Daily records of all fuel (excluding the generator fuel) used including the type of fuel, amount used, and sulfur content for each fuel.

3. Daily records for the generator(s) including the type of fuel, hours of operation for each generator, and usage reported as gallons/day and gallons/12-month rolling period.

4. Other records to be kept as required by state and federal regulations.

(7) Stack testing requirements. A hot mix asphalt facility commencing construction or modification after June 11, 1973, shall comply with all stack testing requirements adopted by reference in 567—paragraph 23.1(2)"f." The department retains authority pursuant to 567—subrule 25.1(7) to require additional emission testing.

(8) Both the generator stack and stack from any baghouse must be located at least 70 feet from any storage silo. Additionally, both the generator and baghouse stacks must be located at least 100 feet from the lot line of the property on which the facility is located.

(9) All emission units must comply with applicable state, federal and local emission limit requirements including:

1. 0.15 grain TSP per standard cubic foot of exhaust gas on emissions from a hot mix asphalt facility as defined in 567—20.2(455B).

2. 90 mg TSP/dscm (0.04 gr/dscf) and 20 percent opacity on emissions from a hot mix asphalt facility as defined in 40 CFR Subpart I.

3. 40 percent opacity for all units not subject to 40 CFR Subpart I.

4. 0.1 grain TSP per dry standard cubic foot of exhaust gas. This requirement applies to all emission units not covered by 567—subrule 23.4(2) or power generation or indirect heating units.

5. 0.8 lb TSP per MMBTU for indirect heating or power generation outside a standard metropolitan statistical area.

6. 0.6 lb TSP per MMBTU for indirect heating or power generation inside a standard metropolitan statistical area.

7. 2.5 lbs of SO₂ per MMBTU. This requirement applies to liquid fuel.

8. 500 parts per million by volume SO₂. This requirement applies to all other sulfur containing processes.

(10) The owner or operator must comply with requirements pursuant to 567—24.1(455B) (excess emission reporting) and 567—24.2(455B) (maintenance and repair requirements).

(11) Permit-by-rule notification to the department. Notification to the department must include the name and address of the owner of the property where the facility is located; the name, address and telephone number of the operator; the location of the facility; the approximate date the facility is anticipated to begin operation; and, for a portable facility, an estimate of how long it will be operating at this location.

(12) Relocation notification. Any hot mix asphalt facility that relocates must file a relocation notification with the

department on DNR Form 542-1362. The relocation notification shall be submitted to the department 30 days prior to the relocation of any hot mix asphalt facility to Clinton, Muscatine, Cerro Gordo or Scott County. Any hot mix asphalt facility relocating elsewhere in the state shall provide the relocation notification to the department on DNR Form 542-1362 ten days before the relocation.

(13) New equipment. Any facility subject to an existing permit by rule under this subrule is not required to renotify the department if new equipment is added, modified or installed, provided that the requirements of this permit by rule are met.

(14) Certification. A hot mix asphalt facility which claims to be permitted by the provisions of this subrule must submit to the department a written statement as follows:

"I certify that this hot mix asphalt facility is in compliance with all applicable requirements of 22.8(2) of the Iowa Administrative Code. I understand that this hot mix asphalt facility shall be deemed permitted under the terms of 22.1(455B) only if all applicable requirements of 22.8(2) are met. This certification is based on information and belief formed after reasonable inquiry; the statements and information in the document are true, accurate, and complete. I also certify that legal entitlement to install and operate equipment covered by this permit by rule at the property identified in this notification has been obtained and that a public notice has been published in two newspapers with the largest circulation in the vicinity of the facility regarding the facility to be covered by this permit by rule."

The certification must be signed by the owner or operator.

22.8(3) Permit by rule for concrete batch plants. A concrete batch plant that complies with the requirements contained in this subrule will be deemed to be in compliance with the requirements to obtain an air quality construction permit which contains federally enforceable limits.

a. Definitions. For the purpose of this permit by rule, a "concrete batch plant" is defined according to 567—20.2(455B) and includes, but is not limited to, heaters, boilers, and power sources such as a generator, and fuel storage. The plant may be either stationary or portable.

b. Eligibility. An owner or operator of a concrete batch plant operating in compliance with paragraph "e" of this subrule is eligible for coverage under this permit by rule.

c. Exclusions. The following plants are not eligible to be covered under this permit by rule:

(1) Any concrete batch plant already subject to an existing air quality construction permit, other than a permit by rule under this subrule, or subject to an air quality operating permit is not eligible for coverage under this permit by rule unless those permits are revoked concurrently with the start of coverage under this permit by rule for the facility.

(2) Any plant subject to 567—subrule 23.1(4) (emission standards for hazardous air pollutants for source categories), rule 22.4(455B) (special requirements for major stationary sources located in areas designated attainment or unclassified (PSD)), or rule 22.5(455B) (special requirements for nonattainment areas) is not eligible for coverage under this permit by rule.

(3) Any concrete batch plant located in Polk or Linn County or portable facility relocating to Polk or Linn County is not eligible for coverage under this permit by rule.

(4) Any concrete batch plant that is located on the same property where emission sources are covered by an air quality construction permit, other than another concrete batch plant, hot mix asphalt facility, or aggregate processing plant

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covered by a permit by rule, is not eligible for coverage under this permit by rule. A concrete batch plant must maintain a separation distance of 300 feet from another concrete batch plant, any aggregate processing plant, or any hot mix asphalt facility.

d. Effective date of permit coverage. A completed notification and certification must be provided to the department on DNR Form 542-XXXX. For a plant located in Cerro Gordo, Scott, Clinton, or Muscatine County, permit coverage will commence 30 days after the date the notification and certification are received by the department. For a plant located elsewhere in the state, permit coverage will commence 10 days after the date the notification and certification are received by the department.

e. Requirements.

(1) No more than ten silos or storage bins or combination thereof shall be located at the plant.

(2) Emissions from each silo or storage bin shall be controlled by a baghouse.

(3) The minimum height of the baghouse stack tip shall be at least 25 feet above grade.

(4) There shall be no visible emissions from any of the silos or storage bins.

(5) A maximum of three cement hoppers and mixers may be located at the plant.

(6) A maximum of 15 transfer systems may be located at the plant.

(7) A maximum of three truck loading systems may be located at the plant.

(8) A maximum of two heaters or boilers may be located at the plant. Heater or boiler equipment shall not exceed 10 MMBTU/hour and shall only use natural gas or propane.

(9) The concrete batch plant shall not exceed a production limit of 1 million tons (500,000 cubic yards) of concrete in any 12-month rolling period.

(10) The cumulative amount of fuel used by all generator(s) shall not exceed 70 gallons per hour.

(11) The maximum annual fuel used in all generator(s) shall not exceed 192,000 gallons per year.

(12) The generator(s) shall be fueled with #2 or #1 diesel.

(13) The stack height of the generator(s) shall be a minimum of 18 feet above grade.

(14) A concrete batch plant not meeting any of the requirements described in 22.8(3)"e"(1) through (13) shall apply for a permit to construct as outlined in 22.1(3).

(15) This permit by rule does not relieve the owner or operator of meeting all applicable requirements set forth in 567—Chapters 20 through 25 and 28.

(16) Visible emissions of fugitive dust shall not cross the lot line of the property on which the plant is located.

(17) Record keeping. A concrete batch plant permitted under this subrule must keep the following records and shall provide them to the department upon request:

1. Total Portland concrete produced (tons or cubic yards/calendar month and tons or cubic yards/12-month rolling period).

2. Daily fuel usage of the generator(s) (gallons/day, gallons/year, and type of fuel).

3. Other records to be kept as required by state and federal regulations.

(18) All emission units must comply with applicable state, federal and local emission limit requirements including the following:

1. 40 percent opacity and 0.1 grain TSP per dry standard cubic foot of exhaust gas. This requirement applies to all

emission units from the concrete batch plant as defined by 567—20.2(455B) and to power generation or indirect heating units.

2. 0.8 lb TSP per MMBTU for indirect heating or power generation outside a standard metropolitan statistical area.

3. 0.6 lb TSP per MMBTU for indirect heating or power generation inside a standard metropolitan statistical area.

4. 2.5 lbs of SO₂ per MMBTU. This requirement applies to liquid fuel.

5. 500 parts per million by volume SO₂. This requirement applies to all other sulfur containing processes.

(19) Stack testing requirements. The department retains authority pursuant to 567—subrule 25.1(7) to require emission testing.

(20) The owner or operator must comply with requirements pursuant to 567—24.1(455B) (excess emission reporting) and 567—24.2(455B) (maintenance and repair requirements).

(21) Permit-by-rule notification to the department. Notification to the department must include the name and address of the owner of the property where the plant is located; the name, address, and telephone number of the operator; the location of the plant; the approximate date the plant is anticipated to begin operation; and, for a portable plant, an estimate of how long it will be operating at this location.

(22) Relocation notification. Any concrete batch plant that relocates must file a relocation notification with the department on DNR Form 542-1362. The relocation notification shall be submitted to the department 30 days prior to the relocation of any concrete batch plant to Clinton, Muscatine, Cerro Gordo or Scott County. Any concrete batch plant relocating elsewhere in the state shall provide the relocation notification to the department on DNR Form 542-1362 ten days before the relocation.

(23) New equipment. Any facility subject to an existing permit by rule under this subrule is not required to renotify the department if new equipment is added, modified or installed, provided that the requirements of this permit by rule are met.

(24) Certification. A concrete batch plant which claims to be permitted by the provisions of this subrule must submit to the department a written statement as follows:

"I certify that this concrete batch plant is in compliance with all applicable requirements of 22.8(3) of the Iowa Administrative Code. I understand that this concrete batch plant shall be deemed permitted under the terms of 22.1(455B) only if all applicable requirements of 22.8(3) are met. This certification is based on information and belief formed after reasonable inquiry; the statements and information in the document are true, accurate, and complete. I also certify that legal entitlement to install and operate equipment covered by this permit by rule at the property identified in this notification has been obtained and that a public notice has been published in two newspapers with the largest circulation in the vicinity of the facility regarding the facility to be covered by this permit by rule."

The certification must be signed by the owner or operator.

22.8(4) Permit by rule for aggregate processing plants. Aggregate processing plants that comply with the requirements contained in this subrule will be deemed to be in compliance with the requirements to obtain an air quality construction permit which contains federally enforceable limits.

a. Definitions. For the purpose of this permit by rule, an aggregate processing plant is defined according to 567—

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20.2(455B) and includes, but is not limited to, power sources such as generators, power units and engines. These plants may be stationary or portable.

b. Eligibility. An owner or operator of an aggregate processing plant operating in compliance with paragraph "e" of this subrule is eligible for coverage under this permit by rule.

c. Exclusions. The following plants are not eligible for coverage under this permit by rule:

(1) Any aggregate processing facility already subject to an existing air quality construction permit, other than a permit by rule under this subrule, or subject to an air quality operating permit is not eligible for coverage under this permit by rule unless those permits are revoked concurrently with the start of coverage under this permit by rule for the facility.

(2) Any plant subject to 567—subrule 23.1(4) (emission standards for hazardous air pollutants for source categories), rule 22.4(455B) (special requirements for major stationary sources located in areas designated attainment or unclassified (PSD)), or rule 22.5(455B) (special requirements for nonattainment areas) is not eligible for coverage under this permit.

(3) Any aggregate processing plant located in Polk or Linn County or portable plant relocating to Polk or Linn County is not eligible for coverage under this permit.

(4) Any aggregate processing plant that is located on the same property where emission sources are covered by an air quality construction permit, other than another aggregate processing plant, a concrete batch plant or hot mix asphalt facility covered by a permit by rule, is not eligible for coverage under this permit. An aggregate processing plant must maintain a separation distance of 300 feet from another aggregate processing plant, any concrete batch plant, or any hot mix asphalt facility.

d. Effective date of permit coverage. A completed notification and certification must be provided to the department on DNR Form 542-XXXX. For a plant located in Cerro Gordo, Scott, Clinton, or Muscatine County, permit coverage will commence 30 days after the date the notification and certification are received by the department. For a plant located elsewhere in the state, permit coverage will commence 10 days after the date the notification and certification are received by the department.

e. Requirements.

(1) The maximum annual plant production rate must not exceed 2 million tons per 12-month rolling period, based on the primary crusher(s) capacity. If the capacity of the primary crusher(s) is greater than 500 tons per hour, then the daily plant production shall be limited to 10,000 tons.

(2) A maximum of five crushers may be located at the plant. A maximum of three crushers shall operate at any one time.

(3) A maximum of five screening units may be located at the plant.

(4) A maximum of 45 storage bins/conveyor systems may be located at the plant. The emissions from any storage bin or silo shall be controlled by a baghouse at plants that have more than seven storage bins or silos. There shall be no visible emissions from any of the controlled storage bins or silos.

(5) The only fuel allowed shall be #1 or #2 diesel.

(6) The maximum fuel usage of all generators and power units/engines shall be limited to no more than 880 gallons per day and 217,000 gallons in any 12-month rolling period for all engines, generators or power units.

(7) The particulate matter emissions shall be controlled by natural surface moisture content of the feedstock of no less than 1.5 percent (by weight) or spray systems.

(8) Any crusher, at which a capture system is not used, subject to new source performance standards, 40 CFR 60.672 as amended on June 9, 1997, shall not exceed emission limits of 15 percent opacity. All other facilities subject to new source performance standards shall not exceed 10 percent opacity.

(9) An aggregate processing plant not meeting any of the requirements described in 22.8(4)"e"(1) through (8) must apply for a permit to construct as outlined in 22.1(3).

(10) This permit does not relieve the owner or operator of meeting all applicable requirements set forth in 567—Chapters 20 through 25 and 28 and 40 CFR 60 Subpart OOO as amended on June 9, 1997.

(11) Visible emissions of fugitive dust shall not cross the lot line of the property on which the plant is located.

(12) Record keeping. An aggregate processing plant permitted under this subrule must keep the following records and shall provide them to the department upon request:

1. Daily and monthly total tons of aggregate produced. Records of daily production, hours of operation and production for each 12-month rolling period shall be maintained.

2. Daily fuel usage of the generator and power units/engines, (gallons/month and gallons/12-month rolling period). Records of the amount and type of fuel used each day and the amount of fuel used in each 12-month rolling period must be maintained.

3. Moisture content of material (daily test reports).

4. Other records to be kept as required by state and federal regulations.

(13) Stack testing requirements. An aggregate processing plant shall comply with all stack testing requirements adopted by reference in 567—paragraph 23.1(2)"f." The department retains authority pursuant to 567—subrule 25.1(7) to require additional emission testing.

(14) All emission units must comply with applicable state, federal and local emission limit requirements including the following:

1. 0.05 gram/dscm of particulate matter for emissions from any transfer point on belt conveyors or any other affected facility stack emissions as covered in 40 CFR Subpart OOO.

2. 40 percent opacity and 0.1 grain TSP per dry standard cubic foot of exhaust gas. This requirement applies to all emission units not covered by 567—subrule 23.4(2) or 40 CFR Subpart OOO and to power generation or indirect heating units.

3. 0.8 lb TSP per MMBTU for indirect heating or power generation outside a standard metropolitan statistical area.

4. 0.6 lb TSP per MMBTU for indirect heating or power generation inside a standard metropolitan statistical area.

5. 2.5 lbs of SO₂ per MMBTU. This requirement applies to liquid fuel.

6. 500 parts per million by volume SO₂. This requirement applies to all other sulfur containing processes.

(15) The owner or operator must comply with requirements pursuant to 567—24.1(455B) (excess emission reporting) and 567—24.2(455B) (maintenance and repair requirements).

(16) Permit-by-rule notification to the department. Notification to the department must include the name and address of the owner of the property where the plant is located; the name, address, and telephone number of the operator; the location of the plant; the approximate date the plant is antici-

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pated to begin operation; and, for a portable plant, an estimate of how long it will be operating at this location.

(17) Relocation information. Any aggregate processing plant that relocates must file a relocation notification with the department on DNR Form 542-1362. The relocation notification shall be submitted to the department 30 days prior to the relocation of any aggregate processing plant to Clinton, Muscatine, Cerro Gordo or Scott County. Any aggregate processing plant relocating elsewhere in the state shall provide the relocation notification to the department on DNR Form 542-1362 ten days before the relocation.

(18) New equipment. Any facility subject to an existing permit by rule under this subrule is not required to renotify the department if new equipment is added, modified or installed, provided that the requirements of this permit by rule are met.

(19) Certification. An aggregate processing plant which claims to be permitted by the provisions of this subrule must submit to the department a written statement as follows:

"I certify that this aggregate processing plant is in compliance with all applicable requirements of 22.8(4) of the Iowa Administrative Code. I understand that this aggregate processing plant shall be deemed permitted under the terms of 22.1(455B) only if all applicable requirements of 22.8(4) are met. This certification is based on information and belief formed after reasonable inquiry; the statements and information in the document are true, accurate, and complete. I also certify that legal entitlement to install and operate equipment covered by this permit by rule at the property identified in this notification has been obtained and that a public notice has been published in two newspapers with the largest circulation in the vicinity of the facility regarding the facility to be covered by this permit by rule."

The certification must be signed by the owner or operator.

ARC 0731B**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.200, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

This amendment would impose a deadline to qualify for the exception allowing an owner of a confinement feeding operation to remove and apply manure from a manure storage structure in accordance with a manure management plan that has been submitted but not yet approved by the Department of Natural Resources. Under this proposed amendment, manure management plans must be submitted to the Department of Natural Resources prior to August 21, 2001, to qualify for the exception; manure management plans submitted on or after that date would have to be approved by the Department of Natural Resources before manure could be removed from a manure storage structure.

Any interested person may make written suggestions or comments on the proposed amendment on or before July 3, 2001. Written comments should be directed to Malia Schepers, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895.

Also, there will be a public hearing on July 3, 2001, at 1 p.m. in the Fifth Floor East Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, people will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code section 455B.203.

The following amendment is proposed.

Amend subrule 65.16(3) as follows:

65.16(3) Manure shall not be removed from a manure storage structure, which is part of a confinement feeding operation required to submit a manure management plan, until the department has approved the plan. As an exception to this requirement, until July 1, 2002, the owner of a confinement feeding operation may remove and apply manure from a manure storage structure in accordance with a manure management plan which has been submitted to the department *prior to August 21, 2001*, but which has not been approved within the required 60-day period. Manure shall be applied in compliance with rule 65.2(455B).

ARC 0734B**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, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 102, "Permits," Iowa Administrative Code.

Iowa Code section 455B.306(6)"d" requires sanitary disposal projects to file an Emergency Response and Remedial Action Plan in conjunction with the issuance, renewal, or reissuance of a permit for a sanitary disposal project. That provision of the Iowa Code has not previously been implemented.

The proposed amendment provides guidance and direction on development of an Emergency Response and Remedial Action Plan. The technical committee of the Iowa Society of Solid Waste Operations (ISOSWO) provided assistance in development of the proposed rule.

Any interested person may make written suggestions or comments on the proposed amendment on or before July 5, 2001. Such written materials should be directed to Lavoy Haage, Solid Waste Section, Department of Natural Resources.

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sources, Wallace State Office Building, 502 E. Ninth Street, Des Moines, Iowa 50319-0034; fax (515)281-8895 or by electronic mail at lavyo.haage@dnr.state.ia.us. Persons who wish to convey their views orally should contact the Solid Waste Section at (515)281-4968 or the Waste Management Assistance offices on the fifth floor of the Wallace State Office Building.

Also, a public hearing will be held July 5, 2001, at 1 p.m. in the Fifth Floor Conference Room of the Wallace State Office Building at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code section 455B.306(6)“d.”

The following amendment is proposed.

Amend 567—Chapter 102 by adopting the following **new** rule:

567—102.16(455B) Emergency response and remedial action plans.

102.16(1) Purpose. The purpose of this rule is to implement Iowa Code section 455B.306(6)“d” by providing the criteria for developing a detailed emergency response and remedial action plan (ERRAP) for permitted sanitary disposal projects.

102.16(2) Applicability. The requirements of this rule apply to the owners or operators of all sanitary disposal projects that are permitted under 567—102.2(455B).

102.16(3) Submittal requirements.

a. The owner or operator of facilities that are subject to this rule and have been permitted prior to the effective date of this rule shall submit a complete detailed ERRAP that meets the requirements set forth in this rule no later than December 31, 2001.

b. Applications for a new permit after the effective date of this rule shall incorporate a complete detailed ERRAP that meets the requirements set forth in this rule.

c. An updated ERRAP that meets the requirements of this rule shall be submitted at the time of each permit renewal or permit reissuance application that is due after December 31, 2001.

d. An updated ERRAP shall be included with any request for permit modification to incorporate a facility expansion or significant changes in facility operation that require modification of the currently approved ERRAP.

e. Facilities that submitted an ERRAP meeting the requirements defined under Iowa Code section 455B.306(6)“d” by May 1, 2001, including regional collection centers that, prior to this date, have met the contingency plan submittal requirement described in 567—Chapter 211, and were approved by the department prior to the effective date of this rule are not required to submit an updated ERRAP that meets the requirements of this rule until the next permit renewal application due date after December 31, 2001.

f. Three sets of ERRAP documents shall be submitted for department approval.

102.16(4) Content. The content of ERRAP documents shall be concise and readily usable as a reference manual by facility managers and operators during emergency condi-

tions. The ERRAP document content shall address at least the following primary issues in detail, unless project conditions render the specific issue as not applicable. The rationale for exclusion of any issue areas that are determined not to be applicable must be provided in either the body of the plan or as a supplement to facilitate department review. Additional emergency response and remedial action plan requirements unique to the facility shall be addressed, as applicable.

a. Facility information.

- (1) Permitted agency.
- (2) DNR permit number.
- (3) Facility description.
- (4) Responsible official and contact information.
- (5) Project location.
- (6) Site and environs map.

b. Regulatory requirements.

- (1) Iowa Code section 455B.306(6)“d” criteria citation.
- (2) Reference to provisions of the permit.

c. Emergency conditions—response activities—remedial action.

- (1) Failure of utilities.
 1. Short-term (48 hours or less).
 2. Long-term (over 48 hours).
- (2) Weather-related events.
 1. Tornado.
 2. Windstorms.
 3. Intense rainstorms and erosion.
 4. Lightning strikes.
 5. Flooding.
 6. Event and postevent conditions.
- (3) Fire and explosions.
 1. Waste materials.
 2. Buildings and site.
 3. Equipment.
 4. Fuels.
 5. Utilities.
 6. Facilities.
 7. Working area.
 8. Hot loads.
 9. Waste gases.
 10. Evacuation.
- (4) Regulated waste spills and releases.
 1. Waste materials.
 2. Leachate.
 3. Waste gases.
 4. Waste stockpiles and storage facilities.
 5. Waste transport systems.
 6. Litter and airborne particulates.
 7. Site drainage systems.
 8. Off-site releases.
- (5) Hazardous material spills and releases.
 1. Load check control points.
 2. Mixed waste deliveries.
 3. Fuels.
 4. Waste gases.
 5. Site drainage systems.
 6. Off-site releases.
- (6) Mass movement of land and waste.
 1. Earthquakes.
 2. Slope failure.
 3. Waste shifts.
 4. Waste subsidence.
- (7) Emergency and release notifications and reporting.
 1. Federal agencies.
 2. State agencies.

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3. County and city agencies.
4. News media.
5. Public and private facilities with special populations within five miles.
6. Emergency response agencies and contact information.
7. Reporting requirements and forms.
- (8) Emergency waste management procedures.
 1. Communications.
 2. Temporary discontinuation of services—short- and long-term.
 3. Facilities access and rerouting.
 4. Waste acceptance.
 5. Wastes in process.
- (9) Primary emergency equipment inventory.
 1. Major equipment.
 2. Fire hydrants and water sources.
 3. Off-site equipment resources.
- (10) Emergency aid.
 1. Responder contacts.
 2. Medical services.
 3. Contracts and agreements.
- (11) ERRAP training requirements.
 1. Training providers.
 2. Employee orientation.
 3. Annual training updates.
 4. Training completion and record keeping.
- (12) Reference tables, figures and maps.

ARC 0721B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Termination**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby terminates rule-making proceedings under the provisions of Iowa Code section 17A.4(1)"b" for an amendment to Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 21, 2001, as **ARC 0545B**.

The Notice, in an amendment to subrule 83.2(2), paragraph "b," proposed an increase in the cap for the total monthly cost of services for persons needing the nursing level of care under the ill and handicapped waiver.

The Department is terminating rule making at this time because the necessary funding for the increase was not appropriated.

ARC 0741B**LABOR SERVICES DIVISION[875]****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 88.5, 88B.3, 89A.3, 91.6, and 91D.1, the Labor Commissioner

hereby gives Notice of Intended Action to amend Chapter 1, "Description of Organization and Procedures Before the Division," Chapter 10, "General Industry Safety and Health Rules," Chapter 26, "Construction Safety and Health Rules," Chapter 71, "Administration," and Chapter 155, "Asbestos Removal and Encapsulation," Iowa Administrative Code.

These proposed amendments make technical and editorial changes; notify the public that publications adopted by reference relating to elevators, escalators and similar equipment are available for review in the office of the Division of Labor Services; and make the rules more consistent with current forms, law, and federal regulations.

Written data, views, or arguments to be considered in adoption may be submitted by interested persons no later than July 6, 2001, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.state.ia.us.

If requested no later than July 3, 2001, by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having not less than 25 members, a public hearing will be held on July 6, 2001, at 1:30 p.m. at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

The Division of Labor Services will issue a regulatory analysis as provided by Iowa Code section 17A.4A if a written request is submitted no later than July 16, 2001, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons who each qualify as a small business, or an organization representing at least 25 small businesses.

These amendments are intended to implement Iowa Code chapters 88, 88B, 89A, 91, and 91D.

The following amendments are proposed.

ITEM 1. Amend subrule 1.55(3) as follows:

1.55(3) Method of service, time of filing, and proof of mailing. Method of service, time of filing, and proof of mailing shall be as provided by rule 875—1.76 75(17A).

ITEM 2. Amend rule 875—10.7(88) as follows:

875—10.7(88) Definitions and requirements for a nationally recognized testing laboratory. The federal regulations adopted at 29 CFR, Chapter XVII, Part 1910, regulation 1910.7 and Appendix A, as published at 53 Fed. Reg. 12120 (April 12, 1988) and amended at 53 Fed. Reg. 16838 (May 11, 1988), 54 Fed. Reg. 24333 (June 7, 1989), and 65 Fed. Reg. 46818 (July 31, 2000) are adopted by reference.

ITEM 3. Amend rule 875—10.19(88) by adopting the following **new** subrule:

10.19(10) Methylene chloride. Rule 1910.1052 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to methylene chloride in every employment and place of employment covered by 875—10.12(88) in lieu of any different standard on exposure to methylene chloride which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 4. Amend rule 875—26.1(88), introductory paragraph, as follows:

875—26.1(88) Adoption by reference. ~~Rules 1926.16-1926.1060, as adopted by the United States Secretary of Labor, shall be rules for implementing Iowa Code chapter 88. This rule adopts Federal Safety and Health Regulations for Construction of 29 CFR, Chapter XVII, Part 1926 as published at 37 Fed. Reg. 27503-27600 (December 16, 1972). Federal Safety and Health Regulations for Construction beginning at 29 CFR 1926.16 and continuing through 29 CFR, Chapter XVII, Part 1926 are hereby adopted by reference for implementation of Iowa Code chapter 88.~~ These federal rules shall apply and be interpreted to apply to the Iowa Occupational Safety and Health Act, Iowa Code chapter 88, not the Contract Work Hours and Safety Standards Act, and shall apply and be interpreted to apply to enforcement by the Iowa commissioner of labor, not the United States Secretary of Labor or the Federal Occupational Safety and Health Administration. The amendments to 29 CFR 1926 are adopted as published at:

ITEM 5. Amend 875—Chapter 71 by adopting the following new rule:

875—71.6(89A) Publications available for review. Standards, codes, and publications adopted by reference in these rules are available for review in the office of the Division of Labor Services, 1000 E. Grand Avenue, Des Moines, Iowa.

ITEM 6. Amend subrule 155.2(2) as follows:

155.2(2) Action on application. A new permit shall be valid for one year from the date of issuance. A renewal permit shall be valid for one year from the expiration date of the applicant's prior permit. A permit may be denied for the reasons set forth in rule 155.8(17A,88B,252J,261) or if the application package is incomplete. Within 60 days of receiving a completed application package for a new permit, the division will issue a license permit or deny the application. Within 30 days of receiving a completed application package for a permit renewal, the division will issue a license permit or deny the application. Applications received after expiration of a prior permit will be considered applications for new permits rather than renewals.

ITEM 7. Amend subrule 155.6(2) as follows:

155.6(2) Training. A certificate of appropriate training from a course provider approved for asbestos training by the U.S. Environmental Protection Agency must accompany all applications. Applicants for a license must be trained by training providers other than themselves. Applicants who completed initial training under a prior set of applicable rules will not be required to take another initial training course if they complete *all* annual refresher courses.

ITEM 8. Amend subrule 155.6(3) as follows:

155.6(3) Photographs. Two 1" by 1" ~~passport-sized (1½" by 1½")~~ photographs clearly showing the applicant's face shall accompany all license applications ~~received after November 22, 2000.~~

ITEM 9. Amend subrule 215.1(1) as follows:

215.1(1) Every employer shall pay to each of the employer's employees performing work in this state, wages of not less than ~~the current federal minimum wage, pursuant to 29 U.S.C. Section 206, or the wage specified in 215.1(2), whichever is greater~~ \$5.15 per hour unless otherwise noted in 875—Chapters 215 through 220.

ITEM 10. Rescind and reserve subrule **215.1(2)**.

ARC 0742B

LABOR SERVICES DIVISION[875]

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 17A.3(1) and 88.5, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 10, "General Industry Safety and Health Rules," Iowa Administrative Code.

This proposed rule making adopts by reference amendments to the federal occupational safety and health standards for cotton dust and blood-borne pathogens. Adoption of these amendments is required by 29 Code of Federal Regulations 1953.23(a)(2) and Iowa Code section 88.5(1)"a."

The purpose of the amendment to the cotton dust standard is to add cotton washed in a batch kier system to the other types of washed cotton that are partially exempt from the cotton dust standard. This amendment follows the recommendation of the Task Force for Byssinosis Prevention that studied the health effects associated with the processing and use of washed cotton. The cotton dust amendment creates no new requirements for industry, but provides an additional option for employers.

The purpose of the amendment to the blood-borne pathogens standard is to conform to the requirements of the federal Needlestick Safety and Prevention Act. This Act directs the United States Occupational Safety and Health Administration to revise the blood-borne pathogens standard to clarify the need for employers to select safer needle devices as they become available and to involve employees in identifying and choosing the devices. The updated standard includes new definitions; requires that Exposure Control Plans reflect how employers implement new developments in control technology; requires employers to solicit input from employees responsible for direct patient care in the identification, evaluation, and selection of engineering and work practice controls; and requires employers to establish and maintain a log of percutaneous injuries from contaminated sharps.

Written data or arguments to be considered in adoption may be submitted no later than July 6, 2001, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209, or faxed to (515)281-7995. E-mail may be sent to kathleen.uehling@iwd.state.ia.us.

If requested by July 3, 2001, a public hearing will be held on July 6, 2001, at 10 a.m. in the office of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make an oral statement and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515)242-5869 in advance to arrange access or other needed services.

This amendment will not necessitate additional annual expenditures exceeding \$100,000 by any political subdivision or agency or any contractor providing services to political subdivisions or agencies.

The Division will issue a regulatory flexibility analysis as provided by Iowa Code section 17A.4A if an appropriate

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written request is filed by delivery or by mailing postmarked no later than July 16, 2001, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. Appropriate requests are described in Iowa Code section 17A.4A.

This amendment is intended to implement Iowa Code section 88.5.

The following amendment is proposed.

Amend rule **875—10.20(88)** by inserting at the end thereof:

65 Fed. Reg. 76567 (December 7, 2000)

66 Fed. Reg. 5324 (January 18, 2001)

66 Fed. Reg. 18191 (April 6, 2001)

ARC 0723B**MEDICAL EXAMINERS
BOARD[653]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Medical Examiners Board hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on February 7, 2001, as **ARC 0465B**, amending Chapter 13, "Standards of Practice and Professional Ethics," Iowa Administrative Code.

The Board approved the termination in a regularly scheduled meeting on May 3, 2001.

The Notice proposed to adopt new rule 653—13.4(147,148,150) to define surgery and the use of lasers as surgery, to restrict the use of laser surgery to individuals licensed to practice medicine and surgery or those categories of practitioners currently licensed in Iowa to perform surgery, to require physicians who use lasers to use only those approved by the U.S. Food and Drug Administration, and to authorize physicians to delegate the use of laser technology only to an Iowa licensed practitioner with appropriate medical training who is under the supervision of and on the premises with an Iowa licensed physician who bears responsibility for the procedure.

The Board is terminating the rule making commenced in **ARC 0465B** and may renote the proposed rule, if determined appropriate following further review.

ARC 0740B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby gives Notice of Intended Action to amend Chapter 44, "Discipline for Chiropractors," Iowa Administrative Code.

This proposed rule making amends the subrule pertaining to advertising of physical therapy services.

Any interested person may make written comments on the proposed amendment no later than July 9, 2001, addressed to Rosalie Steele, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

A public hearing will be held on July 9, 2001, from 1:30 to 3:30 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code section 147.76 and chapters 151 and 272C.

The following amendment is proposed.

Amend subrule 44.1(7) as follows:

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~~ *Representations* 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~~ *Representations of practice in a profession other than that for which the chiropractic physician is licensed or use of procedures other than those described in Iowa Code chapter 151 or for which the chiropractic physician has not been trained in accordance with Iowa Code chapter 151;*

d. *Representations utilizing the term "physical therapy" when informing the public of the services offered by the chiropractic physician unless a licensed physical therapist is performing such services. Nothing herein shall be construed as prohibiting a chiropractic physician from making representations regarding physiotherapy that may be the same as, or similar to, physical therapy or physical medicine; or*

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

ARC 0738B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work Examiners hereby gives Notice of Intended Action to adopt new Chapter 279, "Board of Social Work Examiners"; to rescind Chapter 280, "Board of Social

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Work Examiners," and adopt new Chapter 280, "Licensure of Social Workers"; to amend Chapter 281, "Continuing Education for Social Workers"; and to adopt new Chapter 282, "Discipline for Social Workers," and new Chapter 283, "Fees," Iowa Administrative Code.

The proposed amendments rescind the current rules regarding licensing, discipline and fees, and adopt a new chapter for licensure, a new chapter for discipline and a new chapter for fees. The continuing education chapter is amended to include more possible areas of credit for the licensees.

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

Any interested person may make written comments on the proposed amendments no later than July 9, 2001, addressed to Rosalie Steele, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

A public hearing will be held on July 9, 2001, from 9 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 17A, 147, 154C and 272C.

The following amendments are proposed.

ITEM 1. Adopt **new** 645—Chapter 279 as follows:

CHAPTER 279

BOARD OF SOCIAL WORK EXAMINERS

645—279.1(154C) General definitions.

"ASWB" means the Association of Social Work Boards.

"Board" means the board of social work examiners.

"Department" means the department of public health.

"License" means a license to practice social work.

"Licensee" means a person licensed to practice social work.

"LISW" means licensed independent social worker.

"Private practice" means social work practice conducted only by an LISW who is either self-employed or a member of a partnership or of a group practice providing diagnosis and treatment of mental and emotional disorders or conditions. In this context, "group practice" means an association of professionals in which an LISW is independently engaged in the practice of social work and has ongoing control of the clinical, financial, administrative, and professional arrangements between the LISW and the clients/patients of the LISW.

645—279.2(154C) Organization and proceedings.

279.2(1) The board shall consist of a total of seven members, five who are licensed to practice social work, with at least one from each of the three levels of licensure described in Iowa Code section 154C.3, subsection 1, two employed by a licensee under Iowa Code chapter 237, and two who are not licensed social workers and who shall represent the general public. A quorum shall consist of four members of the board.

279.2(2) A chairperson, vice chairperson, and secretary to the board, and delegate and alternate delegate to the Association of Social Work Boards (ASWB), shall be elected at the first meeting after April 30 of each year.

279.2(3) The board shall hold an annual meeting and at least three interim meetings and may hold additional meetings called by the chairperson or by a majority of the board's members. The chairperson shall designate the date, place, and time prior to each meeting of the board. The board shall follow the latest edition of Robert's Rules of Order, Revised, at its meetings whenever any objection is made as to the manner in which it proceeds at a meeting.

645—279.3(154C) Availability of information.

279.3(1) All information regarding rules, forms, time and place of meetings, minutes of meetings, record of hearings, and examination results are available to the public between the hours of 8 a.m. and 4:30 p.m., Monday to Friday, except holidays.

279.3(2) Information may be obtained by writing to the Board of Social Work Examiners, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. All official correspondence shall be in writing and directed to the board at this address.

645—279.4(154C) Provision of services. The provision of social work services to an individual in this state through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation in Iowa.

645—279.5(154C) Name change. A licensee shall submit an original or certified copy of the marriage license or name change.

These rules are intended to implement Iowa Code chapter 154C.

ITEM 2. Rescind 645—Chapter 280 and adopt the following **new** chapter in lieu thereof:

CHAPTER 280

LICENSURE OF SOCIAL WORKERS

645—280.1(154C) Definitions. For purposes of these rules, the following definitions shall apply:

"ASWB" means the Association of Social Work Boards.

"Board" means the board of social work examiners.

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

"LBSW" means licensed bachelor social worker.

"Licensee" means any person licensed to practice as a social worker in the state of Iowa.

"License expiration date" means December 31 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice social work to an applicant who is currently licensed in another state.

"LISW" means licensed independent social worker.

"LMSW" means licensed master social worker.

"Reciprocal license" means the issuance of an Iowa license to practice social work to an applicant who is currently licensed in another state and that state's board of examiners has a mutual written agreement with the Iowa board of social work examiners to license persons who have the same or similar qualifications to those required in Iowa.

645—280.2(154C) Requirements for licensure. The following criteria shall apply to licensure:

280.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

sent to Board of Social Work Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

280.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

280.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Social Work Examiners. The fees are nonrefundable.

280.2(4) No application shall be considered by the board until official copies of academic transcripts have been received by the board except as provided in 280.3(6).

280.2(5) The candidate shall take the examination(s) required by the board pursuant to these rules.

280.2(6) An applicant for a license as an independent social worker shall meet the requirements for supervision pursuant to 280.5(154C).

280.2(7) Each social worker who seeks to attain licensure as an independent social worker shall have been granted a master's or doctoral degree in social work and practiced at that level.

280.2(8) Notification of licensure shall be sent to the licensee by regular mail.

280.2(9) Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

280.2(10) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate.

The candidate is responsible for requesting that the file be maintained.

645—280.3(154C) Written examination.

280.3(1) The applicant is required to take and pass the ASWB examination at the appropriate level as follows:

- a. Bachelor level social worker—the basic level examination.
- b. Master level social worker—the intermediate level examination.
- c. Independent level social worker—the clinical level examination.

280.3(2) The electronic examination shall be scheduled with ASWB.

280.3(3) Application for any required examination will be denied or deferred by the board if the applicant lacks the required education or practice experience.

280.3(4) The applicant and the board shall be notified of the ASWB examination results, and the applicant may receive the results at the time of the examination. The board will accept only official results from the ASWB examination service that are sent directly from the examination service to the board.

280.3(5) The ASWB passing score will be utilized as the Iowa passing score.

280.3(6) An applicant may sit for the examination if the applicant meets the requirements stated in 645—280.2(154C). Upon written request of the applicant, the board may authorize a student to sit for the examination prior to the receipt of the official transcript if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master's level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is cur-

rently enrolled in a master of social work program and the student's expected date of graduation. Upon completion of degree requirements, the applicant shall have the transcript showing the date of the degree sent directly from the school to the board office at the Board of Social Work Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

645—280.4(154C) Educational qualifications.

280.4(1) Bachelor level social worker. An applicant for a license as a bachelor level social worker shall present evidence satisfactory to the board that the applicant possesses a bachelor's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation.

280.4(2) Master level social worker. An applicant for a license as a master level social worker shall present evidence satisfactory to the board that the applicant:

- a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or
- b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.4(3) Independent level social worker. An applicant for a license as an independent level social worker shall present evidence satisfactory to the board that the applicant:

- a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or
- b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.4(4) Foreign-trained social workers shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310) 258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, 1725 Duke Street, Suite 500, Alexandria, Virginia 22314-3457, telephone (703)683-8080, Web site <http://www.cswe.org>. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a social work program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—280.5(154C) Supervised professional practice for the LISW.

280.5(1) The supervised professional practice shall:

- a. Be the equivalent of two years of full-time practice; or
- b. Be 4,000 hours of post-master's social work degree experience over a minimum two-year and maximum six-year period;
- c. Have at least 110 hours of supervision which shall be equitably distributed throughout a minimum of a two-year period; and
- d. Be obtained in the following manner:

(1) Face-to-face meetings between the supervisor and the supervisee unless the board has granted an exception allowing for an alternate form of supervision, upon written request of the applicant.

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(2) Group supervision obtained using the following criteria:

1. No more than 60 hours of the 110 hours of supervision may be provided in group supervision;

2. Group supervision may be composed of no more than six supervisees per group.

280.5(2) The board maintains the authority to grant waivers relevant to the time parameters of the supervised professional practice upon written request of the applicant.

280.5(3) To meet the requirements of the supervised professional practice, the supervisor must:

a. Be an Iowa-licensed independent social worker as specified in rule 280.2(154C). An individual licensed in another state and providing supervision for an Iowa LISW candidate must be licensed at a level equivalent to Iowa's LISW level.

b. Have a minimum of 2,000 hours of practice earned over a period of two years of practice beyond receipt of a license to practice independent social work in Iowa or the equivalent license from another state.

c. Establish and maintain a plan throughout the supervisory period. Such a plan must be kept by the supervisor for a period of two years and must be submitted to the board upon its request for audit within 30 days from receipt of the request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address and telephone number of supervisor;

(2) The name, license number, address and telephone number of supervisee;

(3) The beginning date of clinical work experience under supervision and estimated date of completion;

(4) A plan for direct supervision hours, including frequency of supervisor/supervisee's face-to-face meetings;

(5) A plan for any group supervision;

(6) The goals and objectives for the clinical work experience; and

(7) The signatures of the supervisor and supervisee, and the dates of signatures.

d. Be responsible for supervision within the following content areas:

(1) Practice skills;

(2) Practice management skills;

(3) Skills required for continuing competence;

(4) Development of professional identity; and

(5) Ethical practice.

e. Be accountable for the following areas of supervision:

(1) Area of social work practice;

(2) Agency providing services;

(3) Legal and regulatory requirements;

(4) Ethical standards of the profession; and

(5) Acceptance of professional responsibility for the social work services provided by the supervisee.

f. Complete a supervision report sheet at the end of the supervised professional experience. This sheet shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.

g. Exceptions to this rule shall be made on an individual basis. Requests for alternative supervisors must be submitted in writing, and the board must approve the supervisor prior to commencement of the supervision.

280.5(4) To meet the requirements of the supervised professional practice, the supervisee shall:

a. Obtain a written release of information for protection of client confidentiality pursuant to 645—Chapter 282, if the

supervisor and supervisee are not employed by the same agency.

b. Have the following documentation for supervision of independent practice:

(1) The plan for supervision that was created at the beginning of the period of supervision and that was maintained by the supervisor. If there has been a change of supervisors, the LISW candidate has the responsibility to have a termination evaluation completed by that supervisor and to have the copy submitted to the next supervisor. All termination evaluations shall be submitted to the board with the final supervision report sheet. The supervision provided by all qualified supervisors that have a plan of supervision with the applicant can be counted toward meeting the criteria for supervision.

(2) At the end of supervision, the supervisee shall have any and all supervisors complete a supervision report sheet provided by the board of social work examiners. This report shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.

645—280.6(154C) Licensure by endorsement. An applicant who has been a licensed social worker under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. Submits to the board a completed application;

2. Pays the licensure fee;

3. Shows evidence of licensure requirements that are similar to those required in Iowa;

4. Provides official copies of the academic transcripts;

5. Provides official copies of the examination score sent directly from the ASWB; and

6. Provides verification of licenses from other states that have been sent directly from those states to the board office.

645—280.7(154C) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia, any state, territory, province or foreign country with equal or similar requirements for licensure of social workers.

645—280.8(154C) License renewal.

280.8(1) The biennial license renewal period for a license to practice social work shall begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. All licensees shall renew on a biennial basis.

280.8(2) A renewal of license to practice social work application and continuing education report form shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay the biennial renewal fee on or before the renewal date.

a. The licensee shall submit the completed application and continuing education report form with the renewal fee to the board office before the license expiration date.

b. Individuals who were issued their initial licenses within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

c. 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 27 hours of continu-

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ing education per biennium for each subsequent license renewal.

d. Persons licensed to practice social work shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

280.8(3) Late renewal. If the renewal fee, continuing education report and renewal application are received within 30 days after the license expiration date, the late fee for failure to renew before expiration is charged.

280.8(4) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—280.9(272C) Exemptions for inactive practitioners.

280.9(1) A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. For an LMSW or an LISW, the application shall contain a statement that the applicant will not engage in practice in the state of Iowa without first complying with all regulations governing reinstatement after exemption. For an LBSW, the application shall contain a statement that the applicant shall not hold the applicant out to be a licensed social worker. The application for a certificate of exemption shall be submitted upon the form provided by the board. A licensee must hold a current license to apply for exempt status. The licensee may apply for inactive status prior to the license expiration date.

280.9(2) Reinstatement of exempted, inactive practitioners. Inactive practitioners who have requested and been granted a waiver of compliance with the renewal requirements and who have obtained a certificate of exemption shall, prior to engaging in the practice of the profession in Iowa, satisfy the requirements for reinstatement as outlined in 645—281.10(154C,272C).

280.9(3) Licensees shall renew at the next scheduled renewal cycle. Licensees who were issued their reinstated licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

280.9(4) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license became inactive.

280.9(5) A new licensee who is on inactive status during the initial license renewal time period and reinstates before the first license expiration date will not be required to complete continuing education only for that first license renewal time period. Twenty-seven hours of continuing education will be required for every renewal thereafter.

280.9(6) Reinstatement of inactive license after exemption. The following chart illustrates the requirements for reinstatement based on the length of time a license has been inactive.

An applicant shall satisfy the following requirements:	First renewal	2 renewals
Submit written application for reinstatement to the board	Required	Required
Pay the current renewal fee	\$60-LBSW \$100-LMSW \$120-LISW	\$60-LBSW \$100-LMSW \$120-LISW
Pay the reinstatement fee	\$50	\$50
Successfully complete continuing education which includes three hours of social work ethics each biennium OR Successfully complete board-approved examination as deemed necessary by the board within one year prior to application	27 hours Board-approved examination	54 hours Board-approved examination
Total fees and continuing education hours required for reinstatement:	27 hours and \$110-LBSW \$150-LMSW \$170-LISW	54 hours and \$110-LBSW \$150-LMSW \$170-LISW

645—280.10(272C) Lapsed licenses.

280.10(1) If the renewal fee and continuing education report are received more than 30 days after the license expiration date, the license shall be lapsed. An application for reinstatement must be filed with the board accompanied by the reinstatement fee, the renewal fee(s) for each biennium the license is lapsed and the late fee for failure to renew before expiration. The licensee may be subject to an audit of the licensee's continuing education report.

280.10(2) Licensees who have not fulfilled the requirements for license renewal or for an exemption in the required time frame will have a lapsed license and shall not engage in

the practice of social work. Practicing without a license may be cause for disciplinary action.

280.10(3) In order to reinstate a lapsed license, licensees shall comply with all requirements for reinstatement of a lapsed license as outlined in 645—281.6(154C).

280.10(4) After the reinstatement of the lapsed license, the licensee shall renew at the next scheduled renewal cycle and complete the continuing education required for the biennium.

280.10(5) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license lapsed.

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280.10(6) Reinstatement of a lapsed license. The following chart illustrates the requirements for reinstatement based on the length of time a license has lapsed.

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 renewals	4 renewals
Submit written application for reinstatement	Required	Required	Required	Required
Pay renewal fee(s)	\$60-LBSW \$100-LMSW \$120-LISW	\$120-LBSW \$200-LMSW \$240-LISW	\$180-LBSW \$300-LMSW \$360-LISW	\$240-LBSW \$400-LMSW \$480-LISW
Pay late fee	\$50	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50	\$50
Satisfactorily complete continuing education requirements during the period since the license lapsed	27 hours	54 hours	81 hours	108 hours
Successfully pass the board-approved licensure examination	NA	NA	Required	Required
Total fees and continuing education hours required for reinstatement:	27 hours and \$160-LBSW \$200-LMSW \$220-LISW	54 hours and \$220-LBSW \$300-LMSW \$340-LISW	81 hours and \$280-LBSW \$400-LMSW \$460-LISW	108 hours and \$340-LBSW \$500-LMSW \$580-LISW

645—280.11(17A,147,272C) License denial.

280.11(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined in these rules shall specifically describe the facts to be contested and determined at the hearing.

280.11(2) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C.

These rules are intended to implement Iowa Code chapters 17A, 147, 154C and 272C.

ITEM 3. Amend subrule **281.3(2)** by adopting new paragraphs "i" through "k" as follows:

i. Instruction of a course at an approved college, university or graduate school of social work. A licensee may receive credit on a one-time basis not to exceed three hours of continuing education credit per biennium.

j. Instruction/presentation/moderation of continuing education programs. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium, for programs at which the licensee is actually in attendance for the complete program provided the licensee receives a certificate of attendance in compliance with this rule.

k. Authorship of papers, publications or books and preparation of presentations and exhibits. A presentation must be made before a professional audience. Presentations may receive credit on a one-time basis for the article, publication, book or the preparation of a presentation or exhibit, not to exceed three hours of continuing education credit per biennium.

ITEM 4. Amend rule 645—281.6(154C) as follows:

645—281.6(154C) Reinstatement of lapsed license. Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows a license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;
2. Pays all of the renewal fees then due;
3. Pays ~~all the late fees~~ *the late fee* which ~~have~~ *has* been assessed by the board for failure to renew;
4. Pays *the reinstatement fee(s) fee*; and
5. Provides evidence of satisfactory completion of Iowa continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 27 (*which includes three hours of social work ethics*) by the number of bienniums since the license lapsed.
6. If the license has lapsed for more than ~~one biennium~~ *two bienniums*, the applicant shall successfully pass the board-approved licensure examination.

ITEM 5. Amend rule 645—281.10(154C,272C) as follows:

645—281.10(154C,272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of social work in the state of Iowa, satisfy the following requirements for reinstatement.

281.10(1) Submit written application for reinstatement to the board upon forms provided by the board ~~with appropriate reinstatement fee~~; and

281.10(2) *Pay the reinstatement fee;*

281.10(3) *Pay the current renewal fee; and*

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281.10(4) Furnish in the application evidence of one of the following:

- a. Completion of a total number of hours of approved continuing education computed by multiplying 27 (which includes three hours of *social work ethics*) by the number of bienniums a certificate of exemption shall be in effect for such applicant *to a maximum of two bienniums*; or
- b. No change.

ITEM 6. Adopt **new** 645—Chapter 282 as follows:

CHAPTER 282

DISCIPLINE FOR SOCIAL WORKERS

645—282.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that the licensee is guilty of any of the following acts or offenses:

282.1(1) Fraud in procuring a license.

282.1(2) Professional incompetency.

282.1(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.

282.1(4) Habitual intoxication or addiction to the use of drugs.

282.1(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.

282.1(6) Fraud in representations as to skill or ability.

282.1(7) Use of untruthful or improbable statements in advertisements.

282.1(8) Willful or repeated violations of the provisions of Iowa Code chapter 147.

282.1(9) Violation of rules promulgated by the board including the rules of conduct set out in rule 282.2(154C).

282.1(10) Personal disqualifications:

a. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

b. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

282.1(11) Holding oneself out as a licensed social worker when the license has been suspended or revoked.

282.1(12) 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 Iowa board of social work examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country.

282.1(13) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

282.1(14) Prohibited acts consisting of the following:

a. Permitting another person to use the license for any purpose.

b. Practice outside the scope of a license.

c. Obtaining, possessing, or attempting to obtain or possess a controlled substance without lawful authority; or sel-

ling, prescribing, giving away, or administering controlled substances.

d. Verbally or physically abusing clients.

e. Any sexual intimidation or sexual relationship between a social worker and a client.

282.1(15) Unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying clients' records.

282.1(16) Failure to report a change of name or address within 30 days after it occurs.

282.1(17) Falsification of continuing education records.

282.1(18) Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

282.1(19) Failure to comply with a subpoena issued by the board.

282.1(20) Failure to report to the board any violation by another licensee of the reasons for disciplinary action as listed in this rule.

645—282.2(154C) Rules of conduct.

282.2(1) Misrepresentations, disclosure. A licensee shall not:

a. Knowingly make a materially false statement, or fail to disclose a relevant material letter of reference, application, referral, report or other document.

b. Knowingly allow another person to use the licensee's license or credentials.

c. Knowingly aid or abet a person who is misrepresenting the person's professional credentials or competencies.

d. Impersonate another person or organizational affiliation in the licensee's professional practice.

e. Further the application or make a recommendation for professional licensure of another person who is known by the licensee to be unqualified in respect to character, education, experience, or other relevant attributes.

f. Fail to notify the appropriate licensing authority of any human service professional who is practicing or teaching in violation of the laws or rules governing that person's professional discipline.

g. Engage in professional activities, including advertising, involving dishonesty, fraud, deceit, or misrepresentation.

h. Advertise services in a false or misleading manner or fail to indicate in the advertisement the name, the highest relevant degree and licensure status of the provider of services.

i. Fail to distinguish, or purposely mislead the reader/listener in public announcements, addresses, letters and reports, as to whether the statements are made as a private individual or whether they are made on behalf of an employer or organization.

j. Direct solicitation of potential clients/patients for pecuniary gain in a manner or in circumstances which constitute overreacting, undue influence, misrepresentation or invasion of privacy.

k. Misrepresent professional competency by performing, or offering to perform, services clearly inconsistent with training, education, and experience.

l. Fail to advise and explain to each client/patient or potential client/patient the joint rights, responsibilities and duties involved in the professional relationship.

m. Fail to provide each client/patient with a description of what the client/patient may expect in the way of tests, con-

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sultation, reports, fees, billing, therapeutic regimen, or schedule.

n. Fail to provide each client/patient with a description of possible effects of proposed treatment when there are clear and established risks to the client/patient.

o. Fail to inform each client/patient of any financial interests that might accrue to the licensee for referral to any other person or organization, or for the use of tests, books, or apparatus.

p. Fail to inform each client/patient that the client/patient may be entitled to the same services from a public agency, if the licensee is employed by that public agency and also offers services privately.

q. Fail to inform each client/patient of the limits of confidentiality, the purposes for which the information is obtained, and how it may be used.

r. Make claims of professional superiority which cannot be substantiated by the licensee.

s. Guarantee that satisfaction or a cure will result from the performance of professional services.

t. Claim or use any secret or special method of treatment or techniques which the licensee refuses to divulge to professional colleagues.

u. Take credit for work not personally performed whether by giving inaccurate information or failing to give accurate information.

282.2(2) Confidentiality. A licensee shall not:

a. Reveal a confidence or a secret of any client/patient, except:

(1) As required by law;

(2) After obtaining consent of the client/patient following full disclosure of the information to be revealed and the persons to whom the information will be revealed; or

(3) If necessary, to defend the licensee or the licensee's employees or associates against an accusation of wrongful conduct made by that client/patient.

b. Use a confidence or secret of any client/patient to the client/patient's disadvantage.

c. Use a confidence or secret of any client/patient for the advantage of the licensee or a third person without obtaining the client/patient's consent, after full disclosure of the purpose.

d. Fail to obtain written, informed consent from each client/patient or the client/patient's legal representative or representatives before electronically recording sessions with that client/patient, before permitting a third-party observation of the licensee and client/patient's activities, or before releasing information to a third party concerning a client/patient.

e. When providing any client/patient with access to that client/patient's records, fail to protect the confidences of other persons that may be recorded in that record.

f. Fail to exercise due diligence in protecting the confidences and secrets of the client/patient from disclosure by fellow employees and associates, or by other persons whose services are utilized by the licensee.

g. Fail to maintain the confidences shared by colleagues in the course of professional relationships and transactions with those colleagues.

282.2(3) Integrity, propriety, objectivity. A licensee shall not:

a. Make sexual advances toward, or engage in physical intimacies or sexual activities with, any client/patient or student of the licensee.

b. Continue in a professional relationship with a client/patient when the licensee has become emotionally involved

with the client/patient to the extent that objectivity is no longer possible in providing the required professional services.

c. Practice in a professional relationship while intoxicated or under the influence of alcohol or drugs not prescribed by a licensed physician.

d. Practice in a professional relationship while experiencing a mental or physical impairment that adversely affects the ability of the licensee to perform professional duties in a competent and safe manner.

e. Perform professional services which have not been duly authorized by the client/patient or by the client/patient's legal representative or representatives.

f. Exercise undue influence on any client/patient or student, including promotion of the sales of services, goods, appliances or drugs in a manner that will exploit the client/patient or student, for the financial gain or personal gratification of the licensee or of a third party.

g. Continue to provide services or order tests, treatment, or use of treatment facilities not warranted by the condition of the client/patient.

h. Fail to terminate the professional relationship when it is apparent that the service no longer serves the needs of the client/patient.

i. When termination or interruption of service to the client/patient is anticipated, fail to notify the client/patient promptly and fail to seek continuation of service in relation to the client/patient's needs and preferences.

j. Abandon or neglect a client/patient under and in need of immediate professional care, without making reasonable arrangements for continuation of that care.

k. Physically or verbally abuse clients/patients or colleagues.

282.2(4) Research. If engaged in research, a licensee shall:

a. Consider carefully the possible consequences for human beings participating in the research.

b. Protect each participant from unwarranted physical and mental harm.

c. Ensure that the consent of the participant is voluntary and informed.

d. Treat information obtained as confidential.

e. Not knowingly report distorted, erroneous, or misleading information.

282.2(5) Organization relationships. A licensee shall not:

a. Directly or indirectly offer, give, solicit, receive, or agree to receive any fee or other consideration to or from a third party for the referral of the client/patient or in connection with the performance of professional services.

b. Permit any person to share in the fees for professional services, other than a partner, employee, an associate in a professional firm, or a consultant to the licensee.

c. Solicit the clients/patients of colleagues or assume professional responsibility for clients/patients of another agency or colleague without appropriate communication with that agency or colleague.

d. Abandon an agency, organization, institution, or a group practice without reasonable notice or under circumstances which seriously impair the delivery of professional care to clients/patients.

e. Fail to maintain a record for each client/patient which accurately reflects the client/patient's contact with the service provider.

f. Deliberately falsify client/patient records for personal advantage.

g. Fail to submit required reports and documents in a timely fashion to the extent that the well-being of the client/

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patient is adversely affected.

h. Fail to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee.

i. Delegate professional responsibilities to a person when the licensee knows, or has reason to know, that the person is not qualified by training, education, experience, or classification to perform the requested duties.

282.2(6) General. A licensee shall not:

a. Practice without receiving supervision as needed, given the licensee's level of practice, experience, and need.

b. Perform services in an incompetent manner.

c. Practice a professional discipline without an appropriate license or after expiration of the required license.

d. Practice, condone, or facilitate any form of discrimination on the basis of sex, race, color, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical disability, or any other preference or personal characteristic, condition or status.

e. Make sexually harassing actions, comments, threats or enticements to clients/patients, colleagues or employees.

These rules are intended to implement Iowa Code sections 147.76, 147.55(3), 272C.4 and 272C.10.

ITEM 7. Adopt **new** 645—Chapter 283 as follows:

CHAPTER 283

FEES

645—283.1(147,154C) License fees. All fees are nonrefundable.

283.1(1) Licensure fee for license to practice social work is \$100.

283.1(2) Biennial license renewal fee for a license at the bachelor's level is \$60 each biennium; for the master's level, \$100 each biennium; and independent level, \$120 each biennium.

283.1(3) Late fee for failure to renew before expiration is \$50.

283.1(4) Reinstatement fee for a lapsed license or an inactive license is \$50.

283.1(5) Duplicate license fee is \$10.

283.1(6) Verification of license fee is \$10.

283.1(7) Returned check fee is \$15.

283.1(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154C and 272C.

ARC 0739B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work Examiners hereby gives Notice of Intended Action to amend Chapter 281, "Continuing Education for Social Workers," Iowa Administrative Code.

The proposed amendment rescinds the current continuing education content areas for social workers and adopts new content areas for social work continuing education.

Any interested person may make written comments on the proposed amendment no later than July 3, 2001, addressed to Rosalie Steele, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

This amendment is intended to implement Iowa Code section 147.76 and chapter 154C.

The following amendment is proposed.

Amend subrule **281.3(1)** by rescinding paragraph "f" and adopting the following **new** paragraph "f" in lieu thereof:

f. Contains one of the following content areas:

(1) Human behavior.

1. Theories and concepts of the development of human behavior in the life cycle of individuals, families and the social environment;

2. Community and organizational theories;

3. Normal, abnormal and addictive behaviors;

4. Abuse and neglect; and

5. Effects of culture, race, ethnicity, sexual orientation and gender.

(2) Assessment and treatment.

1. Psychosocial assessment/interview;

2. Utilization of the DSM-IV TR;

3. Theoretical approaches and models of practice—individual, couple, and family therapy and group psychotherapy;

4. Establishing treatment goals and monitoring progress;

5. Techniques of social work practice; and

6. Interdisciplinary consultation and collaboration.

(3) Social work research, program evaluation, or practice evaluation.

(4) Management, administration, and social policy.

1. Organizational policies and procedures;

2. Advocacy and prevention in social work practice;

3. Management of social work staff and other personnel; and

4. Management of social work programs.

(5) Theories and concepts of social work education.

(6) Social work ethics as they pertain to the rules of conduct.

(7) An area, as demonstrated by the licensee, that directly relates to the licensee's individual practice as a social worker. The licensee shall submit for consideration by the board a specific explanation of how the program relates to the licensee's individual practice setting as a social worker.

ARC 0726B**PUBLIC EMPLOYMENT
RELATIONS BOARD[621]****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 20.6(3) and 20.6(5), the Public Employment Relations Board hereby

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

gives Notice of Intended Action to amend Chapter 1, "General Provisions," Iowa Administrative Code.

The proposed amendment increases the present maximum per diem fee for fact finders, arbitrators and teacher termination adjudicators, in effect since March 1997, to \$650 per day of service.

This amendment does not provide for a waiver of its terms, but is instead subject to the Board's general waiver rule, 621—1.9(17A,20).

Any interested person may make written suggestions or comments on this proposed amendment on or before July 3, 2001. Such written materials should be directed to the Chairperson, Public Employment Relations Board, 514 E. Locust Street, Suite 202, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Chairperson, Public Employment Relations Board, at (515) 281-4414 or at the Board's offices at the address noted above.

There will be a public hearing on Tuesday, July 3, 2001, at 11 a.m. in the Board's hearing room located on the second floor at 514 E. Locust Street, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 20 and 279.

The following amendment is proposed.

Amend rule 621—1.8(20,279) as follows:

621—1.8(20,279) Fees of neutrals. Qualified fact finders, arbitrators and teacher termination adjudicators appointed from a list maintained by the board may be compensated by a sum not to exceed ~~\$475~~ \$650 per day of service, plus their necessary expenses incurred.

provides instructions for determining the population of the annexed territory.

Any interested person may make written suggestions or comments on this proposed rule through July 3, 2001. Such written suggestions or comments should be directed to Sandy Steinbach, Director of Elections, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office at (515)281-5823 or at the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by July 2, 2001.

This rule is intended to implement Iowa Code sections 49.3 and 49.5.

The following **new** rule is proposed.

721—21.30(49) Inclusion of annexed territory in city reprecincting and redistricting plans. If a city has annexed territory after January 1 of a year ending in zero and before the completion of the redrawing of precinct and ward boundaries during a year ending in one, the city shall include the annexed land in precincts drawn pursuant to Iowa Code sections 49.3 and 49.5.

21.30(1) When the city council draws precinct and ward boundaries, if any, the city shall use the population of the annexed territory as certified by the city to the state treasurer pursuant to Iowa Code section 312.3(4).

21.30(2) When the board of supervisors, or the temporary county redistricting commission, draws precinct and county supervisor district boundaries, if any, it shall subtract from the population of the adjacent unincorporated area the population of the annexed territory as certified by the city to the state treasurer pursuant to Iowa Code section 312.3(4).

21.30(3) The use of population figures for reprecincting or redistricting shall not affect the official population of the city or the county. Only the U.S. Bureau of the Census may adjust the official population figures, by corrections or by conducting special censuses. See Iowa Code section 9F.6.

This rule is intended to implement Iowa Code sections 49.3 and 49.5.

ARC 0728B

SECRETARY OF STATE[721]

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 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

New rule 21.30(49) is needed to provide guidance for cities and counties when one or more cities have annexed territory after the date on which the geographic boundaries for the decennial census became final. Any changes in city boundaries after January 1 of a year ending in zero are not included in the official census data. However, the cities must include the recently annexed territory in the revised precinct and ward boundaries for the next ten years. This new rule

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

May 1, 2000 — May 31, 2000	8.25%
June 1, 2000 — June 30, 2000	8.00%
July 1, 2000 — July 31, 2000	8.50%
August 1, 2000 — August 31, 2000	8.00%
September 1, 2000 — September 30, 2000	8.00%
October 1, 2000 — October 31, 2000	7.75%
November 1, 2000 — November 30, 2000	7.75%
December 1, 2000 — December 31, 2000	7.75%
January 1, 2001 — January 31, 2001	7.75%
February 1, 2001 — February 28, 2001	8.00%
March 1, 2001 — March 31, 2001	7.25%
April 1, 2001 — April 30, 2001	7.00%
May 1, 2001 — May 31, 2001	7.00%
June 1, 2001 — June 30, 2001	7.25%

ARC 0725B**UTILITIES DIVISION[199]****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 Iowa Code sections 17A.4, 476.1, 476.2, 479.29, and 479B.20, the Utilities Board (Board) gives notice that on May 22, 2001, the Board issued an order in Docket No. RMU-01-5, In re: Correction to 199 IAC 9.3(1), Land Restoration Rules. The Board is proposing to amend 199 IAC 9.3(1) to correct a typographical error that occurred in the adoption of 199 IAC Chapter 9, effective March 14, 2001.

The Board adopted a new Chapter 9 that established rules regarding restoration of agricultural lands during and after pipeline construction effective March 14, 2001. The Adopted and Filed Chapter 9 was published in the Iowa Administrative Bulletin on February 7, 2001, as **ARC 0436B**. The error occurred after a staff recommendation to clarify 199 IAC 9.3(1) to indicate that it applied to intrastate pipelines was approved. The clarification that added the word "intrastate" to the first sentence of subrule 9.3(1) was discussed and set out in the preamble to the Adopted and Filed. In the adopted subrule 9.3(1) the word "intrastate" was typed as "interstate." This typographical error changes the application of the subrule and does not reflect the statutory sup-

port cited in the subrule. Because of the different meanings of the words "intrastate" and "interstate," this rule making is necessary to ensure that the requirements of the subrule are applied correctly.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before July 3, 2001, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Acting Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 479.29, and 479B.20.

The following amendment is proposed.

Amend subrule 9.3(1) as follows:

9.3(1) An ~~interstate~~ *intrastate* natural gas pipeline or hazardous liquid pipeline that is subject to Iowa Code section 479.5 or 479B.4 shall file its proposed plan with the board at the time it files its petition for permit pursuant to 199 IAC 10.2(479) or 13.2(479B), or a petition for amendment to permit which proposes pipeline construction or relocation pursuant to 199 IAC 10.9(2) or 13.9(479B). Review of the land restoration plan will be coincident with the board's review of the application for permit, and objections to the proposed plan may be filed as part of the permit proceeding.

ARC 0732B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 455B.200, the Environmental Protection Commission hereby amends Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

This amendment extends until July 1, 2002, the period during which the owner of a confinement feeding operation may remove and apply manure from a manure storage structure in accordance with a manure management plan that has been submitted to, but not yet approved by, the Department of Natural Resources.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 21, 2001, as **ARC 0570B**. No written comments were received, and no oral comments were made at the April 24, 2001, public hearing. This amendment is identical to the proposed amendment in the Notice of Intended Action.

This amendment had been Adopted and Filed Emergency in the December 13, 2000, Iowa Administrative Bulletin as **ARC 0348B**, but an objection by the Administrative Rules Review Committee on January 9, 2001, will result in a termination of that filing on July 8, 2001. In compliance with Iowa Code section 17A.5(2)"b"(2), the Commission finds that this amendment confers a benefit on a portion of the public and that the normal effective date of the amendment should be waived and this amendment should be effective July 8, 2001.

This amendment is intended to implement Iowa Code section 455B.203.

This amendment will become effective July 8, 2001.

The following amendment is adopted.

Rescind subrule 65.16(3) and adopt in lieu thereof the following **new** subrule:

65.16(3) Manure shall not be removed from a manure storage structure, which is part of a confinement feeding operation required to submit a manure management plan, until the department has approved the plan. As an exception to this requirement, until July 1, 2002, the owner of a confinement feeding operation may remove and apply manure from a manure storage structure in accordance with a manure management plan which has been submitted to the department, but which has not been approved within the required 60-day period. Manure shall be applied in compliance with rule 65.2(455B).

[Filed Emergency After Notice 5/25/01, effective 7/8/01]

[Published 6/13/01]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/13/01.

ARC 0733B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 455B.304(1), the Environmental Protection Commission hereby amends Chapter 100, "Scope of Title—Definitions—Forms—Rules of Practice," Iowa Administrative Code.

The amendment adds new rule 100.4(455B), which was formerly rule 567—101.3(455B), and rule 100.5(455B), which was formerly rule 567—101.7(455B). This amendment was made necessary because new 567—Chapter 101, which was published in the April 18, 2001, Iowa Administrative Bulletin as **ARC 0634B**, does not contain former rules 567—101.3(455B) and 567—101.7(455B). It was not the Department's intention to rescind those rules, but to include former rules 567—101.3(455B) and 567—101.7(455B) in a different chapter. Because the timing of the revision of 567—Chapter 101 did not correspond to the revision of an alternate chapter in which to place the rules, this emergency action is necessary.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because the rules have been in place and were previously adopted through standard rule-making procedures.

The Department 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 as it confers a benefit to Iowa farmers by continuing alternative methods for the disposal of farm waste, as previously allowed by departmental regulations, rather than requiring such waste to be hauled to permitted sanitary disposal projects or using animal rendering services.

The Commission has considered whether changes to these rules for dead animal disposal are necessary or appropriate in order to prepare for any potential outbreak of foot and mouth disease in Iowa livestock. Variances to subrule 100.4(2), paragraph "b," are currently authorized by Iowa Code section 455B.303 and rule 567—101.2(455B,455D) of the Iowa Administrative Code. The use of this variance power will allow the state to provide for a rapid response to any livestock disease epidemic while tailoring that response to the scope of the problem. A Foot and Mouth Disease Response and Recovery Plan is currently being developed under the direction of the Governor's Office. This plan will provide the mechanisms for enacting necessary variances.

This amendment is intended to implement Iowa Code section 455B.307.

This amendment became effective May 25, 2001.

The following amendment is adopted.

Amend 567—Chapter 100 by adopting the following **new** rules:

567—100.4(455B) General conditions of solid waste disposal. Except as provided otherwise in 567—Chapters 100 to 121, a private or public agency shall not dump or deposit or permit the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the director, or pursuant to a permit granted by the department which allows the disposal of solid waste on land owned or leased by the agency.

100.4(1) Definitions. For the purposes of this rule:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

"Farm animals" means cattle, swine, sheep or lambs, horses, turkeys, chickens and other domestic animals;

"Farm buildings" means barns, machine sheds, storage cribs, animal confinement buildings, and homes located on the premises and used in conjunction with crop production or with livestock or poultry raising and feeding operations; and

"Farm waste" means machinery, vehicles and equipment used in conjunction with crop production or with livestock or poultry raising and feeding operations, trees, brush and grubbed stumps generated on the same property, or ashes from the burning thereof, but specifically does not include agricultural chemicals, fertilizers or manures, or domestic household wastes.

100.4(2) Special requirements for farm waste, farm buildings, and dead animals.

a. A private agency may dispose of farm waste and farm buildings without first having obtained a sanitary disposal project permit, in accordance with paragraph 100.4(2)"c," provided that:

(1) The farm waste was owned by the private agency and was used on the premises where disposal occurs.

(2) Prior to disposal of vehicles, machinery, and equipment, all fluids shall be drained, including motor oils, motor fuels, lubricating fluids, coolants and solvents, and agricultural chemicals; and all batteries and rubber tires shall be removed.

(3) Prior to disposal of storage or feeding equipment, the equipment shall be emptied of all contents not otherwise authorized for burial pursuant to these rules.

(4) Farm buildings have been emptied of contents not otherwise authorized for burial pursuant to these rules and have been buried on the premises where they were located.

(5) All materials drained or removed from farm waste or farm buildings prior to disposal shall be recycled, reused or disposed of in accordance with Iowa Code chapter 455B and the rules implementing that chapter.

(6) The farm waste and farm buildings are buried in soils listed in tables contained in the county soil surveys and soil interpretation records (published by the U.S. Soil Conservation Service) as being moderately well drained, well drained, somewhat excessively drained, or excessively drained soils. Other soils may be used if artificial drainage is installed to obtain water-level depth more than two feet below the burial depth of the waste.

(7) The lowest elevation of the burial pit is six feet or less below the surface.

(8) The farm waste and farm buildings are immediately covered with a minimum of 6 inches of soil and finally covered with a total minimum of 24 inches of soil.

b. A private agency may dispose of dead farm animals without first having obtained a sanitary disposal project permit, provided that the disposal is in accordance with paragraph 100.4(2)"c," the rules of the department of agriculture and land stewardship, and:

(1) The dead farm animals result from operations located on the premises where disposal occurs.

(2) A maximum loading rate of 7 cattle, 44 swine, 73 sheep or lambs or 400 poultry carcasses on any given acre per year. All other species will be limited to 2 carcasses per acre. Animals that die within two months of birth may be buried without regard to number.

(3) The dead animals are buried in soils listed in tables contained in the county soil surveys and soil interpretation records (published by the U.S. Soil Conservation Service) as being moderately well drained, well drained, somewhat excessively drained, or excessively drained soils. Other soils may be used if artificial drainage is installed to obtain water-

level depth more than two feet below the burial depth of the waste.

(4) The lowest elevation of the burial pit is six feet or less below the surface.

(5) The dead farm animals are immediately covered with a minimum of 6 inches of soil and finally covered with a total minimum of 30 inches of soil.

c. Farm waste, farm buildings, and dead farm animals must be disposed of in accordance with the following separation distances:

(1) At least 100 feet from any private and 200 feet from any public well which is being used or would be used without major renovation for domestic purposes.

(2) At least 50 feet from adjacent property line.

(3) At least 500 feet from an existing neighboring residence.

(4) More than 100 feet from any body of surface water such as a stream, lake, pond, or intermittent stream, except as provided in (6) below.

(5) Outside the boundaries of a flood plain, wetland, or shoreline area, except as provided in (6) below.

(6) Trees, brush and grubbed stumps generated as a result of clearing, snagging, maintenance or repair of drainage ditches or outlets may be buried within 100 feet of a surface water, and within a flood plain or shoreline area.

567—100.5(455B) Disruption and excavation of sanitary landfills or closed dumps. No person shall excavate, disrupt, or remove any deposited material from any active or discontinued sanitary landfill or closed dump without first having notified the department in writing.

100.5(1) Notification shall include an operational plan stating the area involved, lines and grades defining limits of excavation, estimated number of cubic yards of material to be excavated, sanitary disposal project where material is to be disposed and estimated time required for excavation procedures.

100.5(2) An excavation shall be confined to an area consistent with the number of pieces of digging equipment and trucks used for haulage.

100.5(3) The disposal of all solid waste resulting from excavation shall be in conformity with Iowa Code chapter 455B and these rules.

These rules are intended to implement Iowa Code section 455B.307.

[Filed Emergency 5/25/01, effective 5/25/01]

[Published 6/13/01]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/13/01.

ARC 0730B

**PUBLIC HEALTH
DEPARTMENT[641]**

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 142A.4, the Department of Public Health hereby amends Chapter 151, "Tobacco Use Prevention and Control Community Partnership Initiative," Iowa Administrative Code.

The amendments apply to the distribution of unallocated funds due to the failure of community partnerships to raise the cash match. Pursuant to Iowa Code section 142A.4, a

PUBLIC HEALTH DEPARTMENT[641](cont'd)

new rule has also been adopted to prohibit the Commission from accepting gifts from a manufacturer of tobacco products.

In compliance with Iowa Code section 17A.4(2) and Iowa Code section 142A.8, the Department has the authority to adopt emergency rules and finds that public notice and participation are unnecessary because the rules confer a benefit on the general public as it is important to get the funding to the community level immediately.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on May 25, 2001, as they confer a benefit on the general public.

These amendments are intended to implement Iowa Code chapter 142A.

These amendments became effective May 25, 2001.

The following amendments are adopted.

Amend **641—Chapter 151** as follows:

CHAPTER 151

TOBACCO USE PREVENTION AND CONTROL
COMMUNITY PARTNERSHIP INITIATIVE

641—151.1(78GA, HF2565 142A) Scope. These rules apply to community partnerships established under ~~2000 Iowa Acts, House File 2565, Iowa Code chapter 142A~~ as part of a comprehensive tobacco use prevention and control initiative to reduce tobacco use by youth and pregnant women, to promote compliance by minors and retailers with tobacco sales laws and ordinances, to enhance the capacity of youth to make healthy choices and to foster a social and legal climate in which tobacco use becomes undesirable and unacceptable.

641—151.2(78GA, HF2565 142A) Community partnership areas. It is the goal of the commission on tobacco use prevention and control that the entire state be divided into multiple community partnership areas, so that all portions of the state are included in a community partnership area and no portion of the state is without the services of a community partnership. Toward this goal, the commission will encourage formation of community partnership areas that incorporate surrounding communities in a manner that does not isolate any geographic region of the state, and encourages optimal use of resources. In addition to the requirements of ~~2000 Iowa Acts, House File 2565, section 8, subsection 1, Iowa Code section 142A.8(1)~~, a community partnership area:

151.2(1) Shall be composed of one or more counties, school districts, economic development enterprise zones, or community empowerment areas.

151.2(2) Shall follow existing boundaries of one or more counties, school districts, economic development enterprise zones, or community empowerment areas.

151.2(3) Shall serve a population of at least 4,000, including a minimum school-age population of 500.

151.2(4) Shall serve a minimum geographic area of one county.

641—151.3(78GA, HF2565 142A) Community partnerships. A community partnership is a public agency or nonprofit organization which utilizes broad community involvement and represents a broad coalition of community groups, organizations, and interests. Community partnerships shall promote a wide range of activities that discourage tobacco use and support smoke-free environments. Some of these activities include developing coalitions with local organiza-

tions, conducting educational programs and encouraging policies that support tobacco use prevention and cessation.

641—151.4(78GA, HF2565 142A) Application requirements for community partnerships. In order to qualify for funding through the tobacco use prevention and control program, a public agency or nonprofit organization seeking to be designated as a community partnership must apply to, and be approved by, the department of public health. Only one application per community partnership will be accepted. An application must provide the following information:

151.4(1) A description of the community partnership area to be served by the community partnership, including:

- The geographic boundaries of the area;
- Population, including both general population and school-age population, of the area;

151.4(2) A description of the applicant, including a description of the governing structure of the agency or organization, a table of organization, and the applicant's mission statement;

151.4(3) A description of the tobacco use prevention and control services currently provided by the applicant;

151.4(4) A description of the number of years the applicant has provided tobacco use prevention and control services and the number of clients served annually by the applicant;

151.4(5) A description of the funds currently received by the applicant which are targeted to provide tobacco use prevention and control services, including the source of funds, the dollar amount, and the period of funding;

151.4(6) A list of the other agencies, organizations, and entities currently providing tobacco use prevention and control services in the proposed community partnership area and a description of the tobacco use prevention and control services currently provided by the other agencies, organizations, or entities;

151.4(7) A description of the collaborative efforts the applicant has undertaken with the agencies, organizations, and entities described in subrule 151.4(6) and an action plan describing anticipated collaborative efforts during the funding period;

151.4(8) Letters of support from the agencies, organizations, and entities described in subrule 151.4(6);

151.4(9) If the local board of health is not the applicant, a letter of support from the local board of health shall be submitted with the application. The letter of support must include a description of the local board of health's involvement with development of the application and an action plan describing anticipated collaborative efforts between the applicant and the local board of health;

151.4(10) A letter of support from county and city law enforcement agencies shall be submitted with the application. The letter of support must include a description of the local law enforcement agencies' involvement with development of the application and an action plan describing anticipated collaborative efforts between the applicant and local law enforcement agencies;

151.4(11) An assessment of the needs of the community partnership area which incorporates, but is not limited to, the following information for each county in the community partnership area:

- Tobacco-related information from the community health needs assessment and health improvement plan (CHNA and HIP);
- Tobacco-related information from the most recent Iowa youth survey;
- Relevant data regarding tobacco use;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- d. Relevant Synar data;
- e. Information or data received from other service providers, organizations, or law enforcement agencies;
- f. Tobacco-related information from Healthy Iowans 2010;

151.4(12) A description of how the applicant intends to implement the initiative's goals described in ~~2000 Iowa Acts, House File 2565, section 6, subsection 2, Iowa Code section 142A.6(2)~~ in light of the community needs identified in subrule 151.4(11), including a proposed budget and a description of how performance measures shall be developed and utilized;

151.4(13) Identification of the source and amount of local matching funds, services, or support;

151.4(14) A description of how youth (aged 5 to 24 years) will be involved in the community partnership.

641—151.5(78GA, HF2565 142A) Performance indicators. Periodic reports shall be submitted to the department by the community partnerships. These required reports shall be based on the degree to which the partnerships have achieved goals set out in the application and shall include information such as how many events/meetings were held and how many participants were in attendance.

641—151.6(78GA, HF2565 142A) Application deadline. Applicants seeking to be approved as a community partnership for distribution of funds during the 2001 fiscal year may apply immediately and must apply no later than November 10, 2000.

151.6(1) Application must be on forms supplied by the department of public health. To obtain an application form, contact the director of the Tobacco Use Prevention and Control Division, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319; telephone (515)281-6225; E-mail mcrawfor@idph.state.ia.us.

151.6(2) Any change in the geographic boundaries of a community partnership area after a community partnership has been approved must be submitted to the tobacco use prevention and control division as a request to amend the application. The request shall describe the boundary change, explain the reason for the boundary change and describe any impact the boundary change will have on the information provided in response to rule 151.4(78GA, HF2565 142A).

641—151.7(78GA, HF2565 142A) Distribution of funding.

151.7(1) Applications submitted in accordance with these rules will be evaluated by the administrator of the division of tobacco use prevention and control, or the administrator's designee, to determine whether the application meets the requirements for funding as designated in these rules. The administrator or designee may request additional information from any applicant regarding the content of the application and may condition funding based on an applicant's submission of additional information or based on an applicant's willingness to change any term of the application, including geographic boundaries of the community partnership area.

151.7(2) The commission shall fund one community partnership per community partnership area. Funds shall be distributed equitably among the state's community partnership areas based on general population, school-age population, and designation of county or counties which comprise the community partnership area as a rural county or a metropolitan statistical area as defined by the U.S. Bureau of the

Census. Available funds will be distributed under the following formulas:

Rural counties:

\$.84 per school-age youth plus an additional \$.84 per non-school-age county resident

Metropolitan statistical areas (Black Hawk, Dallas, Dubuque, Johnson, Linn, Polk, Pottawattamie, Scott, Warren, and Woodbury Counties):

\$.52 per school-age youth plus an additional \$.52 per non-school-age county resident

151.7(3) Funding received by a community partnership shall be matched on a one-to-one basis. At least 25 percent must be a cash match. Up to 75 percent of the match may include in-kind services, office support, or other tangible support or offset of costs.

Any offers to assist the applicant in reaching the match must be disclosed to the department in writing. In regard to any cash offers that are declined, the applicant must disclose reasons and rationale as to why these offers were declined.

Any funds left unallocated under subrules 151.7(2) and 151.7(3) on March 1, 2001, due to the failure of community partnerships to meet the cash match requirement pursuant to subrule 151.7(3) shall be distributed among all the community partnerships no later than June 30, 2001, in proportion to the amount of funding, including any cash match, each community partnership has reported to the department by March 15, 2001.

Funding distributed to community partnerships from the department shall be matched by the community partnership on a 75 percent basis. The match may include cash, or may include only in-kind services, office support, or other tangible support or offset of costs.

Any offers to assist the applicant in reaching the match must be disclosed to the department in writing. If any cash offers are declined, the applicant must disclose the reasons and the rationale for rejecting the offer.

151.7(4) Prior to receiving funding, a community partnership shall be required to execute a contract with the department.

151.7(5) Funding may be denied on grounds including, but not limited to:

a. Applications from more than one entity have been received covering the same, or portions of the same, geographic area and another application more closely satisfies application criteria.

b. The application is incomplete, untimely, or includes misleading or inaccurate information.

c. Program funds are no longer available.

d. Local matching funds, services, or support is not available.

e. The applicant refuses to execute a contract with the department.

f. The applicant fails to comply with the statute or administrative rules governing this program.

641—151.8(142A) Gifts. *The commission shall solicit and accept gifts of money or services or property from governmental or private sources for use in support of the comprehensive tobacco use prevention and control initiative.*

151.8(1) *The commission shall not accept gifts of money or services or property from a manufacturer of tobacco products.*

a. A gift means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received. A gift does not include funds deposited by any manufacturer of tobacco products into the tobacco settlement fund.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

b. A manufacturer of tobacco products means every person who ships cigarettes or other tobacco products as defined in Iowa Code section 453A.1 into this state from outside the state.

151.8(2) The commission shall not accept a gift of money or services or property from a corporation or other private legal entity which is controlled by a manufacturer of tobacco products. A manufacturer of tobacco products controls a corporation or other private legal entity when the manufacturer possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of a corporation or other private legal entity, whether through the ownership of voting rights, by contract, or otherwise.

151.8(3) The commission may not accept a gift of money or services or property from a corporation or other private legal entity in which a manufacturer of tobacco products has a noncontrolling interest. A manufacturer of tobacco products has a noncontrolling interest in a corporation or other private legal entity when the manufacturer has a commercial contract for goods or nonmanagement services, or holds the power to vote, or holds proxies representing less than 10 percent of the voting rights of any other person.

151.8(4) The commission, in its discretion, may require any corporation or other private legal entity from which it solicits, or which offers to it, a gift of money or services or property for use in support of the comprehensive tobacco use prevention and control initiative to submit a statement describing the relationship, if any, between the corporation or other private legal entity and a manufacturer of tobacco products.

151.8(5) If the commission accepts a gift from a corporation or other private legal entity under the circumstances described in subrule 151.8(3), the commission may require the gift to be contingent on a waiver by the manufacturer of tobacco products of any right to advertise with regard to, claim responsibility for, or otherwise publicize the gift.

These rules are intended to implement ~~2000 Iowa Acts, House File 2565~~ Iowa Code chapter 142A.

[Filed Emergency 5/25/01, effective 5/25/01]

[Published 6/13/01]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/13/01.

ARC 0735B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.173, the Environmental Protection Commission amends Chapter 60, "Scope of Title—Definitions—Forms—Rules of Practice," and Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

These amendments adopt by reference a new general permit for dewatering and process water discharge from mining and quarrying operations. They also revise the definition of "general permit" found in Chapter 60 and make corrections and eliminate extraneous language related to general permits in Chapter 64.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 21, 2001, as **ARC 0568B**. A public hearing was held April 10, 2001. Only the U.S. Environmental Protection Agency (EPA) provided comments. In response to the EPA comments, the following substantive changes were made to the general permit:

- Part II.A.3 of the general permit was deleted because these same requirements are found in Part I.C.3 of the permit.
- Part II.E of the general permit was changed to provide for continued coverage in the event the general permit is not renewed in a timely manner. This change is consistent with coverage provided for individual permits.
- Part III of the general permit was changed by replacing the term "average of daily values for 30 consecutive days" with the term "30 day average" to be consistent with all other permits issued by the Department and the definition of 30 day average contained in the permits.

The remainder of the changes to the general permit were minor wording changes made for clarification and consistency.

These amendments are intended to implement Iowa Code chapter 455B, division I.

These amendments will become effective on July 18, 2001.

The following amendments are adopted.

ITEM 1. Amend rule **567—60.2(455B)**, definition of "general permit," as follows:

"General permit" means an NPDES permit issued to a class of facilities which could be conditioned and described by a single permit. ~~DNR's statutory authority for general permits is restricted to storm water discharges pursuant to Iowa Code section 455B.103A.~~

ITEM 2. Amend subrule **60.3(2)**, paragraph "i," and adopt new paragraph "k" as follows:

i. Notice of Intent for Coverage Under Storm Water NPDES General Permit No. 1 "Storm Water Discharge Associated with Industrial Activity" or General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities" or *General Permit No. 3 "Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities"* 542-1415.

k. *Notice of Intent for Coverage Under NPDES General*

Permit No. 5 "Discharge from Mining and Processing Facilities" 542-4006.

ITEM 3. Amend paragraph **64.3(4)"b"** by adopting the following new subparagraph (6):

(6) For any discharge, except a storm water only discharge, from a mining or processing facility after July 18, 2001.

ITEM 4. Amend paragraph **64.4(2)"a"** by adopting the following new subparagraph (3):

(3) For any discharge, except a storm water only discharge, from a mining or processing facility.

ITEM 5. Amend subrule 64.6(1) as follows:

64.6(1) Contents of a complete Notice of Intent. An applicant proposing to conduct activities covered by a general permit shall file a complete Notice of Intent by submitting to the department materials required in paragraphs "a" to "c" of this subrule.

a. Notice of Intent Application Form. The following Notice of Intent forms must be completed ~~for the corresponding general permit in full.~~

(1) General Permit No. 1 "Storm Water Discharge Associated with Industrial Activity," Form 542-1415, ~~containing the following information.~~

- ~~1. Name, mailing address, and location of the facility and owner for which the notification is submitted;~~
- ~~2. The four digit SIC code that best represents the principal products or activities provided by the facility;~~
- ~~3. The operator's name, address, telephone number, ownership status and status as federal, state, private, public or other entity;~~
- ~~4. The ¼ section, township, range and county, or the latitude and longitude of the facility;~~

~~5. The type of discharge (new or existing), whether or not the discharge is to a municipal separate storm sewer, the date the discharge is to commence, the permit status of the discharge, the name of the receiving water(s); and~~

~~6. Existing quantitative data, if available, describing the concentration of pollutants in storm water discharges;~~

~~7. For construction sites that need a storm water discharge permit, in addition to the information required above, include a brief description of the project, estimated timetable for major activities, and an estimate of the number of acres of the site on which soil will be disturbed. Applicants must coordinate their projects with county Soil and Water Conservation Districts to ensure compliance with Iowa Code section 161A.64.~~

(2) General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities," Form 542-1415, ~~containing the information identified for General Permit No. 1 in subparagraph (1) of this paragraph.~~

(3) General Permit No. 3 "Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities," Form 542-1415, ~~containing the information identified for General Permit No. 1 in subparagraph (1) of this paragraph.~~

(4) General Permit No. 4 "Discharge from On-Site Wastewater Treatment and Disposal Systems," Form 542-1541, ~~containing the following information:~~

- ~~1. The owner's name, address, and telephone number;~~
- ~~2. The location of the system;~~
- ~~3. The type of secondary treatment system from which discharge originates.~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(5) *General Permit No. 5 "Discharge from Mining and Processing Facilities," Form 542-4006.*

b. General permit fee. The general permit fee according to the schedule in 64.16(455B) payable to the Department of Natural Resources.

c. Public notification. The following public notification requirements must be completed for the corresponding general permit.

(1) ~~General Permits No. 1, "Storm Water Discharge Associated with Industrial Activity," No. 2 and No. 3.~~ A demonstration that a public notice was published in at least two newspapers with the largest circulation in the area in which the facility is located or the activity will occur. *If a facility or activity authorized by General Permit No. 3 is to be relocated to a site not included in the original notice, a public notice need be published in only one newspaper.* The newspaper notices shall, at the minimum, contain the following information:

PUBLIC NOTICE OF STORM WATER DISCHARGE

The (applicant name) plans to submit a Notice of Intent to the Iowa Department of Natural Resources to be covered under NPDES General Permit (select the appropriate general permit—No. 1 "Storm Water Discharge Associated with Industrial Activity" or General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities"). The storm water discharge will be from (description of industrial activity) located in (¼ section, township, range, county). Storm water will be discharged from (number) point source(s) and will be discharged to the following streams: (stream name(s)).

Comments may be submitted to the Storm Water Discharge Coordinator, IOWA DEPARTMENT OF NATURAL RESOURCES, Environmental Protection Division, 900 E. Grand Avenue, Des Moines, IA 50319-0034. The public may review the Notice of Intent from 8 a.m. to 4:30 p.m., Monday through Friday, at the above address after it has been received by the department.

(2) ~~General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities."~~ Public notification requirements for this general permit are the same as those specified for General Permit No. 1, found in subparagraph (1) of this paragraph.

(3) ~~General Permit No. 3 "Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities."~~ Public notification requirements for this general permit are the same as those specified for General Permit No. 1 found in subparagraph (1) of this paragraph.

(4) (2) ~~General Permit No. 4 "Discharge from On-Site Wastewater Treatment and Disposal Systems."~~ There are no public notification requirements for this permit.

Upon initial issuance of the permit, the public notice shall be published in at least two newspapers with the largest circulation in the area in which the facility is located or the activity will occur. Upon relocation of a facility authorized to discharge under General Permit No. 3 to a site not included in a prior notice, an applicant shall file a complete Notice of Intent by submitting to the department materials required in paragraphs "a" to "c" of this subrule except that the public notice shall be published in one newspaper with the largest circulation in the area in which the facility is to be located or the activity occurs. The newspaper notice shall, at a minimum, contain the information specified in subparagraph 64.6(1)"c"(1).

(3) *General Permit No. 5. There are no public notification requirements for this permit.*

ITEM 6. Amend rule 567—64.15(455B) by adding the following **new** subrule which adopts a new general permit for mining and quarrying operations:

64.15(5) "Discharge from Mining and Processing Facilities," NPDES General Permit No. 5, effective July 18, 2001.

ITEM 7. Amend paragraph **64.16(3)"a"** by adopting the following **new** subparagraph (5):

(5) "Discharge from Mining and Processing Facilities," NPDES General Permit No. 5. No fees shall be assessed.

[Filed 5/25/01, effective 7/18/01]

[Published 6/13/01]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/13/01.

ARC 0722B

GENERAL SERVICES DEPARTMENT[401]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.9A and 18.4, the Department of General Services hereby adopts Chapter 20, "Waivers and Variances," Iowa Administrative Code.

The rules in Chapter 20 describe the procedures for applying for, issuing or denying waivers or variances from Department rules. The purpose of this new chapter is to comply with Iowa Code section 17A.9A and Executive Order Number 11, which requires state agencies to adopt a uniform waiver rule.

A public hearing was held on March 16, 2001, from 1 to 2 p.m. No one attended the public hearing, and no written or oral comments were received.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 21, 2001, as **ARC 0514B**.

Changes to the rules since publication of the Notice are clarifying and nonsubstantive. Subrule 20.4(3), paragraphs "c," "d," and "e," were revised by changing the phrase "invitation to bid" to "a response to an invitation to bid" to clarify the criteria for procurement-related waivers. In subrule 20.4(4), the phrase "as adopted in rule 401—5.21(618)" has been changed to "as determined by" because effective June 1, 2001, the new rates will be published but not incorporated into rules, in accordance with Iowa Code section 618.11.

These rules were adopted on May 18, 2001.

These rules will become effective on July 18, 2001.

These rules are intended to implement Iowa Code section 17A.9A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 20] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 0514B**, IAB 2/21/01.

[Filed 5/21/01, effective 7/18/01]

[Published 6/13/01]

[For replacement pages for IAC, see IAC Supplement 6/13/01.]

ARC 0727B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.9A, 17A.22 and 505.8(2), the Insurance Division amends Chapter 4, "Agency Procedure for Rule Making," and Chapter 50, "Regulation of Securities Offerings and Those Who Engage in the Securities Business," Iowa Administrative Code.

The amendments to Chapter 4 set forth an application and adjudication procedure for requests for waiver of administrative rules. Criteria for approval or rejection of an application are also set forth. The amendment to Chapter 50 rescinds waiver provisions which are redundant due to the adoption of the amendments to Chapter 4.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 4, 2001, as **ARC 0600B**. A public hearing was held on April 25, 2001. No written or oral comments were received. There are no changes to the amendments as published under Notice of Intended Action.

The Division of Insurance adopted these amendments on May 22, 2001.

These amendments are intended to implement Executive Order Number 11 and Iowa Code section 17A.9A.

These amendments shall become effective July 18, 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 4, title; 4.21 to 4.36; 50.110, 50.124] is being omitted. These amendments are identical to those published under Notice as **ARC 0600B**, IAB 4/4/01.

[Filed 5/24/01, effective 7/18/01]
[Published 6/13/01]

[For replacement pages for IAC, see IAC Supplement 6/13/01.]

ARC 0737B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry Examiners hereby adopts Chapter 179, "Board of Optometry Examiners"; rescinds Chapter 180, "Board of Optometry Examiners," and adopts new Chapter 180, "Licensure of Optometrists"; amends Chapter 181, "Continuing Education for Optometrists"; and adopts new Chapter 182, "Discipline for Optometrists," and new Chapter 183, "Fees," Iowa Administrative Code.

The amendments rescind the current licensing rules and fees and adopt new chapters for the board, licensure, discipline and fees, adopt a code of ethics, and adopt standards of practice for patient record keeping.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 4, 2001, as **ARC 0601B**. A public hearing was held on April 25, 2001, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa.

Clarification of the meaning of "informed consent" was requested at the hearing.

The following changes were made to the Notice of Intended Action. Definitions for "DPA" and "TPA" were added to rule 179.1(154). In the release of contact lens prescription rule, subrule 179.5(1), paragraph "e," regarding informed consent was revised. Definitions for "licensure by endorsement" and "reciprocal endorsement" were added to rule 180.1(154). The process for the transition from DPA to TPA was added to subrule 180.2(2). Rule 180.3(154) regarding licensure by endorsement was revised. In subrule 180.6(3), the following sentence was added: "Licensees shall renew at the next scheduled renewal." New subrule 180.6(4) has been added; it states that licensees who have been on inactive status and want to reinstate will not have to complete continuing education for that first renewal. New subrules 180.6(5) and 180.7(5) require verification of licenses from any state in which the licensee has practiced since the license lapsed or became inactive. New subrule 180.7(6) states that a licensee, following reinstatement of a lapsed license, shall renew the license at the next scheduled renewal cycle.

These amendments were adopted by the Board of Optometry Examiners on May 17, 2001.

These amendments will become effective July 18, 2001.

These amendments are intended to implement Iowa Code section 147.76 and chapters 154 and 272C.

The following amendments are adopted.

ITEM 1. Adopt **new** 645—Chapter 179 as follows:

CHAPTER 179**BOARD OF OPTOMETRY EXAMINERS****645—179.1(154) General definitions.**

"Board" means the board of optometry examiners.

"Department" means the department of public health.

"Diagnostically certified optometrist" means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry examiners to use cycloplegics, mydriatics and topical anesthetics as diagnostic agents typically applied to determine the condition of the human eye for proper optometric practice or referral for treatment to a person licensed under Iowa Code chapter 148 or 150A.

"DPA" means diagnostic pharmaceutical agents.

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

"License expiration date" means June 30 of each even-numbered year.

"Therapeutically certified optometrist" means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry examiners to use eye-related topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, and oral analgesic agents, and may remove superficial foreign bodies from the human eye and adnexa.

"TPA" means therapeutic pharmaceutical agents.

645—179.2(154) Availability of information.

179.2(1) All information regarding rules, forms, time and place of meetings, minutes of meetings, record of hearings, and examination results are available to the public between the hours of 8 a.m. and 4:30 p.m., Monday to Friday, except holidays.

179.2(2) Information may be obtained by writing to the Board of Optometry Examiners, Department of Public Health, Lucas State Office Building, Des Moines, Iowa

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

50319-0075. All official correspondence shall be in writing and directed to the board at this address.

645—179.3(154) Organization of the board and procedures.

179.3(1) A chair, vice chair, and secretary shall be elected at the first meeting after April 30 of each year.

179.3(2) Four board members present shall constitute a quorum.

179.3(3) The board shall hold an annual meeting and may hold additional meetings called by the chair or by a majority of the members of the board.

645—179.4(154) Code of ethics. The board hereby adopts by reference the Code of Ethics of the American Optometric Association as published by the American Optometric Association, 243 North Lindbergh Boulevard, St. Louis, Missouri 63141, revised 1944.

645—179.5(154,272C) Record keeping. Optometrists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Records shall be permanent, timely, accurate, legible, and easily understandable.

179.5(1) Optometrists shall maintain optometry records for each patient. The records shall contain all of the following:

a. Personal data.

(1) Name, date of birth, address and, if a minor, name of parent or guardian; and

(2) Name and telephone number of person to contact in case of emergency.

b. Optometry and medical history. Optometry records shall include information from the patient or the patient's parent or guardian regarding the patient's optometric and medical history. The information shall include sufficient data to support the recommended treatment plan.

c. Patient's reason for visit. When a patient presents with a chief complaint, optometric records shall include the patient's stated visual health care reasons for visiting the optometrist.

d. Clinical examination progress notes. Optometric records shall include chronological dates and descriptions of the following:

(1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;

(2) Plan of intended treatment and treatment sequence;

(3) Services rendered and any treatment complications;

(4) All ancillary testing, if applicable;

(5) Vision tests completed and visual acuity;

(6) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and

(7) Name of optometrist who performs any treatment or service or who may have contact with a patient regarding the patient's optometric health.

e. Informed consent. Optometric records shall include documentation of informed consent for procedure(s) and treatment that have potential serious complications and known risks.

179.5(2) Retention of records. An optometrist shall maintain a patient's record(s) for a minimum of five years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for, at minimum, one year after the patient reaches the age of majority (18) or five years after the date of last examination, prescription, or treatment, whichever is longer.

Proper safeguards shall be maintained to ensure the safety of records from destructive elements.

179.5(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, an optometrist shall keep either a duplicate hard-copy record or a back-up unalterable electronic record.

179.5(4) Correction of records. Notations shall be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by an optometric health care worker.

179.5(5) Confidentiality and transfer of records. Optometrists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or the patient's new optometrist, the optometrist shall furnish such optometry records or copies of the records as will be beneficial for the future treatment of that patient. The optometrist may include a summary of the record(s) with the record(s) or copy of the record(s). The optometrist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. The optometrist may ask for a written request for the record(s).

179.5(6) Retirement or discontinuance of practice. A licensee, upon retirement, or upon discontinuation of the practice of optometry, or upon leaving a practice or moving from a community, shall notify all active patients in writing, or by publication once a week for three consecutive weeks in a newspaper of general circulation in the community, that the licensee intends to discontinue the practice of optometry in the community, and shall encourage patients to seek the services of another licensee. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee. "Active patient" means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to retirement, discontinuation of the practice of optometry, or leaving a practice or moving from a community.

179.5(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed optometrist who is assuming a practice, provided that written notice is furnished to all patients.

645—179.6(154) Notice of address. Each optometrist shall notify the board in writing by United States mail of a change of the licensee's current mailing address within 30 days after the change of address.

645—179.7(154) Furnishing prescriptions. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet requirements as listed below:

179.7(1) A contact lens prescription shall contain the following information:

a. Date of issuance;

b. Name and address of patient for whom the contact lens is prescribed;

c. Name, address, and signature of the practitioner;

d. All parameters required to duplicate properly the original contact lens;

e. A specific date of expiration, not to exceed 18 months, the quantity of lenses allowed and the number of refills allowed; and

f. At the option of the prescribing practitioner, the prescription may contain fitting and material guidelines and specific instructions for use by the patient.

179.7(2) Release of contact lens prescription.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. After the contact lenses have been adequately adapted and the patient released from initial follow-up care by the prescribing practitioner, the prescribing practitioner shall, upon request of the patient, provide a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens.

b. A practitioner choosing to issue an oral prescription shall furnish the same information required for the written prescription except the written signature and address of the practitioner. An oral prescription may be released by an O.D. to any dispensing person who is a licensed professional with the O.D., M.D., D.O., or R.Ph. degree or a person under direct supervision of those licensed under Iowa Code chapter 148, 150, 150A, 154 or 155A.

c. The issuing of an oral prescription must be followed by a written copy to be kept by the dispenser of the contact lenses until the date of expiration.

179.7(3) An ophthalmic spectacle lens prescription shall contain the following information:

- a. Date of issuance;
- b. Name and address of the patient for whom the ophthalmic lens or lenses are prescribed;
- c. Name, address, and signature of the practitioner issuing the prescription;
- d. All parameters necessary to duplicate properly the ophthalmic lens prescription; and
- e. A specific date of expiration not to exceed two years.
- f. A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

179.7(4) Release of ophthalmic lens prescription.

- a. The ophthalmic lens prescription shall be furnished upon request at no additional charge to the patient.
- b. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.
- c. Spectacle lens prescriptions must be in written format, according to Iowa Code section 147.109(1).

645—179.8(155A) Prescription drug orders. Each prescription drug order furnished by a therapeutically certified optometrist in this state shall meet the following requirements:

- 179.8(1)** Written prescription drug orders shall contain:
- a. The date of issuance;
 - b. The name and address of the patient for whom the drug is dispensed;
 - c. The name, strength, and quantity of the drug, medicine, or device prescribed;
 - d. The directions for use of the drug, medicine, or device prescribed;
 - e. The name, address, and written signature of the practitioner issuing the prescription;
 - f. The federal drug enforcement administration number, if required under Iowa Code chapter 124; and
 - g. The title "Therapeutically Certified Optometrist" following the name of the practitioner issuing the prescription.

179.8(2) The practitioner issuing oral prescription drug orders shall furnish the same information required for a written prescription, except for the written signature and address of the practitioner.

These rules are intended to implement Iowa Code chapters 147, 154, 155A, and 272C.

ITEM 2. Rescind 645—Chapter 180 and adopt the following new chapter in lieu thereof:

CHAPTER 180
LICENSURE OF OPTOMETRISTS

645—180.1(154) Definitions. For purposes of these rules, the following definitions shall apply:

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

"Board" means the board of optometry examiners.

"Inactive licensee" means any person licensed to practice optometry in Iowa who has met all conditions for officially placing the person's license on inactive status and may not practice optometry until the reinstatement requirements as defined in these rules are met.

"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 the stated obligations for renewal within a stated time.

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

"Licensure by endorsement" means the issuance of an Iowa license to practice optometry to an applicant who is currently licensed in another state.

"NBEO" means the National Board of Examiners in Optometry.

"Reciprocal license" means the issuance of an Iowa license to practice optometry to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of optometry examiners to license persons who have the same or similar qualifications to those required in Iowa.

645—180.2(154) Requirements for licensure.

180.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application form. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the Board of Optometry Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. An applicant shall submit the appropriate fees payable by check or money order to the Board of Optometry Examiners. The fees are nonrefundable.

d. An applicant shall present a transcript from an accredited school or college of optometry and shall submit proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154.

e. An applicant shall pass all parts of the NBEO examination in effect at the time of application.

f. Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

g. Incomplete applications that have been on file in the board office for more than two years shall be:

- (1) Considered invalid and shall be destroyed; or
- (2) Maintained upon written request of the candidate.

The candidate is responsible for requesting that the file be maintained.

h. An applicant shall provide an official verification regarding the status of the applicant's license from the board of examiners in each state in which the applicant is currently or was formerly licensed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

180.2(2) A licensee may change from a diagnostically certified optometrist to a therapeutically certified optometrist by taking 40 hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa and an additional 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases as defined by statute.

645—180.3(154) Licensure by endorsement. An applicant who has been a licensed optometrist under laws of another jurisdiction for one year or more shall file an application for licensure by endorsement with the board office. An applicant for licensure to practice optometry in Iowa may only apply to be a therapeutically certified optometrist. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

180.3(1) Submits to the board a completed application;

180.3(2) Pays the licensure fee; and

180.3(3) Shows evidence of the following:

a. The applicant shall provide a notarized copy of the diploma, no larger than 8½" × 11", along with an official copy of the transcript sent directly from the school to the board office. The transcript shall show a doctor of optometry degree from an accredited school. In the case of foreign graduates, applicants shall provide evidence of adherence to the current requirements of the NBEO to sit for the examination;

b. The applicant shall show evidence of successful completion of the examination of the NBEO that was current at the time of initial licensure, or the examination that is currently offered by the NBEO;

c. The applicant shall supply evidence of completion of a course which has particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa, provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education;

d. The applicant shall show evidence on the transcript of:

(1) Forty hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa; and

(2) An additional 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases.

e. If the transcript does not show evidence of 40 hours of didactic education, 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa, and 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases, the applicant shall show satisfactory evidence of completion of a course that includes training in the above-listed areas.

f. Any transcript that shows graduation from an approved school of optometry after January 2, 1988, meets the requirement of 180.3(3)"d."

g. Any transcript that shows graduation from an approved school of optometry after January 2, 1986, meets the requirement of 40 hours of didactic education and 60 hours of approved supervised clinical training in the examination,

diagnosis, and treatment of conditions of the human eye and adnexa.

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

(1) Teaching optometry;

(2) A military optometrist;

(3) A supervisory or administrative optometrist; or

(4) A researcher in optometry.

i. An applicant shall provide verification by an official statement from the board of examiners in each state in which the applicant is licensed regarding the status of the applicant's license, including date of licensure and license expiration date.

j. An applicant shall provide a statement disclosing and explaining the applicant's involvement in civil litigation related to the practice of optometry in any jurisdiction of the United States, other nations or territories.

k. Applicants for licensure by endorsement who were issued their Iowa licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

645—180.4(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia, any state, territory, province or foreign country with equal or similar requirements for licensure of optometrists.

645—180.5(154) License renewal.

180.5(1) The biennial license renewal period for a license to practice optometry shall begin on July 1 of even-numbered years and end on June 30 two years later. All licenses shall renew on a biennial basis.

180.5(2) A renewal of license application and continuing education report form to practice optometry shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay the biennial renewal fee(s) on or before the renewal date.

a. The licensee shall submit the completed application and continuing education report form with the renewal fee(s) to the board office before the license expiration date.

b. Individuals who were issued their initial licenses within six months of the license renewal date will not be required to renew their licenses until the next renewal date two years later.

c. 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.

d. Persons licensed to practice optometry shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

180.5(3) Late renewal. If the renewal fee(s), continuing education report and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration is charged.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

180.5(4) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—180.6(272C) Exemptions for inactive practitioners.

180.6(1) A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of 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 the practice of optometry in the state of Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted by the license expiration date upon the form provided by the board. A licensee must hold a current license in order to apply for exempt status. A licensee shall apply for inactive status prior to the license expiration date.

180.6(2) Reinstatement of exempted, inactive practitioners. Inactive practitioners who have requested and been granted a waiver of compliance with the renewal requirements and who have obtained a certificate of exemption

shall, prior to engaging in the practice of the profession in Iowa, satisfy the requirements for reinstatement as outlined in 645—181.10(154,272C).

180.6(3) Licensees shall renew at the next scheduled renewal. Licensees who were issued their reinstatements within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

180.6(4) A new licensee who is on inactive status during the initial license renewal time period and reinstates before the first license expiration date will not be required to complete continuing education only for that first license renewal time period. Fifty hours of continuing education for therapeutic licensees and 30 hours for nontherapeutic licensees will be required for every renewal thereafter.

180.6(5) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license became inactive.

180.6(6) Reinstatement of the inactive license after exemption. The following chart illustrates the requirements for reinstatement based on the length of time a license has been inactive.

An applicant shall satisfy the following requirements:	Up to 1 renewal	2 or more renewals
Submit written application for reinstatement to the board	Required	Required
Pay the current renewal fee	\$120	\$120
Pay reinstatement fee	\$50	\$50
Provide evidence of full-time practice in another state and completion of continuing education hours equivalent to requirements in Iowa OR Provide evidence of completion of continuing education OR Provide evidence of successful completion of national examination	50 hours for therapeutic licensees 30 hours for nontherapeutic licensees 50 hours for therapeutic licensees 30 hours for nontherapeutic licensees National examination within one year immediately prior to application for reinstatement	100 hours for therapeutic licensees 60 hours for nontherapeutic licensees 100 hours for therapeutic licensees 60 hours for nontherapeutic licensees National examination within one year immediately prior to application for reinstatement
Total fees and continuing education hours required:	\$170 and 50 hours for therapeutic licensees, \$170 and 30 hours for nontherapeutic licensees	\$170 and 100 hours for therapeutic licensees, \$170 and 60 hours for nontherapeutic licensees

645—180.7(272C) Lapsed licenses.

180.7(1) If the renewal fee(s) and continuing education report are received more than 30 days after the license renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board accompanied by the reinstatement fee, the renewal fee for each biennium the license is lapsed, and the late fee. The licensee may be subject to an audit of the licensee's continuing education report.

180.7(2) Licensees who have not fulfilled the requirements for license renewal or for an exemption in the required time frame shall have a lapsed license and shall not engage in the practice of optometry in Iowa. Practicing without a license may be cause for disciplinary action.

180.7(3) In order to reinstate a lapsed license, a licensee shall comply with all requirements for reinstatement as outlined in 645—181.6(154).

180.7(4) Licensees whose licenses are reinstated within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

180.7(5) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license lapsed.

180.7(6) Following reinstatement of a lapsed license, the licensee shall renew the license at the next scheduled renewal cycle and shall complete the continuing education required for that renewal.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

180.7(7) Reinstatement of a lapsed license. The following chart illustrates the requirements for reinstatement based on the length of time a license has lapsed.

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 renewals	4 renewals
Submit written application for reinstatement	Required	Required	Required	Required
Pay renewal fee(s)	\$120	\$240	\$360	\$480
Pay reinstatement fee	\$50	\$50	\$50	\$50
Pay late fee	\$50	\$50	\$50	\$50
Complete continuing education requirements	50 hours for therapeutic licensees 30 hours for nontherapeutic licensees	100 hours for therapeutic licensees 60 hours for nontherapeutic licensees	100 hours for therapeutic licensees 60 hours for nontherapeutic licensees	100 hours for therapeutic licensees 60 hours for nontherapeutic licensees
Total fees and continuing education hours required:	\$220 and 50 hours for therapeutic licensees, \$220 and 30 hours for nontherapeutic licensees	\$340 and 100 hours for therapeutic licensees, \$340 and 60 hours for nontherapeutic licensees	\$460 and 100 hours for therapeutic licensees, \$460 and 60 hours for nontherapeutic licensees	\$580 and 100 hours for therapeutic licensees, \$580 and 60 hours for nontherapeutic licensees

645—180.8(17A,147,272C) License denial.

180.8(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined in these rules shall specifically describe the facts to be contested and determined at the hearing.

180.8(2) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C.

These rules are intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

ITEM 3. Amend subrule **181.4(1)**, unnumbered paragraph, as follows:

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 also include a summary of the evaluations completed by the licensees.:

- (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) Evaluation form(s); and
- (5) A summary of the evaluations completed by the licensees.

ITEM 4. Amend rule **645—181.6(154)**, numbered paragraphs "3" and "5," as follows:

3. Pays all penalty fees which have been late fee assessed by the board for failure to renew;

5. Provides evidence of satisfactory completion of Iowa continuing education requirements during the period since

the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 50 for the therapeutic licensees (with a maximum of 100) and 30 for nontherapeutic licensees (with a maximum of 60) by the number of bienniums since the license lapsed. ~~If the license has lapsed for more than five years, the applicant shall successfully pass the Iowa state optometry jurisprudence examination with a minimum grade of 75 percent.~~

ITEM 5. Amend rule 645—181.8(154,272C) as follows:

645—181.8(154,272C) Continuing education waiver exemption for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa and who is residing within or without the state of Iowa may be granted a ~~waiver~~ **waiver exemption** of continuing education compliance and obtain a certificate of ~~waiver 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 ~~waiver exemption~~. The application for a certificate of ~~waiver exemption~~ shall be submitted upon forms provided by the board.

ITEM 6. Amend subrule 181.10(1) as follows:

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

- a. The current renewal fee;
- b. The reinstatement fee; and

ITEM 7. Amend paragraph **181.10(2)"b"** as follows:

b. Completion of a total number of hours of approved continuing education computed by multiplying 50 for therapeutic licensees (*with a maximum of 100*) or 30 for nontherapeutic licensees (*with a maximum of 60*) by the number of bienniums a certificate of exemption shall be in effect for such applicant; or

ITEM 8. Adopt ~~new~~ 645—Chapter 182 as follows:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

CHAPTER 182
DISCIPLINE FOR OPTOMETRISTS

645—182.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in the rules, including civil penalties in an amount not to exceed \$1,000 or maximum allowed, when the board determines that the licensee is guilty of any of the following acts or offenses:

182.1(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice optometry in this state, 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 Iowa department of public health any false or forged diploma, certificate or affidavit or identification or qualification in making an application for a license in this state.

182.1(2) Professional incompetency. Professional incompetency includes, but is not limited to:

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

b. A substantial deviation by the optometrist from the standards of learning or skill ordinarily possessed and applied by other optometrists in the state of Iowa acting in the same or similar circumstances;

c. Failure by an optometrist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average optometrist 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 optometry in the state of Iowa.

182.1(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. Practice harmful or detrimental to the public includes, but is not limited to, the failure of an optometrist to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent optometrist acting in the same or similar circumstances in this state.

b. Practice harmful or detrimental to the public includes, but is not limited to, the use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a physical handicap, to make a written signature or mark, however, may substitute, in lieu of a signature, a rubber stamp which is adopted by the handicapped person for all purposes requiring a signature and which is affixed by the handicapped person or affixed by another person upon the request of the handicapped person and in that person's presence.

c. Practice harmful or detrimental to the public includes, but is not limited to, the practice of maintaining any pre-signed prescription which is intended to be completed and issued at a later time.

182.1(4) Habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs means the inability of an optometrist to practice optometry with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other type of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other type of material

which may impair an optometrist's ability to practice the profession with reasonable skill and safety.

182.1(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. 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 includes, but is not limited to, the conviction of an optometrist 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 optometry, 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 an optometrist in this state.

182.1(6) Use of untruthful or improbable statements in advertisements. This includes, but is not limited to, an action by an optometrist, or on behalf of an optometrist, 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 optometrist is a skilled optometrist engaged in a field or specialty of practice for which the optometrist is not qualified.

c. Extravagant claims or proclaiming extraordinary skills not recognized by the optometric profession.

182.1(7) Willful or repeated violations of the provisions of these rules and Iowa Code chapter 147.

182.1(8) Violating a regulation or law of this state, another state, or the United States, which relates to the practice of optometry.

182.1(9) Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, district, territory or country within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

182.1(10) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements to restrict the practice of optometry entered into in another state, district, territory or country.

182.1(11) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice optometry.

182.1(12) Failure to identify oneself as an optometrist to the public.

182.1(13) Violating a lawful order of the board, previously entered by the board in a disciplinary hearing or pursuant to informal settlement.

182.1(14) Being adjudged mentally incompetent by a court of competent jurisdiction.

182.1(15) Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

182.1(16) Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose. Indiscriminately or promiscuously prescribing, administering or dispensing includes, but is not limited to,

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

prescribing, administering or dispensing any drug for purposes which are not eye- or vision-related.

182.1(17) Knowingly submitting a false report of continuing education or failure to submit the biennial report of continuing education.

182.1(18) Failure to comply with a subpoena issued by the board.

182.1(19) Failure to file the reports required by rule 645—9.3(272C) concerning acts or omissions committed by another licensee.

182.1(20) Obtaining any fee by fraud or misrepresentation.

182.1(21) Failing to exercise due care in the delegation of optometric services to or supervision of assistants, employees or other individuals, whether or not injury results.

This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

ITEM 9. Adopt **new** 645—Chapter 183 as follows:

CHAPTER 183
FEES

645—183.1(147,154) License fees. All fees are nonrefundable.

183.1(1) Licensure fee for license to practice optometry, licensure by endorsement, or licensure by reciprocity is \$250.

183.1(2) Biennial license renewal fee for each biennium is \$120.

183.1(3) Late fee for failure to renew before expiration date is \$50.

183.1(4) Reinstatement fee for a lapsed license or an inactive license is \$50.

183.1(5) Duplicate license fee is \$10.

183.1(6) Verification of license fee is \$10.

183.1(7) Returned check fee is \$15.

183.1(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

[Filed 5/25/01, effective 7/18/01]

[Published 6/13/01]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/13/01.

ARC 0729B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.43, the Department of Public Health hereby amends Chapter 92, "Iowa Fatality Review Committee," Iowa Administrative Code.

In Item 1, language concerning the age of a child is amended for consistency. In Item 2, the list of recipients to receive the report from the Director of Public Health is revised, based on discussion with the Administrative Rules Review Committee.

This chapter is subject to the Department's rules regarding waivers.

Notice of Intended Action was published in the January 10, 2001, Iowa Administrative Bulletin as **ARC 0383B**. No public hearing was held, and no written comments were received.

These amendments are intended to implement Iowa Code section 135.43(4).

These amendments will become effective July 18, 2001.

The following amendments are adopted.

ITEM 1. Amend rule **641—92.2(135)**, definition of "child fatality," as follows:

"Child fatality" means the death of a child ~~through~~ *under* the age of ~~17~~ *years 18*.

ITEM 2. Amend rule 641—92.6(135) as follows:

641—92.6(135) Content of report.

92.6(1) Upon completion of the review, the director shall submit the committee's report to ~~the governor and the general assembly.~~

a. The governor or the governor's designee;

b. The member of the senate or employee of the general assembly designated by the majority leader or minority leader of the senate;

c. The member of the house of representatives or employee of the general assembly designated by the speaker or minority leader of the house of representatives.

92.6(2) The committee report shall include findings concerning the case and recommendations for changes to prevent child fatalities when similar circumstances exist. The report shall include but is not limited to the following information:

1 a. The dates, outcomes, and results of any actions taken by the department of human services and others in regard to each report and allegation of child abuse involving the child who died.

2 b. The results of any review of the case performed by a multidisciplinary team, or by any other public entity that reviewed the case.

3 c. Confirmation of the department of human services' receipt of any report of child abuse involving the child, including confirmation as to whether or not any assessment involving the child was performed in accordance with Iowa Code section 232.71B, the results of any assessment, a description of the most recent assessment and the services offered to the family, the services rendered to the family, and the basis for the department's decisions concerning the case.

[Filed 5/25/01, effective 7/18/01]

[Published 6/13/01]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/13/01.

ARC 0724B

REVENUE AND FINANCE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue and Finance hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax," Chapter 46, "Withholding," and

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

Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXIII, Number 21, page 1637, on April 18, 2001, as **ARC 0629B**.

Item 1 adopts new rule 42.15(422) which describes the property rehabilitation tax credit that is partially administered by the Historical Division of the Department of Cultural Affairs. The property rehabilitation tax credit is a new individual income tax credit for rehabilitating eligible property in Iowa that has historical significance, including barns that were constructed prior to 1937. This rule sets out how taxpayers may apply for the credit, how the credit may be computed and how refunds for the credit are calculated in situations where the credit exceeds the taxpayer's income tax liability.

Item 2 is an amendment of a rule for the withholding tax credit to the workforce development fund which shows a decrease in the aggregate amount to be transferred to the fund for fiscal years beginning in the year starting on July 1, 2000.

Item 3 adopts new rule 46.7(422) which describes the Accelerated Career Education Program (ACE) credits from withholding. The ACE program is a training program administered by the Iowa Department of Economic Development in conjunction with the community colleges and is primarily funded through credits from withholding of employers that have employees in the program. The rule sets out how the amount of funding is determined and how the credits from withholding are claimed by the employers.

Item 4 adopts new rule 52.18(422) that is the rule for the property rehabilitation tax credit for corporate income tax purposes. This rule is almost identical to the rule in Item 1.

Changes were made to the Notice of Intended Action. A new sentence was added at the end of subrules 42.15(3) and 52.18(3). The sentence clarifies the example and reads as follows: "If the building in this example were eligible for the federal rehabilitation credit provided in Section 47 of the Internal Revenue Code, the basis of the building for Iowa tax purposes would not be affected by the federal credit."

These amendments will become effective July 18, 2001, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 404A and sections 15.342A, 260G.3, 260G.4A, 422.11D, 422.16A, and 422.33 as amended by 2000 Iowa Acts, chapters 1194, 1196, and 1230.

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 [42.15, 46.6, 46.7, 52.18] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 0629B**, IAB 4/18/01.

[Filed 5/24/01, effective 7/18/01]

[Published 6/13/01]

[For replacement pages for IAC, see IAC Supplement 6/13/01.]



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

*** EXECUTIVE ORDER NUMBER 19**

- WHEREAS,** this office announced the creation of the IOWA FOOD POLICY COUNCIL, on March 31, 2000, through the issuance of EXECUTIVE ORDER NUMBER SIXTEEN; and
- WHEREAS,** EXECUTIVE ORDER NUMBER SIXTEEN directed the newly-formed Council to advise this office on all aspects of the food production system in Iowa; and
- WHEREAS,** Council members organized the group into the following six subcommittees, upon the commencement of Council activities: food security subcommittee; consumer awareness subcommittee; environmental sustainability subcommittee; economic development and diversity subcommittee; production subcommittee; and marketing subcommittee; and
- WHEREAS,** the Council presented a preliminary set of recommendations to this office, which resulted in the following executive actions being taken: (1) the designation of a Washington, D.C. office to serve as a liaison in the food stamp re-authorization process; (2) the delivery of state financial support to fund a seniors farmers market nutrition program; and (3) the issuance of a directive to the Iowa Department of Economic Development to improve its communication with constituencies interested in the implementation of the A Taste of Iowa® program; and
- WHEREAS,** on April 30, 2001, the Council submitted its year-end report to this office, which contained over thirty specific recommendations for improving the food production policy of this state; and
- WHEREAS,** the Council has determined that further review is necessary before a comprehensive food production policy proposal for the State of Iowa can be finalized; and
- WHEREAS,** the State of Iowa will benefit from the continued activities of the Council:

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order the continuation of the IOWA FOOD POLICY COUNCIL.

The provisions outlined in EXECUTIVE ORDER NUMBER SIXTEEN shall continue to govern the activities of the Council, with the following amendments:

1. The Council will be composed of 18-24 members appointed by the Governor.
2. The Council shall create two "inter-agency task forces," composed of representatives from various state agencies, to recommend improvements in state activities as they relate to food security, and the promotion of Iowa grown food products. Each task force shall report its findings and conclusions to the Council before the Council submits its final report to this office for review.
3. The Council shall examine ways to improve the opportunities of Iowa farmers and the state to mitigate the risks associated with food production and marketing, in a manner consistent with the support received from the United States Department of Agriculture Risk Assessment Agency.

The Council shall submit a final report outlining its findings and recommendations to the Governor's Office for review no later than April 30, 2002. The Council shall be dissolved after the final report has been submitted, unless an application to continue its activities has been approved by the Governor before April 30, 2002.



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

Thomas J. Vilsack

THOMAS J. VILSACK
GOVERNOR

ATTEST:

Chester J. Culver

CHESTER J. CULVER
SECRETARY OF STATE



State of Iowa
Executive Department

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

***PROCLAMATION**

- WHEREAS,** THE 2001 REGULAR SESSION OF THE SEVENTY-NINTH GENERAL ASSEMBLY HAD FINAL ADJOURNMENT PURSUANT TO HOUSE CONCURRENT RESOLUTION 39, AND
- WHEREAS,** THE GENERAL ASSEMBLY DID NOT ADOPT LEGISLATION THAT SETS NEW CONGRESSIONAL AND LEGISLATIVE DISTRICT BOUNDARIES, AND
- WHEREAS,** THE GENERAL ASSEMBLY MAY NEED TO ADOPT PRUDENT AND NECESSARY LEGISLATION TO ADDRESS ANY OTHER ISSUES WHICH MAY BE IDENTIFIED BY THE GOVERNOR AND LEGISLATIVE LEADERS BEFORE THE CONVENING OF THE EXTRAORDINARY SESSION, AND
- WHEREAS,** THE GENERAL ASSEMBLY MUST CONVENE IN EXTRAORDINARY SESSION IN ACCORDANCE WITH ARTICLE IV, SECTION XI, OF THE CONSTITUTION OF THE STATE OF IOWA IN ORDER TO CONSIDER THE LEGISLATIVE SERVICE BUREAU'S SECOND PLAN FOR THE REDRAWING OF IOWA'S CONGRESSIONAL AND LEGISLATIVE DISTRICTS.

NOW, THEREFORE, I, THOMAS J. VILSACK, GOVERNOR OF THE STATE OF IOWA, IN ACCORDANCE WITH ARTICLE IV, SECTION XI, OF THE CONSTITUTION OF THE STATE OF IOWA, DO HEREBY PROCLAIM THAT THE SEVENTY-NINTH GENERAL ASSEMBLY SHALL CONVENE IN EXTRAORDINARY SESSION IN DES MOINES, IOWA AT 10:00 AM ON THE NINETEENTH DAY OF JUNE, 2001, AND TO THAT END I DO CALL UP AND DIRECT THE MEMBERS OF THE HOUSE OF REPRESENTATIVES TO CONVENE AT THE NEW STATE HISTORICAL BUILDING AND MEMBERS OF THE SENATE TO CONVENE IN THE SENATE CHAMBER AT THE STATE CAPITOL AT 10:00 AM ON JUNE 19, 2001 FOR THE PURPOSE WHICH THE ASSEMBLY IS CONVENED,

IN TESTIMONY WHEREOF, I HAVE HEREUNTO
SUBSCRIBED MY NAME AND CAUSED THE
GREAT SEAL OF THE STATE OF IOWA TO BE
AFFIXED. DONE AT DES MOINES THIS 21ST DAY
OF MAY IN THE YEAR OF OUR LORD TWO
THOUSAND ONE.

Thomas J. Vilsack

THOMAS J. VILSACK
GOVERNOR



ATTEST:

Chester J. Culver

CHESTER J. CULVER
SECRETARY OF STATE
by J. Klaassen, Deputy



State of Iowa
Executive Department

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

*** SPECIAL ELECTION PROCLAMATION**

WHEREAS, the Office of State Representative from the 85th Representative District, consisting of the following areas:

- A. The eighty-fifth Representative District shall consist of:
- a. In Pottawattamie County, Hardin, Washington, Belknap, Center Grove, Carson, Macedonia, Silver Creek, and Keg Creek Townships.
 - b. Mills County.
 - c. Fremont County.

has become vacant by the reason of the resignation of Representative Hubert Houser.

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by virtue of the authority vested in me by law do hereby proclaim and direct that a special election to fill said vacancy shall be held within said District on

TUESDAY, THE 12TH DAY OF JUNE, 2001, A.D.

WHEREFORE, all electors within said 85th Representative District will take due notice and the County Commissioner of Elections of said county will take official notice as provided in Chapter 39, Code of Iowa, 1997.

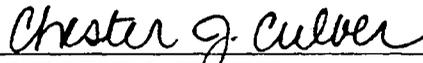


IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 22nd day of May in the year of our Lord Two Thousand One.

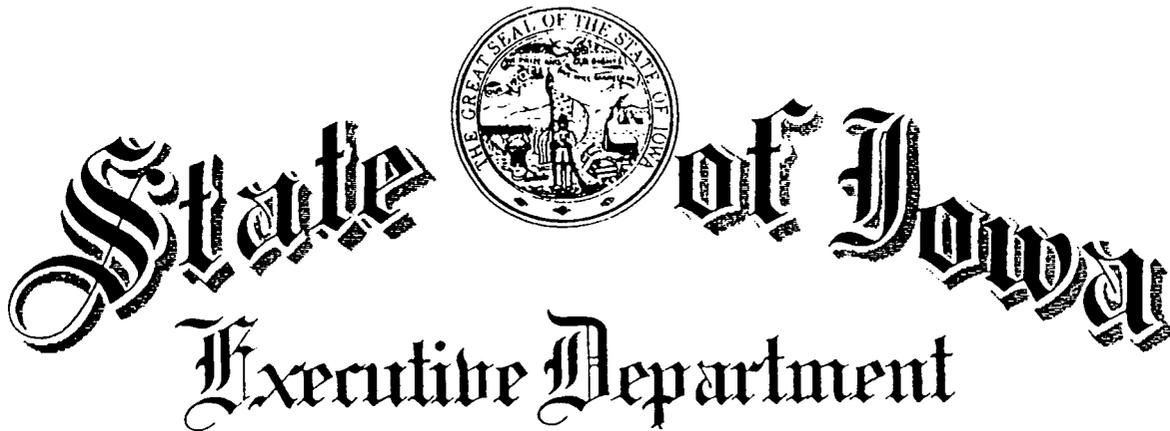


THOMAS J. VILSACK
GOVERNOR

ATTEST:



CHESTER J. CULVER
SECRETARY OF STATE
by J. Klaassen, Deputy



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

***SPECIAL ELECTION PROCLAMATION**

WHEREAS, the Office of State Senator from the 43rd Senate District, consisting of the following areas:

- A. The eighty-fifth Representative District shall consist of:
- a. In Pottawattamie County, Hardin, Washington, Belknap, Center Grove, Carson, Macedonia, Silver Creek, and Keg Creek Townships.
 - b. Mills County.
 - c. Fremont County.
- B. The eighty-sixth Representative District shall consist of:
- a. Cass County.
 - b. Montgomery County.
 - c. In Pottawattamie County, Wright and Waveland Townships.

has become vacant by the reason of the resignation of Senator Derryl McLaren.

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by virtue of the authority vested in me by law do hereby proclaim and direct that a special election to fill said vacancy shall be held within said District on

TUESDAY, THE 12TH DAY OF JUNE, 2001, A.D.

WHEREFORE, all electors within said 43rd Senate District will take due notice and the County Commissioner of Elections of said county will take official notice as provided in Chapter 39, Code of Iowa, 1997.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 22nd day of May in the year of our Lord One Thousand One.

Thomas J. Vilsack

THOMAS J. VILSACK
GOVERNOR

ATTEST:

Chester J. Culver

CHESTER J. CULVER
SECRETARY OF STATE
by J. Klaassen, Deputy

IOWA ADMINISTRATIVE BULLETIN
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Department of General Services
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