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PREFACE

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

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

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

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

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Des Moines, IA 50319
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CITATION of Administrative Rules

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

441 IAC 79 (Chapter)

441 IAC 79.1(249A) (Rule)

441 IAC 79.1(1) (Subrule)

441 IAC 79.1(1)“a” (Paragraph)

441 IAC 79.1(1)“a”(1) (Subparagraph)

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

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

Schedule for Rule Making 2002

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 4 '02	Jan. 23 '02	Feb. 12 '02	Feb. 27 '02	Mar. 1 '02	Mar. 20 '02	Apr. 24 '02	July 22 '02
Jan. 18	Feb. 6	Feb. 26	Mar. 13	Mar. 15	Apr. 3	May 8	Aug. 5
Feb. 1	Feb. 20	Mar. 12	Mar. 27	Mar. 29	Apr. 17	May 22	Aug. 19
Feb. 15	Mar. 6	Mar. 26	Apr. 10	Apr. 12	May 1	June 5	Sept. 2
Mar. 1	Mar. 20	Apr. 9	Apr. 24	Apr. 26	May 15	June 19	Sept. 16
Mar. 15	Apr. 3	Apr. 23	May 8	May 10	May 29	July 3	Sept. 30
Mar. 29	Apr. 17	May 7	May 22	May 24	June 12	July 17	Oct. 14
Apr. 12	May 1	May 21	June 5	June 7	June 26	July 31	Oct. 28
Apr. 26	May 15	June 4	June 19	June 21	July 10	Aug. 14	Nov. 11
May 10	May 29	June 18	July 3	July 5	July 24	Aug. 28	Nov. 25
May 24	June 12	July 2	July 17	July 19	Aug. 7	Sept. 11	Dec. 9
June 7	June 26	July 16	July 31	Aug. 2	Aug. 21	Sept. 25	Dec. 23
June 21	July 10	July 30	Aug. 14	Aug. 16	Sept. 4	Oct. 9	Jan. 6 '03
July 5	July 24	Aug. 13	Aug. 28	Aug. 30	Sept. 18	Oct. 23	Jan. 20 '03
July 19	Aug. 7	Aug. 27	Sept. 11	Sept. 13	Oct. 2	Nov. 6	Feb. 3 '03
Aug. 2	Aug. 21	Sept. 10	Sept. 25	Sept. 27	Oct. 16	Nov. 20	Feb. 17 '03
Aug. 16	Sept. 4	Sept. 24	Oct. 9	Oct. 11	Oct. 30	Dec. 4	Mar. 3 '03
Aug. 30	Sept. 18	Oct. 8	Oct. 23	Oct. 25	Nov. 13	Dec. 18	Mar. 17 '03
Sept. 13	Oct. 2	Oct. 22	Nov. 6	Nov. 8	Nov. 27	Jan. 1 '03	Mar. 31 '03
Sept. 27	Oct. 16	Nov. 5	Nov. 20	Nov. 22	Dec. 11	Jan. 15 '03	Apr. 14 '03
Oct. 11	Oct. 30	Nov. 19	Dec. 4	Dec. 6	Dec. 25	Jan. 29 '03	Apr. 28 '03
Oct. 25	Nov. 13	Dec. 3	Dec. 18	***Dec. 18***	Jan. 8 '03	Feb. 12 '03	May 12 '03
Nov. 8	Nov. 27	Dec. 17	Jan. 1 '03	Jan. 3 '03	Jan. 22 '03	Feb. 26 '03	May 26 '03
Nov. 22	Dec. 11	Dec. 31	Jan. 15 '03	Jan. 17 '03	Feb. 5 '03	Mar. 12 '03	June 9 '03
Dec. 6	Dec. 25	Jan. 14 '03	Jan. 29 '03	Jan. 31 '03	Feb. 19 '03	Mar. 26 '03	June 23 '03
Dec. 18	Jan. 8 '03	Jan. 28 '03	Feb. 12 '03	Feb. 14 '03	Mar. 5 '03	Apr. 9 '03	July 7 '03
Jan. 3 '03	Jan. 22 '03	Feb. 11 '03	Feb. 26 '03	Feb. 28 '03	Mar. 19 '03	Apr. 23 '03	July 21 '03

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
13	Friday, December 6, 2002	December 25, 2002
14	Wednesday, December 18, 2002	January 8, 2003
15	Friday, January 3, 2003	January 22, 2003

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.

***Note change of filing deadline

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 publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.bates@legis.state.ia.us

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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.

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The Administrative Rules Review Committee will hold its regular, statutory meeting at 9 a.m. on Tuesday, December 10, 2002, and Wednesday, December 11, 2002, in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

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Waivers or variances from administrative rules,

adopt ch 12, Filed **ARC 2117B** 11/13/02

CAPITAL INVESTMENT BOARD, IOWA[123]

Administration; tax credit for investments in qualifying businesses

and community-based seed capital funds, adopt chs 1, 2, Filed **ARC 2146B** 11/27/02

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Cross reference corrections, 7.1(5), 11.5(5), 11.6(6), 11.8(5), 13.2(7), 14.1(5),

14.5(4), 25.11, Filed Without Notice **ARC 2115B** 11/13/02

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Rules of practice in contested cases, 7.1, Notice **ARC 2099B** 11/13/02

Private water well construction permits, 38.2, 38.3(1), 38.4 to 38.9,

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Animal feeding operations—master matrix, separation distances, fees, manure management plans,

65.1, 65.3(3)"g," 65.9(1)"n," 65.10, 65.11(2), 65.16(1), 65.16(3) to 65.16(7),

ch 65 appendix C, Notice **ARC 2101B** 11/13/02

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Amendment of statement of organization permitted, 4.2, 4.6(2), Filed **ARC 2121B** 11/27/02

Committee funds, 4.5, 4.41, Filed **ARC 2125B** 11/27/02

Campaign disclosure reports; disclosure of financial transactions,

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Attribution of resources appeal—estimate of cost of annuity,

75.5(3)"f"(4), (5), and (7), Notice **ARC 2140B** 11/27/02

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26.1(8), Notice **ARC 2129B** 11/27/02Barber examiners, ch 22, Filed **ARC 2128B** 11/27/02Optometry examiners, 180.1, 180.5(3) to 180.5(5), Notice **ARC 2088B** 11/13/02Physician assistant examiners, ch 325, Filed **ARC 2089B** 11/13/02**PUBLIC HEALTH DEPARTMENT[641]**

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Junkyard control; outdoor advertising; signing, 116.1 to 116.3, 116.8, 117.1, 117.2(2), 117.3(1)"l," 117.5(1), 117.5(2), 117.5(4), 117.5(5)"h," 117.6(3), 117.8, 117.8(1), 117.9, 118.1, 118.2(3)"a," 118.5(1), 118.8, 119.2(1), 119.2(4), 119.3(4), 119.3(5)"b," 119.5(1), 119.6(1), 119.6(2), 119.6(2)"a," 119.6(3) to 119.6(7), 120.1, 120.5(3), 120.5(4), 120.6, 120.7(3), 120.8, 120.9, 120.10(5) to 120.10(8), <u>Filed</u> ARC 2132B	11/27/02
Keep Iowa beautiful program, adopt ch 122, <u>Notice</u> ARC 2090B	11/13/02
Vehicle registration and certificate of title, 400.13(2)"c," 400.13(4)"b"(1), 400.16(1), 400.16(2)"a," 400.16(2)"d"(1), 400.16(3)"a," 400.16(3)"d"(1) and (2), 400.16(4)"a," 400.17(1)"a"(3), 400.17(4)"a," 400.51, <u>Filed</u> ARC 2131B	11/27/02
Interstate registration and operation of vehicles, ch 500, <u>Filed</u> ARC 2133B	11/27/02
Interstate motor vehicle fuel licenses and permits, ch 505 title, 505.1 to 505.5, 505.6(2)"b," <u>Filed</u> ARC 2130B	11/27/02

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Electric delivery reliability, 20.2(5)"c," 20.5(2)"h" and "i," 20.5(4), 20.7(11) to 20.7(13), 20.18, 25.3, 25.4, <u>Filed</u> ARC 2106B	11/13/02
Efficient use of telephone numbering resources, 22.24, <u>Notice</u> ARC 2105B	11/13/02

WORKERS' COMPENSATION DIVISION[876]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Contested cases, 4.2, 4.6, 4.8(2)"a," "c" and "d," <u>Filed</u> ARC 2119B	11/27/02
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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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

Senator Jeff Angelo
808 West Jefferson
Creston, Iowa 50801

Senator Patricia M. Harper
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Waterloo, Iowa 50702

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator Paul McKinley
Route 5, Box 101H
Chariton, Iowa 50049

Senator Sheldon Rittmer
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Clinton, Iowa 52732

Representative Danny Carroll
244 400th Avenue
Grinnell, Iowa 50112

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Emmetsburg, Iowa 50536

Representative Mark Kuhn
2667 240th Street
Charles City, Iowa 50616

Representative Janet Metcalf
12954 Oak Brook Drive
Urbandale, Iowa 50323

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

To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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DENTAL EXAMINERS BOARD[650]

Dental assistant trainee status, 20.4, 20.6 IAB 11/13/02 ARC 2114B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	December 3, 2002 2 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Animal feeding operations— master matrix, amendments to ch 65 IAB 11/13/02 ARC 2101B (ICN Network)	Spencer High School 800 E. Third St. Spencer, Iowa	December 5, 2002 1 to 4 p.m.
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Rooms 128-129, Careers Bldg. NIACC 500 College Dr. Mason City, Iowa	December 5, 2002 1 to 4 p.m.
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North Fayette High School North Pine St. West Union, Iowa	December 5, 2002 1 to 4 p.m.
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Alternative High School Bldg. Maquoketa High School 600 Washington Maquoketa, Iowa	December 5, 2002 1 to 4 p.m.
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Room 16, Fairfield High School 605 E. Broadway Fairfield, Iowa	December 5, 2002 1 to 4 p.m.
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Room 175 Kuemper High School 109 S. Clark St. Carroll, Iowa	December 5, 2002 1 to 4 p.m.
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Public Library 300 S. Filmore St. Osceola, Iowa	December 5, 2002 1 to 4 p.m.
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Red Oak Center Room, Room 116 Southwestern Community College 2300 Fourth St., Highway 34 Red Oak, Iowa	December 5, 2002 1 to 4 p.m.
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IDED 200 E. Grand Ave. Des Moines, Iowa	December 5, 2002 1 to 4 p.m.
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Public Library 327 First Ave. NE Sioux Center, Iowa	December 5, 2002 1 to 4 p.m.
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Clear Creek-Amana High School 311 W. Marengo Rd. Tiffin, Iowa	December 5, 2002 1 to 4 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)
(ICN Network)

	Room S217, Iowa Falls High School 1903 N. Taylor Iowa Falls, Iowa	December 5, 2002 1 to 4 p.m
	Room 123, Community High School 514 Fifth Ave. SE Independence, Iowa	December 5, 2002 1 to 4 p.m
	Public Library 30 Sixth St. N Humboldt, Iowa	December 5, 2002 1 to 4 p.m
	ICN Classroom Adair-Casey High School 3384 Indigo Ave. Adair, Iowa	December 5, 2002 1 to 4 p.m
	Interactive Video Room Woodbury Central High School 408 S. Fourth St. Merville, Iowa	December 5, 2002 1 to 4 p.m
	Room 44 Eddyville-Blakesburg Jr.-Sr. H.S. 1301 Berdan St. Eddyville, Iowa	December 5, 2002 1 to 4 p.m
Waste tire management— separation distance, 117.3(3), 117.4(3) IAC 11/13/02 ARC 2100B	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 4, 2002 10 a.m. to 12 noon

LOTTERY DIVISION[705]

Computerized lottery games, 13.2 IAB 11/13/02 ARC 2086B	2015 Grand Ave. Des Moines, Iowa	December 5, 2002 9 a.m. (If requested)
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MEDICAL EXAMINERS BOARD[653]

Annual subscription for unlimited verifications of licensure status, 8.5(1) IAB 11/27/02 ARC 2135B	Suite C 400 SW Eighth St. Des Moines, Iowa	December 17, 2002 3:15 p.m.
Standards of practice; principles of professional ethics, 13.10 to 13.12, ch 18 IAB 11/27/02 ARC 2134B	Suite C 400 SW Eighth St. Des Moines, Iowa	December 17, 2002 3:30 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Barber examiners, 21.2(1), 21.10(6), 21.11(7), ch 23, 26.1(8) IAB 11/27/02 ARC 2129B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	December 19, 2002 9 to 11 a.m.
Optometry examiners, 180.1, 180.5 IAB 11/13/02 ARC 2088B	Professional Licensure Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	December 4, 2002 9 to 11 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Fees for autopsies and related services and reimbursement for related expenses, 126.3 IAB 11/27/02 ARC 2136B	Room 513 Lucas State Office Bldg. Des Moines, Iowa	December 17, 2002 2 to 3:30 p.m.
County medical examiners—autopsies, 127.3, 127.5(1) IAB 11/27/02 ARC 2137B	Room 513 Lucas State Office Bldg. Des Moines, Iowa	December 17, 2002 2 to 3:30 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Building code—accessibility standards, 16.700 to 16.720 IAB 11/27/02 ARC 2142B (ICN Network)	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 17, 2002 1:30 p.m.
	Public Library 400 Willow Ave. Council Bluffs, Iowa	December 17, 2002 1:30 p.m.
	Public Library 500 First St. SE Cedar Rapids, Iowa	December 17, 2002 1:30 p.m.

STATUS OF WOMEN DIVISION[435]

General; Iowa women's hall of fame, amendments to chs 1 to 3, 5 IAB 11/27/02 ARC 2127B	Room 208 Lucas State Office Bldg. Des Moines, Iowa	December 17, 2002 8:30 a.m.
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TRANSPORTATION DEPARTMENT[761]

Procurement of equipment, materials, supplies and services, 20.2 to 20.5, 20.8 IAB 11/27/02 ARC 2118B	Third Floor Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	December 20, 2002 10 a.m. (If requested)
Keep Iowa beautiful program, ch 122 IAB 11/13/02 ARC 2090B	Third Floor Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	December 5, 2002 11 a.m. (If requested)

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

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

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

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

The following list will be updated as changes occur:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CAPITAL INVESTMENT BOARD, IOWA[123]

CITIZENS' AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Iowa Finance Authority[265]

EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL, IOWA[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

GENERAL SERVICES DEPARTMENT[401]

HUMAN INVESTMENT COUNCIL[417]

HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

Persons With Disabilities Division[431]

Latino Affairs Division[433]

Status of African-Americans, Division on the[434]

Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]

INFORMATION TECHNOLOGY DEPARTMENT[471]

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

ARC 2139B

HUMAN SERVICES
DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes to amend Chapter 53, "Rent Subsidy Program," Iowa Administrative Code.

These amendments change the eligibility guidelines and procedures for the provision of rental assistance to people who participate in a Medicaid home- and community-based services waiver program. Changes include:

- Removing the limit on the number of people at risk of institutional placement who may be eligible for assistance. Currently, only 100 recipients of rent subsidy funds may be adults who were not living in a medical institution immediately before being approved for waiver services.
- Requiring documentation of the risk of institutional placement as part of the application. This will speed up eligibility determination for people in this group.
- Updating legal references and organizational names and addresses.

These amendments do not provide for waivers in specified situations because they either benefit applicants or are technical changes.

Any interested person may make written comments on the proposed amendments on or before December 18, 2002. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement 2002 Iowa Acts, House File 2627, section 118, subsection 3.

The following amendments are proposed.

ITEM 1. Amend rule 441—53.1(79GA,HF732) by rescinding the definition of "division."

ITEM 2. Amend subrule 53.2(4), introductory paragraph, as follows:

53.2(4) Risk of institutional placement. ~~Up to 100 adults~~ Adults who can avoid placement in a medical institution by accessing this rent subsidy program and by use of services provided under an HCBS waiver shall be eligible for rental assistance. Applicants must meet all eligibility criteria of this program, except the requirements of subrule 53.2(2), and be able to demonstrate both of the following:

ITEM 3. Amend rule 441—53.3(79GA,HF732) as follows:

Amend the introductory paragraph as follows:

441—53.3(79GA,HF732) Application. Applications for the rent subsidy program may be obtained at any county office of the department. Applications shall be submitted to the Department of Human Services, ~~Division Bureau of Mental Health and Developmental Disabilities Long-Term Care~~, 1305 East Walnut, Hoover State Office Building, Des Moines, Iowa 50319-0114.

Amend subrule 53.3(2) as follows:

53.3(2) Date of application. The date of the application shall be the date the application, including written verification of income, ~~and written verification of application to other rental assistance programs, and written verification of risk of institutional placement, if applicable, is received by the division bureau of mental health and developmental disabilities long-term care.~~

Amend subrule 53.3(4) as follows:

Amend the introductory paragraph as follows:

53.3(4) Waiting list. After funds appropriated for this purpose are obligated, ~~the department shall deny pending applications shall be denied by the division.~~

Amend paragraphs "b" and "c" as follows:

b. Applicants not awarded funding who meet the eligibility requirements shall be placed on a statewide waiting list according to the order in which the completed applications and verification were received by the ~~division bureau of long-term care~~. In the event that more than one application is received at one time, the person shall be entered on the waiting list on the basis of the day of the month of the person's birthday, lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

c. When funding allows additional persons to be added to the rent subsidy program, they shall be taken from the statewide waiting list, and their eligibility shall be redetermined at that time. An application packet, which includes instructions and necessary forms for verification of continuing eligibility, shall be sent to these persons for completion and returned to the ~~division bureau of long-term care~~ within timelines specified by the department. If the signed application and verification of continuing eligibility are not received by the timeline specified by the department, the person's name shall be dropped from consideration for receipt of the rent subsidy payment.

ITEM 4. Amend subrule 53.5(2) as follows:

53.5(2) Review packet. The ~~division bureau of long-term care~~ shall send a review packet, which shall include instructions and necessary forms for verification of continuing eligibility, to all recipients of subsidy payments at least 60 calendar days ~~prior to before~~ the deadline date for annual redetermination of eligibility.

a. The completed Form 470-3302, Application for HCBS Rent Subsidy and Household Assistance, and required verification materials shall be submitted annually to the Department of Human Services, ~~Division Bureau of Mental Health and Developmental Disabilities Long-Term Care~~, 1305 East Walnut, Hoover State Office Building, Des Moines, Iowa 50319-0114.

b. If the ~~bureau of long-term care does not receive the signed application and verification of continuing eligibility are not received by the division~~ by the thirtieth day following the date the review packet is sent, the person's subsidy shall be terminated.

ITEM 5. Amend subrules 53.6(2) and 53.6(3) as follows:

53.6(2) Reporting of changes. The person is required to report to the ~~division bureau of long-term care~~ within ten working days any changes which may affect eligibility. Failure to do so may result in responsibility for repayment of funds and termination of the subsidy. (See rule 441—53.7(79GA,HF732).)

53.6(3) Insufficient funding. If funds are not sufficient to cover payments for all persons on the subsidy, persons shall be terminated from the subsidy in inverse order to the dates

HUMAN SERVICES DEPARTMENT[441](cont'd)

they began receiving payments, i.e., the last person to be added to the subsidy being the first person to be removed. The person terminated shall move back to the waiting list with the person's original application date dictating the person's position on the waiting list as stated at subrule 53.3(4). The ~~division~~ *bureau of long-term care* is responsible for notifying the persons who will be removed from the subsidy for this reason.

ITEM 6. Amend the implementation clause as follows:

These rules are intended to implement Iowa Code section 217.6, and 2001 Iowa Acts, ~~House File 732~~ *chapter 191*, section 11, subsection 3, ~~paragraph "b."~~ and 2002 Iowa Acts, *House File 2627*, section 118, subsection 3.

ARC 2141B

HUMAN SERVICES
DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments change the procedure for collecting information to support an independent determination of disability for SSI-related Medicaid by adding a separate report form to be used for applicants under 18 years of age. This mirrors the procedure used by the Social Security Administration and reflects the fact that disability is determined using different standards for children than are used for adults. Separate forms will help ensure that the correct information is gathered to make the disability determination.

These amendments do not provide for waivers in specified situations because it is a benefit to applicants to be required to furnish only information that is appropriate to their situation.

Any interested person may make written comments on the proposed amendments on or before December 18, 2002. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.3.

The following amendments are proposed.

ITEM 1. Amend subrule 75.1(35), paragraph "1," subparagraph (2), as follows:

(2) For an independent determination of disability, ~~a Disability Report, Form 470-2465, must be obtained from the applicant or recipient or the applicant's or recipient's authorized representative shall submit either Form 470-2465, Disability Report for Adults, if the applicant or recipient is aged 18 or over, or Form 470-3912, Disability Report for Children, if the applicant or recipient is under the age of 18. A signed Authorization for Source to Release Information to the Department of Human Services, Form 470-2467, shall be~~

completed for each medical source listed on the disability report.

ITEM 2. Amend subrule 75.20(2), paragraph "b," unnumbered paragraph, as follows:

~~A disability report shall be completed by the client or the client's authorized representative shall complete either on Form 470-2465, Disability Report for Adults, if the client is aged 18 or over, or Form 470-3912, Disability Report for Children, if the client is under the age of 18. A signed release, Form 470-2467, Authorization for Source to Release Information to the Department of Human Services, shall be completed for each medical source listed on the disability report.~~

ARC 2140B

HUMAN SERVICES
DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

Medicaid policy allows a couple to appeal the Department's division (or "attribution") of the couple's resources when one spouse is in a medical institution and the other remains at home if the couple believes that the amount of resources protected for the spouse at home is insufficient. Current rules require the couple to obtain three estimates of the cost of a single-premium lifetime annuity that would pay the spouse at home the amount of income needed to bring the spouse's income up to the "minimum monthly maintenance needs allowance" for the spouse's life expectancy. If the average annuity quotation is higher than the attributed amount, additional resources of up to the amount of the annuity quotation are protected. Purchase of an annuity is not required.

This amendment changes the number of estimates required from three to one. This change will simplify the process and reduce administrative burdens for both the applicant and the Department. The Department has not seen a large disparity in the amounts of the three quotes. Some sources require applicants to pay for these estimates.

This amendment does not provide for waivers in specified situations because the change removes a requirement.

Any interested person may make written comments on the proposed amendment on or before December 18, 2002. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 249A.3 and Iowa Code chapter 249G.

The following amendment is proposed.

Amend subrule 75.5(3), paragraph "f," subparagraphs (4), (5), and (7), as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

(4) To receive the substituted allowance, the applicant shall be required to obtain ~~three estimates~~ *one estimate* of the cost of the annuity ~~and these amounts shall be averaged to determine the cost of the annuity.~~

(5) ~~The averaged estimates representing the estimated~~ cost of an annuity shall be substituted for the amount of resources attributed to the community spouse when the amount of resources previously determined is less than the ~~averaged estimated~~ cost of an annuity. If the amount of resources previously attributed for the community spouse is greater than the ~~averaged estimated~~ cost of an annuity, there shall be no substitution for the cost of the annuity and the attribution will remain as previously determined.

(7) If the appellant provides a statement from ~~three an insurance companies~~ *company* that ~~they~~ *it* will not provide an estimate due to the potential annuitant's age, the amount to be set aside shall be determined using the following calculation: The difference between the community spouse's gross monthly income not generated by countable resources (times 12) and the minimum monthly maintenance needs allowance (times 12) shall be multiplied by the annuity factor for the age of the community spouse in the Table for an Annuity for Life published at the end of Iowa Code chapter 450. This amount shall be substituted for the amount of resources attributed to the community spouse pursuant to subparagraph 75.5(3)"f"(5).

ARC 2138B

HUMAN SERVICES
DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Care," Iowa Administrative Code.

This amendment changes and clarifies Medicaid coverage for orthopedic shoes by:

- Defining "depth shoe," "custom-molded shoe" and "insert."
- Defining criteria for coverage of depth and custom-molded shoes.
- Removing the requirement that the county department office issue an authorization to a shoe dealer for each purchase.

Other than allowing an extra pair of shoes for students who also need athletic shoes, this amendment does not provide for waivers in specified situations. Recipients who believe they are disadvantaged by this rule may request a waiver under rule 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before December 18, 2002. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

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

The following amendment is proposed.

Rescind rule 441—78.15(249A) and adopt the following new rule in lieu thereof:

441—78.15(249A) Orthopedic shoes. Payment shall be approved only for depth or custom-molded orthopedic shoes, inserts, and modifications, subject to the following conditions.

78.15(1) Definitions.

"Custom-molded shoe" means a shoe that:

1. Has been constructed over a cast or model of the recipient's foot;
2. Is made of leather or another suitable material of equal quality;
3. Has inserts that can be removed, altered, or replaced according to the recipient's conditions and needs; and
4. Has some form of closure.

"Depth shoe" means a shoe that:

1. Has a full length, heel-to-toe filler that when removed provides a minimum of 3/16" of additional depth used to accommodate custom-molded or customized inserts;
2. Is made from leather or another suitable material of equal quality;
3. Has some form of closure; and
4. Is available in full and half sizes with a minimum of three widths, so that the sole is graded to the size and width of the upper portions of the shoe according to the American Standard last sizing schedule or its equivalent.

"Insert" means a foot mold or orthosis constructed of more than one layer of a material that:

1. Is soft enough and firm enough to take and hold an impression during use, and
2. Is molded to the recipient's foot or is made over a model of the foot.

78.15(2) Prescription. The recipient shall present a written prescription by a physician, a podiatrist, a physician assistant, or an advanced registered nurse practitioner that includes:

1. The date,
2. The patient's diagnosis,
3. The reason orthopedic shoes are needed,
4. The probable duration of need, and
5. A specific description of any required modification of the shoes.

78.15(3) Diagnosis. The recipient shall have a diagnosis of an orthopedic, neuromuscular, vascular, or insensate foot condition, supported by applicable codes from the current version of the International Classification of Diseases (ICD). A diagnosis of flat feet is not covered.

a. A recipient with diabetes must meet the Medicare criteria for therapeutic shoes.

b. Custom-molded shoes are covered only when the recipient has a foot deformity and documentation of:

- (1) The reasons the recipient cannot be fitted with a depth shoe;
- (2) Pain;
- (3) Tissue breakdown or a high probability of tissue breakdown; and
- (4) Any limitation on walking.

78.15(4) Frequency. Only two pairs of orthopedic shoes are allowed per recipient in a 12-month period unless documentation of change in size or evidence of excessive wear is submitted. EXCEPTION: School-aged children under the age

HUMAN SERVICES DEPARTMENT[441](cont'd)

of 21 may obtain athletic shoes in addition to the two pairs of shoes in a 12-month period.

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

ARC 2135B**MEDICAL EXAMINERS
BOARD[653]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby proposes to amend Chapter 8, "Fees," Iowa Administrative Code.

The proposed amendment eliminates an annual subscription for unlimited verifications of physician licensure via a password-protected Web site.

The Board approved the amendment to Chapter 8 during its regularly held meeting on October 31, 2002.

Any interested person may present written comments on this proposed amendment not later than 4 p.m. on December 17, 2002. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or ann.mowery@ibme.state.ia.us.

There will be a public hearing on December 17, 2002, at 3:15 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

This amendment is intended to implement Iowa Code chapters 147, 148, and 272C.

The following amendment is proposed.

Amend subrule 8.5(1), paragraph "a," subparagraph (3), as follows:

(3) Verification of licensure status from a password-protected Web site, \$3 per verification ~~or an annual subscription fee of \$2,000 for an unlimited number of verifications in 12 months.~~

ARC 2134B**MEDICAL EXAMINERS
BOARD[653]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 13, "Standards of Practice

and Professional Ethics," and adopt new Chapter 18, "Principles of Professional Ethics," Iowa Administrative Code.

The proposed amendments were approved at the October 31, 2002, regular meeting of the Board of Medical Examiners.

The proposed amendments move the principles of professional ethics for physicians in Iowa from Chapter 13, "Standards of Practice and Professional Ethics," to the new Chapter 18, "Principles of Professional Ethics," and rename Chapter 13 as "Standards of Practice." In addition, the proposed amendments update references to the Code of Medical Ethics (2001) prepared and approved by the American Medical Association and the Code of Ethics (2001) prepared and approved by the American Osteopathic Association.

Any interested person may present written comments on the proposed amendments not later than 4 p.m. on December 17, 2002. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686, or by E-mail to ann.mowery@ibme.state.ia.us.

There will be a public hearing on December 17, 2002, at 3:30 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners office is located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code chapters 147, 148, and 150.

The following amendments are proposed.

ITEM 1. Amend **653—Chapter 13**, title, as follows:

**CHAPTER 13
STANDARDS OF PRACTICE
AND PROFESSIONAL ETHICS**

ITEM 2. Rescind rules **653—13.10(147,148,272C)** and **653—13.11(147,148,272C)** and renumber rule **653—13.12(17A,147,148,272C)** as **653—13.10(17A,147,148,272C)**.

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

**CHAPTER 18
PRINCIPLES OF MEDICAL ETHICS**

653—18.1(147,148,272C) Principles of medical ethics. The Code of Medical Ethics (2001) prepared and approved by the American Medical Association and the Code of Ethics (2001) prepared and approved by the American Osteopathic Association shall be utilized by the board as guiding principles in the practice of medicine and surgery and the practice of osteopathic medicine and surgery and osteopathy in this state. These principles are intended to aid physicians individually and collectively in maintaining a high level of ethical conduct. They are not laws but standards by which a physician may determine the propriety of conduct in relationship with patients, with colleagues, with members of allied professions, and with the public. The principal objective of the medical profession is to render service to humanity with full respect for dignity. Physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

653—18.2(147,148,272C) American Medical Association Code of Medical Ethics.

18.2(1) A physician should strive continually to improve medical knowledge and skill and should make available to

MEDICAL EXAMINERS BOARD[653](cont'd)

patients and colleagues the benefits of the physician's professional attainments.

18.2(2) A physician should practice a method of healing founded on a scientific basis; and the physician should not voluntarily associate professionally with anyone who violates this principle.

18.2(3) The medical profession should safeguard the public and itself against physicians deficient in moral character or professional competence. Physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

18.2(4) A physician may choose whom the physician will serve. In an emergency, however, the physician should render service to the best of the physician's ability. Having undertaken the case of a patient, the physician may not neglect the patient; and unless the patient has been discharged the physician may discontinue services only after giving adequate notice. The physician should not solicit patients.

18.2(5) A physician should not dispose of the physician's services under terms or conditions which tend to interfere with or impair the free and complete exercise of medical judgment and skill or tend to cause a deterioration of the quality of medical care.

18.2(6) In the practice of medicine a physician should limit the source of professional income to medical services actually rendered by the physician, or under the physician's supervision to the physician's patients. The physician's fee should be commensurate with the services rendered and the patient's ability to pay. The physician should neither pay nor receive a commission for referral of patients. Drugs, remedies or appliances may be dispensed or supplied by the physician provided they are in the best interest of the patient.

18.2(7) A physician should seek consultation upon request, in doubtful or difficult cases, or whenever it appears that the quality of medical service may be enhanced thereby.

18.2(8) A physician may not reveal the confidences entrusted to the physician in the course of medical attendance, or the deficiencies the physician may observe in the character of patients, unless the physician is required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

18.2(9) The honored ideals of the medical profession imply that the responsibilities of the physician extend not only to the individual, but also to society where these responsibilities deserve the physician's interest and participation in activities which have the purpose of improving both the health and well-being of the individual and the community.

653—18.3(147,148,272C) American Osteopathic Association Code of Ethics.

18.3(1) The physician shall keep in confidence whatever the physician may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient.

18.3(2) The physician shall give a candid account of the patient's condition to the patient or to those responsible for the patient's care.

18.3(3) A physician-patient relationship must be founded on mutual trust, cooperation, and respect. The patient, therefore, must have complete freedom to choose a physician. The physician must have complete freedom to choose patients whom the physician will serve. In emergencies, a physician should make the physician's services available.

18.3(4) The physician shall give due notice to the patient or to those responsible for the patient's care when the physician withdraws from a case so that another physician may be summoned.

18.3(5) A physician is never justified in abandoning a patient.

18.3(6) A physician shall practice in accordance with the body of systematized knowledge related to the healing arts and shall avoid professional association with individuals or organizations which do not practice or conduct their affairs in accordance with such knowledge.

18.3(7) A physician shall not be identified in any manner with testimonials for proprietary products or devices advertised or sold directly to the public.

18.3(8) A physician shall not hold forth or indicate possession of any degree recognized as the basis for licensure to practice the healing arts unless the physician is actually licensed on the basis of that degree in the state in which the physician practices.

18.3(9) A physician shall obtain consultation whenever requested to do so by the patient. A physician should not hesitate to seek consultation whenever the physician believes it advisable.

18.3(10) Illegal, unethical or incompetent conduct of physicians shall be revealed to the proper tribunals.

18.3(11) A physician shall not assume treatment of a patient under the care of another physician except in emergencies and only during the time that the attending physician is not available unless requested by the patient.

18.3(12) Any fee charged by a physician shall be reasonable.

18.3(13) A physician shall not pay or receive compensation for referral of patients.

18.3(14) The physician shall cooperate fully in complying with all laws and regulations pertaining to practice of the healing arts and protection of the public health.

653—18.4(17A,147,148,272C) Waiver or variance prohibited. Rules in this chapter are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

These rules are intended to implement Iowa Code sections 17A.9A, 147.55 and 147.76.

ARC 2129B

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 Barber Examiners hereby gives Notice of Intended Action to amend Chapter 21, "Licensure of Barbers"; rescind Chapter 23, "Barber Schools," and adopt new Chapter 23 with the same title; and amend Chapter 26, "Fees," Iowa Administrative Code.

The proposed amendments include the following changes:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Item 1 amends subrule 21.2(1), paragraph "f," by requiring the application to be postmarked at least 20 days prior to the examination.

Items 2 and 3 revise the reinstatement charts in subrules 21.10(6) and 21.11(7) by excluding the examination fee, which was reduced to \$50 on September 25, 2002, and is stated in subrule 26.1(4).

Item 4 updates the requirements for barber schools.

Item 5 rescinds subrule 26.1(8) because a change of location requires submitting a new application.

These rules were revised in accordance with Executive Order Number 8. The Division sent a draft of the proposed amendments to barber schools, the barber association and eight newly licensed barbers. The following comments were received:

- Does manicuring, listed as a course of study requirement, refer to natural nails or to artificial nails? Artificial nails sometimes may not be part of the school's curriculum.
- Students should be required to keep their own area clean and sanitary during school hours.
- Apprenticeship hours earned in a barbershop should not count toward the 2,100 hours of course of study. All students should be held to the same standards.

ITEM 2. Amend subrule 21.10(6) as follows:

21.10(6) Reinstatement of inactive license. The following chart illustrates the requirements for reinstatement based on the length of time a license has been considered inactive.

An applicant shall satisfy the following requirements:	1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement to the board	Required	Required	Required
Pay the reinstatement fee	\$50	\$50	\$50
Pay the renewal fee	\$50	\$50	\$50
Submit license verification(s) from every state in which the licensee has practiced since obtaining inactive status	Required	Required	Required
Furnish evidence of completion of approved continuing education hours completed within the prior two bienniums of date of application for reinstatement	8 hours	16 hours	24 hours
OR			
Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of substantially equivalent continuing education	8 hours	16 hours	24 hours
OR			
Furnish evidence of successful completion of the professional examinations within one year immediately prior to reinstatement (Examination fee is \$75)	Successful completion of examinations	Successful completion of examinations	Successful completion of examinations
Total fees and continuing education hours required for reinstatement:	\$100 and 8 hours	\$100 and 16 hours	\$100 and 24 hours

ITEM 3. Amend subrule 21.11(7) as follows:

21.11(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 or more renewals
Submit written application for reinstatement	Required	Required	Required	Required
Pay the renewal fee(s)	\$50	\$100	\$150	\$200
Pay the late fee	\$50	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50	\$50

Any interested person may make written comments on the proposed amendments no later than December 19, 2002, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

A public hearing will be held on December 19, 2002, 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 section 147.7 and chapters 158 and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule **21.2(1)**, paragraph "f," as follows:

f. An application for barber examination must be filed with the board postmarked at least 30 20 days preceding prior to the examination.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 renewals	4 or more renewals
Furnish verification of license(s) from every state in which the licensee has practiced since the Iowa license lapsed	Required	Required	Required	Required
Furnish evidence of completion of continuing education during the two most recent bienniums prior to reinstatement	8 hours	16 hours	24 hours	24 hours
OR Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of substantially equivalent continuing education	8 hours	16 hours	24 hours	24 hours
OR/AND Take the professional license examinations within one year immediately prior to reinstatement (Examination fee is \$75)	OR Successful completion of examinations	OR Successful completion of examinations	OR Successful completion of examinations	AND Successful completion of examinations required
Total fees and continuing education hours required for reinstatement:	\$150 and 8 hours	\$200 and 16 hours	\$250 and 24 hours	\$375 300 and 24 hours and successful completion of examinations

ITEM 4. Rescind 645—Chapter 23 and adopt the following **new** chapter in lieu thereof:

**CHAPTER 23
BARBER SCHOOLS**

645—23.1(158) Definitions.

"Clinic area" means the area of the school where the paying customers will receive services.

"Lapsed license" means a school license that has not been renewed as required or the license of a school that has failed to meet stated obligations for renewal within a stated time.

"School" means a school of barbering.

"School license" means a license to instruct students in barbering.

645—23.2(158) Licensing for barber schools. The board shall grant approval for the issuance of an original barber school license to be issued by the department when the following conditions have been met:

23.2(1) An application shall be submitted to the Board of Barber Examiners, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The following information shall be submitted with the application:

- a. The exact location of the proposed barber school;
- b. A copy of the essential parts of the lease or other documents to provide proof that the owner of the school has occupancy rights for a minimum of one year;
- c. A sworn affidavit that proves the existence of sufficient finances to acquire the facilities and equipment required by the board and to operate the proposed barber school for a minimum of one year; and
- d. A complete plan of the physical facilities and an explanation detailing how the facilities will be utilized relative to the number of students and to the classroom and clinic space.

23.2(2) The applicant for a barber school license may be interviewed by the board before the original license will be issued.

23.2(3) No barber school shall be approved by the board of barber examiners unless it complies with the course of study requirements in rule 645—23.7(158).

23.2(4) The barber school shall be inspected prior to the issuance of the school license and shall meet the requirements of this chapter and 645—Chapter 22.

23.2(5) The barber school shall not accept students until the school is licensed.

23.2(6) The original license shall be granted for the location(s) identified in the school's application.

a. A change of location shall require submission of an application for a new school license and payment of the license fee.

b. A change of address without change of actual location shall not be construed as a new site.

23.2(7) A barber school license is not transferable. A change in ownership of a school shall require the issuance of a new license. Change in ownership shall be defined as any change of controlling interest in any corporation or any change of name of sole proprietorship or partnership. The board may request legal proof of ownership transfer.

23.2(8) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records will be maintained after two years only if the applicant submits a written request to the board.

23.2(9) A barber school that is issued an initial license within six months prior to the renewal date shall not be required to renew the license until the renewal month one year later.

645—23.3(158) School license renewal.

23.3(1) The annual license renewal period for a barber school license shall begin on July 1 and end on June 30 one year later.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

23.3(2) A renewal of license application shall be mailed to the school at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the school of the obligation to pay the annual renewal fee on or before the renewal date.

a. The barber school renewal application and renewal fee shall be submitted to the board office before the license expiration date.

b. Barber schools shall be in full compliance with this chapter and 645—Chapter 22 to be eligible for renewal. When all requirements for license renewal are met, the barber school shall be sent a license renewal card by regular mail.

23.3(3) Late renewal. If the renewal fee and renewal application are received within 30 days after the license expiration date, the late fee for failure to renew before expiration shall be charged.

645—23.4(272C) Lapsed school license.

23.4(1) If the renewal fee is received more than 30 days after the license expiration date, the school license is lapsed. To reinstate the school license, the reinstatement fee, renewal fee for each year the license is lapsed and the late fee shall be submitted to the board.

23.4(2) After the reinstatement of a lapsed license, the barber school shall renew at the next scheduled renewal date.

23.4(3) A barber school that has not renewed the school license within the required time frame will have a lapsed license and shall not provide schooling or services until the license is reinstated.

645—23.5(158) Physical requirements for barber schools. Each licensed barber school shall provide:

1. A clinic area where paying customers will receive services. The clinic area shall be confined to the premises occupied by the school.

2. A school that is large enough and equipped to provide room(s) separate from the clinic area for lectures and demonstration purposes.

3. A library for students that contains textbooks, videos, current trade publications and business management materials. The contents of the library shall be current within the previous ten years and shall cover the topics necessary for the student to master the skill of barbering.

4. An administrative office.

5. If a school has a laundry room, it must be separated from the clinic area by a full wall or partition.

6. Closed cabinets or a separate room for storing extra supplies.

645—23.6(158) Minimum equipment requirement. Each barber school shall have, at a minimum, the following equipment:

1. The clinic area shall hold a minimum of ten workstations equipped for practice on the general public. Each workstation shall include one chair and backbar. The backbar will provide a cabinet for immediate linen supply and individual sterilizers for each workstation. There shall be no more than two students enrolled for each workstation.

2. Sinks shall be located in the clinic area and readily accessible for students to use.

3. Each classroom shall include a large chalkboard or equivalent.

4. One classroom shall include charts showing illustrations of the skin, circulation of the blood, muscles and bones of the face, scalp, and neck.

5. One set of textbooks shall be available for each student and instructor.

6. One large bulletin board shall be conspicuously located for posting rules, notices, and similar bulletins.

7. One set of files shall be maintained for all required records.

8. Electric equipment shall include the following: one high-frequency electrode, one twin vibrator, one heat cap, one infrared lamp and one ultraviolet lamp.

9. One automatic lather mixer shall be available for every ten chairs.

10. Bottles and containers shall be distinctly and correctly labeled to show intended use of the contents.

11. Covered waste containers shall be located in the clinic area.

645—23.7(158) Course of study requirements. Each Iowa barber school licensed by the board of barber examiners shall conduct a course of study of at least 2,100 hours to be equally divided over a period of not less than ten months. The course of study shall include the following:

23.7(1) Supervised practical instruction totaling 1,675 hours shall include:

Scalp care and shampooing

Honing and stropping

Shaving

Facials, massage and packs

Science of hair structure

Haircutting

Hair tonics

Hair relaxing

Hair coloring and hair body processing

Hair styling

Manicuring

Artificial nails (all aspects)

23.7(2) Demonstrations and lectures totaling 380 hours shall include:

Law, ethics, economics, equipment, shop management and history of barbering

Sanitation, sterilization, personal hygiene and first aid

Bacteriology

Anatomy

Skin, scalp, and hair and their common disorders

Electricity, as applied to barbering

Chemistry and pharmacology

Scalp care

Honing and stropping

Shaving

Facials, massage and packs

Hair relaxing

Science of hair structure

Haircutting

Hair tonics

Instruments, soaps, shampoos, creams, lotions and tonics

Nails

23.7(3) Special lectures totaling 45 hours must include lectures by a qualified person in the following areas: tax consulting, advertising, insurance, business management, salesmanship and barbering.

645—23.8(158) Instructors.

23.8(1) All instructors in a barber school shall be licensed by the department.

23.8(2) The number of instructors for each barber school shall be based upon total enrollment, with a minimum of 2 instructors employed on a full-time basis for up to 30 students and 1 additional instructor for each additional 15 students or fraction thereof.

23.8(3) An instructor shall:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- a. Be responsible for and in direct charge of all theory and practical classrooms and clinics at all times;
- b. Familiarize students with the different standard supplies and equipment used in barbershops;
- c. Work on clients only when instructing or otherwise assisting students in the school;
- d. Carefully grade and return to students all examinations and other written papers;
- e. Be attired in distinct and identifiable attire.

645—23.9(158) Students.

23.9(1) Before a student is obligated to pay the school, the barber school shall inform the student of the disclosure requirements found in Iowa Code section 714.25.

23.9(2) No one connected with a barber school shall guarantee occupational positions to students or guarantee financial aid in equipping a shop.

23.9(3) Students shall:

- a. Be attired in clean and neat uniforms at all times during school hours.
- b. Not be compensated by the school for services performed on clients.
- c. Not be required to perform janitorial services for the school, but may be required to keep their own areas clean and sanitary during school hours. If a student chooses to provide janitorial services, the hours shall not count toward the total course hours.
- d. Receive no credit for decorating for marketing and merchandising that relates to the promotion of barber school services or for recruiting students.
- e. Receive no credit for participating in demonstrations of barbering for the sole purpose of recruiting students.
- f. Be provided regularly scheduled breaks and a minimum of 30 minutes for lunch.

645—23.10(158) Attendance requirements.

23.10(1) A barber school shall have a written, published attendance policy.

23.10(2) The barber school shall establish regular school hours. No student shall be required to attend more than nine hours on any given school day.

23.10(3) Each student shall receive a minimum of eight hours of classroom instruction per week. Classroom instruction shall include lectures, individual instruction and written examinations.

23.10(4) Student attendance policies shall be applied uniformly and fairly.

23.10(5) Accurate and appropriate credit shall be given for all hours earned.

23.10(6) Students shall earn all hours credited to their total course hours and shall not have hours deducted as a penalty.

645—23.11(158) Graduate of a barber school.

23.11(1) To be considered a graduate, a student shall:

- a. Complete the required course and meet the minimum attendance standard.
- b. Complete the practical and theoretical curriculum requirements set forth by the school.
- c. Pass a final examination upon completion of the course of study.

23.11(2) Students who have met all requirements for graduation shall be issued a certificate of completion of hours or a diploma.

645—23.12(147) Records requirements. Each school shall keep a daily class record of each student, showing the hours devoted to the respective subjects, time devoted by a student

to each subject, the total number of hours in attendance, and days present and absent. These records shall be subject to inspection by the board of barber examiners or a representative of the board and shall be retained for two years after the graduation date.

645—23.13(158) Public notice. A sign shall be clearly displayed in the entrance of the school that indicates in prominent lettering that students perform all services under the supervision of instructors.

645—23.14(158) Apprenticeship. Apprenticeship hours earned in another state may be applied toward the required 2,100 hours of course of study prescribed by Iowa Code section 158.8 at a ratio of 1 hour of credit for each 4 hours of registered apprenticeship completed in the state in which the applicant is licensed or registered as an apprentice.

These rules are intended to implement Iowa Code chapter 158 and section 714.25.

ITEM 5. Rescind and reserve subrule 26.1(8).

ARC 2136B

PUBLIC HEALTH DEPARTMENT[641]

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 691.6, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 126, “State Medical Examiner,” Iowa Administrative Code.

The purpose of this amendment is to be consistent with and reflect changes to the Code of Iowa, establish an hourly fee for time spent on court cases, as well as increase the cost of an autopsy performed by the Department.

Any interested person may make written comments or suggestions on the proposed amendment on or before December 17, 2002. Written comments should be directed to Sherry L. Frizell, Program Administrator, Office of the State Medical Examiner, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, Des Moines, Iowa 50319-0075. Comments may also be sent via E-mail to sfrizell@idph.state.ia.us.

There will be a public hearing on December 17, 2002, from 2 to 3:30 p.m. in the Lucas State Office Building, Room 513, at which time persons may present their comments 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 plans to attend the public hearing and has special requirements such as hearing or mobility impairments should contact the Department of Public Health and advise of specific needs.

The Department has determined this amendment is not subject to waiver or variance.

This amendment is intended to implement Iowa Code chapter 22 as amended by 2002 Iowa Acts, House File 2453, and chapters 331 and 691.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The following amendment is proposed.

Amend rule 641—126.3(691) as follows:

641—126.3(691) Fees for autopsies and related services and reimbursement for related expenses. Autopsies performed by the state medical examiner division are provided on a fee-for-service basis. Costs of autopsies and related services and expenses are the responsibility of the county of residence ~~appointment of the deceased when requested by a public agency and of the person requesting the autopsy when the request is made by a private party.~~ *The county of residence of the deceased shall reimburse the county of appointment. The estate of the deceased shall be responsible for payment of these fees and expenses when the request for an autopsy is made by the executor of the estate on behalf of the estate.*

126.3(1) Fee schedule. The following fees shall apply to autopsies conducted by the state medical examiner division:

Autopsy \$1000 \$1200
Copies of reports \$20

EXCEPTIONS: A copy of the autopsy report is included in the autopsy fee. A single copy of an autopsy report may be provided to a ~~family member~~ *the immediate next of kin* of the deceased without fee. Copies of autopsy reports may be provided to public officials *and physicians of record* for official purposes without fee.

State, deputy, or associate medical examiner(s) time for all court cases \$350 per hour with a one-hour minimum

This fee is for time spent reviewing case materials, preparing for deposition or court, testifying in deposition or court, and travel time.

126.3(2) Expense reimbursement. Other laboratory services associated with an autopsy, which shall include, but not be limited to, photography, toxicology, radiology, microbiology, and morgue fees, shall be billed by the department to the county of residence ~~appointment of the deceased or to the private individual requesting the autopsy at the cost to the department of the service.~~ Moneys collected pursuant to this subrule shall be paid by the department to the laboratory or other entity providing the service.

126.3(3) No change.

This rule is intended to implement Iowa Code section 691.6.

ARC 2137B

PUBLIC HEALTH
DEPARTMENT[641]

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 691.6, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 127, “County Medical Examiners,” Iowa Administrative Code.

The purpose of these amendments is to reflect changes to the Code of Iowa, indicate which deaths must be autopsied

by the state medical examiner’s office, indicate which deaths require an autopsy, and add types of deaths for which an autopsy is recommended.

Any interested person may make written comments or suggestions on the proposed amendments on or before December 17, 2002. Written comments should be directed to Sherry L. Frizell, Program Administrator, Office of the State Medical Examiner, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, Des Moines, Iowa 50319-0075. Comments may also be sent via E-mail to sfrizell@idph.state.ia.us.

There will be a public hearing on December 17, 2002, from 2 to 3:30 p.m. in the Lucas State Office Building, Room 513, at which time persons may present their comments either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

The Department has determined these amendments are not subject to waiver or variance.

These amendments are intended to implement Iowa Code chapters 331 and 691 and 2002 Iowa Acts, House File 2453.

The following amendments are proposed.

ITEM 1. Amend rule 641—127.3(331,691) as follows:

641—127.3(331,691) Autopsies.

127.3(1) Autopsy required. A county medical examiner shall perform an autopsy or order that an autopsy be performed in the following cases:

- a. to d. No change.
- e. *All work- and farm-related deaths unless there is an obvious natural cause of death.*
- f. *All drowning deaths.*
- g. *All deaths of commercial vehicle drivers that occur during the performance of their job duties.*
- h. *Deaths due to poisoning.*
- i. *Deaths of airplane pilots who die as a result of an airplane crash. The National Transportation Safety Board and the Federal Aviation Administration should be contacted prior to the autopsy to request specimen kit(s).*
- j. *Deaths due to a natural disaster, including tornadoes and floods.*

127.3(2) Autopsy recommended. ~~A~~ *It is recommended that a county medical examiner should perform an autopsy or order that an autopsy be performed in the following cases:*

- a. and b. No change.
- c. ~~Drowning deaths.~~
- d c. ~~Deaths in a prison, jail, or correctional institution, or mental health institute, or under police custody, where there is not a natural disease process which accounts for the death.~~
- e d. ~~Deaths from suicide.~~
- f e. ~~All pedestrian, bicyclist bicycle, motorcycle, snowmobile, boating, watercraft, three- or four- wheeler or all-terrain vehicle fatalities.~~
- g f. ~~Deaths due to failure of a consumer product.~~
- h g. ~~Deaths due to a possible public health hazard.~~
- i h. ~~Deaths due to drug or alcohol abuse or overdose.~~
- j. ~~Deaths due to poisoning.~~
- k. ~~Deaths of airplane pilots who die as a result of an airplane crash. The National Transportation Safety Board and the Federal Aviation Administration should be contacted prior to the autopsy to request specimen kit(s).~~
- l i. ~~Electrical- and lightning-related deaths.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~m j. Deaths from burns or smoke or soot inhalation.~~
~~n. Deaths due to a natural disaster, including tornadoes and floods.~~

~~o. All farm and work related deaths unless there is an obvious natural cause of death.~~

~~p k. All deaths related to exposure, such as hypothermia and hyperthermia.~~

q l. All sport-related deaths, including *but not limited to* deaths from auto racing and deaths resulting from injuries sustained in football, basketball, *baseball, softball*, soccer, or other games or sports.

127.3(3) No change.

127.3(4) Performance of autopsy.

a. No change.

b. Who may perform. An autopsy shall be performed by a pathologist trained or with experience in forensic pathology, licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa and board-certified by the American Board of Pathology, or under the direct supervision of a physician with these qualifications. If an autopsy is performed by a physician who does not satisfy these criteria and who is not performing under the direct supervision of a physician who satisfies these criteria, the physician shall submit a supplemental report with the Permit by Medical Examiner for Autopsy, Form ME-3, which details the specific training, education, and experience which qualify the physician to perform an autopsy. *The following cases/types of deaths shall be transported to the office of the state medical examiner for autopsy unless otherwise approved by the state medical examiner:*

(1) *Death of an individual who is 17 years of age or younger and the circumstances of the death are suspicious of homicide.*

(2) *Reserved.*

c. No change.

127.3(5) and 127.3(6) No change.

ITEM 2. Amend subrule 127.5(1) as follows:

127.5(1) Completion. The funeral director to whom the body is released shall complete the personal data on the death certificate. The medical examiner shall complete the manner of death and cause of death sections of the death certificate within ~~24 hours after taking charge of the case~~ *72 hours after determination of the cause of death*. If an autopsy is performed by the state medical examiner, the death certificate shall be submitted to the state medical examiner's office for completion. All information included on the certificate shall be typewritten.

ARC 2142B

PUBLIC SAFETY
DEPARTMENT[661]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner hereby gives Notice of Intended Action to amend Chapter 16, "State of Iowa Building

Code," Iowa Administrative Code, with the approval of the Building Code Advisory Council.

Iowa Code section 103A.7, subsection 5, provides that the State of Iowa Building Code should include provisions for "The accessibility and use by persons with disabilities and elderly persons, of buildings, structures and facilities which are constructed and intended for use by the general public. The rules shall be consistent with federal standards for building accessibility and shall only apply to those buildings, structures, and facilities subject to chapter 104A." Iowa Code section 104A.2 specifies that the accessibility provisions of the building code "shall apply to all public and private buildings and facilities, temporary and permanent, used by the general public," with the following exception: "... this chapter shall not apply to a building, or to structures or facilities within the building, if the primary use of the building is to serve as a place of worship." The proposed amendments would replace most of Iowa's current rules regarding accessibility of buildings with provisions from the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG). This approach is consistent with the intent expressed in Iowa Code section 103A.7, subsection 5.

The areas in which the proposed rules differ from ADAAG include requirements for accessibility of apartments, which are not covered by ADAAG, but by the federal Fair Housing Act. Current Iowa administrative rule 661—16.706(103A), which covers accessibility of apartments, is proposed to be retained, although it is renumbered as 661—16.720(103A,104A). Current accessibility requirements regarding stairs are being retained in proposed rule 661—16.704(103A,104A). A provision of Iowa's current rules requiring that access aisles in restaurants be 40 inches wide, rather than the 36 inches required by ADAAG, is retained in proposed rule 661—16.705(103A,104A). Finally, current requirements in force in Iowa that all patient rooms and toilets in health care facilities and hospitals be accessible is retained in proposed rule 661—16.706(103A,104A).

A public hearing regarding these amendments will be held on December 17, 2002, at 1:30 p.m., in the Third Floor Conference Room, Wallace State Office Building, East 9th and Grand, Des Moines, Iowa. Participation in the public hearing will also be possible over the ICN at two remote sites: the Council Bluffs Public Library, 400 Willow Avenue, Council Bluffs, Iowa, and the Cedar Rapids Public Library, 500 1st Street SE, Cedar Rapids, Iowa.

Persons may present their views concerning these amendments at the public hearing either orally or in writing. Persons who wish to make oral presentations at the hearing should contact the Building Code Bureau, Fire Marshal Division, Department of Public Safety, 621 East 2nd Street, Des Moines, Iowa 50309; or by telephone at (515)281-5132 at least one day prior to the hearing.

Any interested persons may make oral or written comments concerning these proposed amendments to the Building Code Bureau by mail, telephone, or in person at the above address at least one day prior to the public hearing. Comments may also be submitted by electronic mail via the Internet to admrule@dps.state.ia.us at least one day prior to the public hearing.

These amendments are intended to implement Iowa Code section 103A.7, subsection 5, and Iowa Code chapter 104A.

The following amendments are proposed.

ITEM 1. Amend rule 661—16.700(103A) as follows:

661—16.700(103A,104A) Accessibility rules and regulations for the physically handicapped. Purpose and scope.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

16.700(1) Purpose. ~~These rules and regulations Rules 661—16.700(103A,104A) through 661—16.720(103A,104A) are intended to make all ensure that buildings and facilities used by the public are accessible to, and functional for, the physically handicapped persons with disabilities, to, through, and within their doors, without loss of function, space, or facility where the general public is concerned. These rules and regulations shall constitute obligatory provisions within any governmental subdivision in Iowa, as mandated by Iowa Code chapter 104A, and specifically section 103A.19 which prescribes the responsibility of governmental subdivisions for the enforcement of these accessibility standards. Rules 661—16.700(103A,104A) through 661—16.720(103A,104A) apply statewide to new construction and to renovation and rehabilitation projects on existing buildings and facilities when local or state building codes require compliance with standards for new construction.~~

16.700(2) Scope. ~~These rules and regulations are applicable to all buildings and facilities, temporary or permanent, and their site facilities, including streets used by the general public. These provisions shall apply to multiple dwelling unit buildings containing four or more individual dwelling units. Rehabilitation and renovation projects shall be made to comply with these rules whenever the projects are required by local building code or the state building code to meet requirements of new construction. All public and private buildings and facilities, temporary and permanent, used by the general public, whether new or existing, shall provide parking spaces for the handicapped as provided in subrule 16.704(5).~~

NOTE: See 661—16.706(103A) rule 661—16.720(103A,104A) for specific requirements within the individual dwelling units and public and common use spaces of multiple-dwelling unit buildings.

ITEM 2. Rescind rule 661—16.701(103A) and adopt in lieu thereof the following new rule:

661—16.701(103A,104A) Definitions. The following definitions are adopted for purposes of rules 661—16.700(103A,104A) through 661—16.720(103A,104A).

NOTE: Many of these definitions have been taken from or adapted from ADAAG.

“Access aisle” means an accessible pedestrian space between elements, such as parking spaces, seating, and desks, which provides clearances appropriate for use of the elements.

“Accessible” describes a site, building, facility, or portion thereof that complies with rules 661—16.700(103A,104A) through 661—16.720(103A,104A).

“Accessible element” means an element specified by and which complies with rules 661—16.700(103A,104A) through 661—16.720(103A,104A).

“Accessible route” means a continuous unobstructed path connecting all accessible elements and spaces of a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts.

“Accessible space” means space that complies with rules 661—16.700(103A,104A) through 661—16.720(103A,104A).

“ADA” means the federal Americans with Disabilities Act, Public Law 101-336.

“ADAAG” means Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, 28 CFR Part 36, Appendix A, as revised through August 30, 2002.

“Adaptability” means the ability of certain building spaces and elements, such as kitchen counters, sinks, and grab bars, to be added or altered so as to accommodate the needs of individuals with or without disabilities or to accommodate the needs of persons with different types or degrees of disability.

“Addition” means an expansion, extension, or increase in the gross floor area of a building or facility.

“Administrative authority” means the governmental agency that adopts or enforces regulations and guidelines for the design, construction, or alteration of buildings and facilities.

“Alteration” means a change to a building or facility that affects or could affect the useability of the building or facility or part thereof. Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, resurfacing of circulation paths or vehicular ways, changes in or rearrangement of the structural parts of elements, and changes in or rearrangement of the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, or changes to mechanical and electrical systems, are not alterations unless they affect the useability of the building or facility.

“Area of rescue assistance” means an area, which has direct access to an exit, where people who are unable to use stairs may remain temporarily in safety to await further instructions or assistance during emergency evacuation.

“Assembly area” means a room or space accommodating a group of individuals for recreational, educational, political, social, civic, or amusement purposes, or for the consumption of food and drink.

“Automatic door” means a door equipped with a power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat, or manual switch. See “power-assisted door.”

“Building” means any structure used and intended for supporting or sheltering any use or occupancy.

“Circulation path” means an exterior or interior way of passage from one place to another for pedestrians including, but not limited to, walks, hallways, courtyards, stairways, and stair landings.

“Clear” means unobstructed.

“Clear floor space” means the minimum unobstructed floor or ground space required to accommodate a single, stationary wheelchair and occupant.

“Closed circuit telephone” means a telephone with dedicated line(s) such as a house telephone, courtesy telephone or telephone that must be used to gain entrance to a facility.

“Common use” refers to those interior and exterior rooms, spaces, or elements that are made available for the use of a restricted group of people (for example, occupants of a homeless shelter, the occupants of an office building, or the guests of such occupants).

“Cross slope” means the slope that is perpendicular to the direction of travel. See “running slope.”

“Curb ramp” means a short ramp cutting through a curb or built up to it.

“Detectable warning” means a standardized surface feature built in or applied to walking surfaces or other elements to warn visually impaired people of hazards on a circular path.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

"Educational occupancy" means any building primarily used to deliver instruction in a classroom setting to students enrolled in primary or secondary schools or postsecondary institutions.

"Egress, means of" refers to a continuous and unobstructed way of exit travel from any point in a building or facility to a public way. A means of egress comprises vertical and horizontal travel and may include intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, horizontal exits, courts and yards. An accessible means of egress is one that complies with rules 661—16.700(103A,104A) through 661—16.720(103A,104A) and does not include stairs, steps, or escalators. Areas of rescue assistance or evacuation elevators may be included as part of accessible means of egress.

"Element" means an architectural or mechanical component of a building, facility, space, or site. Examples of elements include, but are not limited to telephones, curb ramps, doors, drinking fountains, seating, or water closets.

"Entrance" means any access point to a building or portion of a building or facility used for the purpose of entering. An entrance includes the approach walk, the vertical access leading to the entrance platform, the entrance platform itself, vestibules if provided, the entry door(s) or gate(s), and the hardware of the entry door(s) or gate(s).

"Equivalent facilitation" means the use of alternative designs and technologies which provide for substantially greater or equivalent access to and useability of a facility than is provided by technologies and designs which comply with the requirements of rules 661—16.700(103A,104A) through 661—16.720(103A,104A). Departures from particular technical and scoping requirements of rules 661—16.700(103A,104A) through 661—16.720(103A,104A) are permitted where the alternative designs and technologies used will provide equivalent facilitation.

"Facility" means all or any portion of buildings, structures, site improvements, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property located on a site.

"Government facility" means a structure accessible to the public which is owned or used by the state of Iowa or a political subdivision.

"Ground floor" means any occupiable floor less than one story above or below grade with direct access to grade. A building or facility always has at least one ground floor and may have more than one ground floor as where a split level entrance has been provided or where a building is built into a hillside.

"Marked crossing" means a crosswalk or other identified path intended for use by pedestrians in crossing a vehicular way.

"Mezzanine" or "mezzanine floor" means that portion of a story which is an intermediate floor level placed within the story and having occupiable space above and below its floor.

"Multifamily dwelling" means any building containing more than four dwelling units. Rule 661—16.720(103A,104A) establishes accessibility requirements for multifamily dwellings of four or more units.

"Occupiable" describes a room or enclosed space designed for human occupancy in which individuals congregate for amusement, educational or similar purposes, or in which occupants are engaged at labor, and which is equipped with means of egress, light, and ventilation.

"Operable part" means a part of a piece of equipment or appliance used to insert or withdraw objects, or to activate,

deactivate, or adjust the equipment or appliance (for example, coin slot, pushbutton, handle).

"Power-assisted door" means a door used for human passage with a mechanism that helps to open the door, or relieves the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself.

"Private facility" means a place of public accommodation or commercial facility which is not owned or used by the state of Iowa or a political subdivision and which is subject to Title III of the ADA and 28 CFR Part 36 or which is a transportation facility subject to Title III of the ADA and 49 CFR 37.45.

"Public facility" means a facility or portion of a facility constructed by, on behalf of, or for the use of a public entity subject to Title II of the ADA and 28 CFR Part 35 or to Title II of the ADA and to either 49 CFR 37.41 or 49 CFR 37.43.

"Public use" describes interior or exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.

"Ramp" means a walking surface which has a running slope greater than 1:20.

"Running slope" means the slope that is parallel to the direction of travel. See "cross slope."

"Service entrance" means an entrance intended primarily for delivery of goods or services.

"Signage" means displayed verbal, symbolic, tactile, and pictorial information.

"Site" means a parcel of land bounded by a property line or a designated portion of a public right-of-way.

"Site improvement" means landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and the like, added to a site.

"Sleeping accommodations" means rooms whose primary use is for people to sleep including, but not limited to, dormitory and hotel or motel guest rooms or suites.

"Space" means an identifiable area. Examples of spaces include, but are not limited to, rooms, toilet rooms, halls, assembly areas, entrances, storage rooms, alcoves, courtyards, and lobbies.

"Story" means that portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above. If such portion of a building does not include occupiable space, it is not considered a story for purposes of rules 661—16.700(103A,104A) through 661—16.720(103A,104A). There may be more than one floor level within a story as in the case of a mezzanine or mezzanines.

"Structural frame" means columns and the girders, beams, trusses and spandrels having direct connections to the columns and all other members which are essential to the stability of the building as a whole.

"Tactile" describes an object that can be perceived using the sense of touch.

"TDD" means a telecommunication device for the deaf. See "text telephone (TTT)."

"Technically infeasible" means, with respect to an alteration of a building or a facility, that the alteration has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member which is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

"Text telephone (TTY)" means machinery or equipment that employs interactive text-based communications through the transmission of coded signals across the standard telephone network. Text telephones include devices known as TDDs (telecommunication display devices or telecommunication devices for deaf persons) or computers with special modems. Text telephones are also called TTYs, an abbreviation for teletypewriter.

"Transient lodging" means a building, facility, or portion thereof, excluding inpatient medical care facilities and residential facilities, that contains sleeping accommodations. Transient lodging may include, but is not limited to, resorts, group homes, hotels, motels, and dormitories.

"Vehicular way" means a route intended for vehicular traffic, such as a street, driveway, or parking lot.

"Walk" means an exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts.

ITEM 3. Rescind rule 661—16.702(103A) and adopt in lieu thereof the following **new** rule:

661—16.702(103A,104A) Plan review procedures. Prior to the commencement of construction of a facility which is required to comply with rules 661—16.700(103A,104A) through 661—16.720(103A,104A), the owner of the property, or a contractor or architect acting on behalf of the owner of the property, shall submit an application for approval of the construction plans. The application shall be of a form required by the building code commissioner and shall be submitted to the local building authority, if there is one. If there is no local building authority, the application shall be submitted to the building code bureau. The application shall be accompanied by a copy of the construction plans and payment of the applicable fee.

ITEM 4. Rescind rule **661—16.703(103A)**.

ITEM 5. Amend rule 661—16.704(103A) as follows:

661—16.704(103A) 661—16.703(103A,104A) Site development.

16.704(1) 16.703(1) Development. Proper attention to site development in the early stages in design is the most practical and economical way of making a site accessible and providing accessible entrances to buildings. The siting of facilities, grading, parking, and the routes of walks shall provide convenience, safety and unrestricted circulation of ~~handicapped people~~ *persons with disabilities* and their vehicles.

16.704(2) 16.703(2) Grading. The site shall be graded, even contrary to existing topography, so that it attains a level with all primary ~~entrance/entrances~~, making the building or facility accessible to persons with physical disabilities.

16.704(3) Exterior circulation routes. ~~At least one path of travel from each site access point to the principal entrances of buildings shall have no steps. This route should be the most direct route. If it is not the most direct route, this path should be no more than 100 feet of horizontal distance longer than the most direct route. Level routes or those with lower than the maximum allowable slope are preferable to more direct routes at maximum allowable slope or with ramps.~~

~~The most direct exterior path of travel between parking spaces planned for disabled drivers and the nearest accessible entrances to a building served by those spaces should be no longer than 200 feet of horizontal distance when walks have a slope less than 1:30 along their entire distance and no greater than 100 feet of horizontal distance when any part of the route has a slope greater than 1:30 or includes a ramp. Where~~

~~applicable, protection against collection of snow and ice should be provided along such routes. The only accessible path of travel shall not lead to a service entry of a building or facility.~~

~~NOTE: Moving walkways in the path of travel shall not be counted in calculating length of travel.~~

16.704(4) Walks. Walks shall be designed to allow free passage to site facilities and adjacent streets, to allow passing of individuals using the walk and to eliminate hazards.

The minimum clear width of a walk shall be 48 inches if a person in a wheelchair must make a turn around an obstruction, the minimum clear width of the accessible route shall be as shown in Figure 1. If a walk has two-way flow, there shall be places at least 60 inches by 60 inches to allow for two wheelchairs to pass at appropriate intervals. The interval used shall be based on the slope of the walk, overall length of the walk, visibility ahead, the nature of adjacent ground surfaces and the purpose for which the walk is used. All permanent street furniture serving walks shall be located along the sides of the walk, allowing a consistent edge and clear travel area for pedestrians.

Gratings should not be located in walks. If absolutely necessary, gratings in walks shall have spaces no greater than 1/2 inch wide. Surfaces shall be stable, firm and relatively slip resistant. The maximum height of surface changes shall be 1/4 inch.

Walks shall have a maximum slope of 1:50 for at least 48 inches in front of accessible entrances. Walks outside of street rights-of-way which are part of an accessible route shall have a slope no greater than 1:20 along their entire distance. Any portion of a walk having a slope greater than 1:20 is a ramp and such portion shall be constructed as required by 661—subrule 5.705(1). Where they serve accessible building entrances, walks shall not be crowned. The cross slope of walks shall be no greater than 1:50.

Any sloped surface which is part of an accessible route shall have landings with no slope in the direction of travel at intervals no greater than 125 feet or when a rise of 30 inches has been attained whichever is first. (Surface may be crowned for water drainage.)

Wherever walks are intersected by other walks, driveways, parking lots or streets, at least some portion of the walk shall be at or blend to a common level. Methods used to accomplish this shall not restrict storm drainage along street edges nor interfere with snow removal.

16.703(3) Accessible routes. ADAAG, section 4.3, is adopted as the requirements for accessible routes in and around facilities required to comply with rules 661—16.700(103A,104A) through 661—16.720(103A,104A).

16.704(5) 16.703(4) Parking and passenger loading zones. Parking spaces, parking lots and passenger loading zones shall comply with 661—Chapter 18.

ITEM 6. Adopt the following **new** rule:

661—16.704(103A,104A) Building elements and spaces accessible to the physically handicapped. ADAAG, chapter 4, is adopted as the requirements for accessible building elements and spaces for buildings and facilities required to comply with rules 661—16.700(103A,104A) through 661—16.720(103A,104A), with the following amendments:

Delete section 4.3.

NOTE: ADAAG, section 4.3, is adopted in subrule 16.703(3).

Rescind section 4.9 and insert in lieu thereof the following:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

4.9 Stairs. Stairs that are required as a means of egress and stairs that are part of an accessible route shall conform to the construction for stairs in the Iowa state building code or other applicable codes with the following additional requirements:

4.9.1 Nosings. Steps in stairs that might require use by persons with disabilities and by the aged shall not have abrupt lipped nosing.

4.9.2 Handrails. Stairs shall have handrails on both sides 34 to 38 inches high above the nosing of the treads. The inside handrail on switchback or dogleg stairs shall always be continuous. At least one handrail shall extend at least 12 inches beyond the top step and at least 12 inches plus the width of one tread beyond the bottom step and shall be returned or shall terminate in newel posts or safety terminals. At the bottom, the handrail shall continue to slope for a distance of the width of one tread from the bottom riser; the remainder of the extension shall be horizontal. The diameter or width of the gripping surface of the handrail shall be 1¼ inches to 1½ inches. The clear space between wall and handrail shall be 1½ inches.

4.9.3 Treads and risers. On any given flight of stairs, all steps shall have uniform riser heights and tread depths. Risers shall be a maximum of 7 inches and treads shall be no less than 11 inches in depth measured from riser to riser. EXCEPTION: Section 4.9.3 shall not apply to winding, circular and spiral stairways.

4.9.4 Open risers. Open risers are not permitted on any accessible route.

NOTE: The language of section 4.9 as inserted here is substantially identical to subrule 16.705(5) as it previously read.

Add new section 4.13.13 to read as follows:

4.13.13 Exterior doors. Doors at the primary entrance or entrances at grade level shall have a clear opening of no less than 32 inches when open and shall be operable by a single effort. The floor on the inside and outside of each doorway shall be level for a distance of 5 feet from the door in the direction the door swings and shall extend 1 foot beyond each side of the door. Sharp inclines and abrupt changes in level shall be avoided at door sills. Thresholds, as much as possible, should be flush with the floor.

Delete section 4.34.

ITEM 7. Rescind rule 661—16.705(103A) and adopt in lieu thereof the following new rule:

661—16.705(103A,104A) Restaurants and cafeterias. ADAAG, chapter 5, is adopted as the accessibility requirements for restaurants and cafeterias, with the following amendment:

Amend section 5.3 as follows:

5.3 Access aisles.

All accessible fixed tables shall be accessible by means of an access at least ~~36 in (915 mm)~~ 40 in (1,200 mm) clear between parallel edges of tables or between a wall and the table edges.

ITEM 8. Renumber rule 661—16.706(103A) as rule 661—16.720(103A,104A) and adopt the following new rule 661—16.706(103A,104A):

661—16.706(103A,104A) Medical care facilities. ADAAG, chapter 6, is adopted as the accessibility requirements for medical care facilities which are required to comply with rules 661—16.700(103A,104A) through 661—16.720(103A,104A) with the following amendments:

Amend section 6.1, subsection (1), as follows:

(1) Hospitals—general purpose hospitals, psychiatric facilities, detoxification facilities—~~At least 10 percent of All~~ patient bedrooms and toilets, and all public use and common use areas are required to be designed and constructed to be accessible.

Amend section 6.1, subsection (3), as follows:

(3) Long term care facilities, nursing homes—~~At least 50 percent of All~~ patient bedrooms and toilets, and all public use and common use areas are required to be designed and constructed to be accessible.

ITEM 9. Adopt the following new rules:

661—16.707(103A,104A) Business and mercantile facilities. ADAAG, chapter 7, is adopted as the accessibility requirements for business and mercantile facilities which are required to comply with rules 661—16.700(103A,104A) through 661—16.720(103A,104A).

661—16.708(103A,104A) Libraries. ADAAG, chapter 8, is adopted as the accessibility requirements for libraries which are required to comply with rules 661—16.700(103A,104A) through 661—16.720(103A,104A).

661—16.709(103A,104A) Transient lodging facilities. ADAAG, chapter 9, is adopted as the requirements for accessible transient lodging in facilities which are required to comply with rules 661—16.700(103A,104A) through 661—16.720(103A,104A).

661—16.710(103A,104A) Transportation facilities. ADAAG, chapter 10, is adopted as the accessibility requirements for transportation facilities which are required to comply with rules 661—16.700(103A,104A) through 661—16.720(103A,104A).

ITEM 10. Reserve rules 661—16.711 through 661—16.719.

ARC 2126B

REVENUE AND FINANCE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Iowa Administrative Code.

Iowa Code section 421.7 requires the Director of the Department of Revenue and Finance to determine the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes arising under Title XVI shall be 7 percent for the calendar year 2003 (0.6 percent per month). The Department will also pay interest at the 7 percent rate on refunds.

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

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

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

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 30, 2002, to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before December 27, 2002. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue and Finance, at (515)281-8036 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by December 20, 2002.

This amendment is intended to implement Iowa Code section 421.7.

The following amendment is proposed.

Amend rule 701—10.2(421) by adding the following new subrule:

10.2(22) Calendar year 2003. The interest rate upon all unpaid taxes which are due as of January 1, 2003, will be 7 percent per annum (0.6% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2003. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2003. This interest rate of 7 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2003.

ARC 2127B

STATUS OF WOMEN DIVISION[435]

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 and 216A.54, the Commission on the Status of Women hereby gives Notice of Intended Action to amend Chapter 1, “Description,” Chapter 2, “Duties,” Chapter 3, “Iowa Women’s Hall of Fame,” and Chapter 5, “Iowans in Transition,” Iowa Administrative Code.

The Commission on the Status of Women recommends these amendments as a result of its complete review of administrative rules in accordance with Executive Order Number 8. Each is a clarification of an existing rule.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 17, 2002. Such written materials should be directed to the Administrator, Department of Human Rights, Division on the Status of Women, Lucas State Office Building, Second Floor, Des Moines, Iowa 50319; fax (515)242-6119.

Persons are also invited to present oral or written suggestions or comments at a public hearing which will be held on December 17, 2002, at 8:30 a.m. in Room 208 of the Lucas State Office Building. At the hearing, persons will be asked to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Division on the Status of Women in advance of the hearing and advise of specific needs.

These amendments are intended to implement Iowa Code section 216A.57.

The following amendments are proposed.

ITEM 1. Amend rule 435—1.1(216A), introductory paragraph, as follows:

435—1.1(216A) Composition. The commission on the status of women consists of nine voting members appointed by the governor subject to confirmation by the senate; and five members serving as ex officio nonvoting members: one to be appointed by the speaker of the house from the membership of the house, one to be appointed by the minority leader of the house from the membership of the house, one to be appointed by the majority leader of the senate from the membership of the senate, one to be appointed by the minority leader of the senate from the membership of the senate, and one to be the director of the department of human rights. *Commissioners are appointed to comply with Iowa Code section 69.16 regarding political affiliation and section 69.16A regarding gender balance.*

ITEM 2. Amend rule 435—2.2(216A), introductory paragraph, as follows:

435—2.2(216A) Authority. The administrator carries out the program and policies as determined by the commission. The commission holds hearings, *adopts rules*, enters into contracts, accepts grants, and seeks advice and counsel outside its membership in the performance of its duties which are to:

ITEM 3. Amend **435—Chapter 2** by adding the following new implementation clause:

These rules are intended to implement Iowa Code section 216A.54.

ITEM 4. Amend rule 435—3.1(216A) as follows:

435—3.1(216A) Purpose. The purpose of the Iowa Women’s Hall of Fame shall be to recognize significant achievements of Iowa women and to educate the public by identifying those whose efforts have enhanced and improved the quality of life for women in Iowa, *the community, state, nation or world, or a particular profession or discipline.*

ITEM 5. Rescind rule 435—3.2(216A) and adopt the following new rule in lieu thereof:

435—3.2(216A) Committee. The Iowa Women’s Hall of Fame Committee shall consist of three commissioners, one serving as the committee chair; two public members ap-

STATUS OF WOMEN DIVISION[435](cont'd)

pointed by the committee chair; and the commission chair ex officio.

ITEM 6. Amend rule 435—3.3(216A) as follows:

435—3.3(216A) Selections procedure. The committee shall solicit nominations for the *Iowa Women's Hall of Fame*. The committee shall recommend to the commission for its approval ~~those no more than four~~ individuals to be inducted into the *Iowa Women's Hall of Fame*. The committee shall plan the ceremony and reception each year for the *Iowa Women's Hall of Fame*.

ITEM 7. Amend rule 435—3.4(216A) as follows:

435—3.4(216A) Cristine Wilson Medal for Equality and Justice. The Cristine Wilson Medal for Equality and Justice shall ~~recognize~~ memorialize the efforts and accomplishments of the commission's first chairperson. The medal is awarded on an intermittent basis to persons whose work is deemed outstanding and a significant contribution to Iowa's recognition as a state characterized by equality and justice. The *Iowa Women's Hall of Fame* committee shall ~~seek nominations from the commission and~~ make recommendations to the commission for persons to receive this award.

ITEM 8. Amend **435—Chapter 5**, implementation clause, as follows:

These rules are intended to implement Iowa Code ~~section 216A.52~~ sections 216A.57 and 216A.58.

ARC 2118B

TRANSPORTATION
DEPARTMENT[761]

Notice of Intended Action

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 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 20, "Procurement of Equipment, Materials, Supplies and Services," Iowa Administrative Code.

Amendments to this chapter were identified as a result of reviews conducted in accordance with Executive Order Number 8. Several changes have been made to remove outdated language, increase clarity, and otherwise make minor corrections. More significant changes or clarifications are discussed in the following paragraphs.

The dollar threshold for formal advertising is increased to \$50,000. Limited solicitation of bids is permitted if the purchase is less than \$50,000. The dollar limit for negotiated purchases is increased to \$5,000. A new provision permits a negotiated purchase when the manufacturer is willing to sell directly to the state at distributor cost.

Rule 761—20.4(307) regarding formal advertising procedures and requirements is amended as follows:

1. Occasionally, the Department may use a preliminary proposal process to obtain vendor input before the final request for proposals is issued. This process is amended to indicate that the Department will send the final request for proposals to prospective bidders that participated in the preliminary process, rather than to all prospective bidders.

2. A provision regarding changes and additions to the request for proposals is amended to indicate that the request for a change or an addition must be received by the purchasing office in sufficient time to allow an appropriate analysis and response to all bidders.

3. The time period for the successful bidder to execute the contract and to file a performance bond and certificate of insurance, when required, is reduced from 15 days after contract award to 14 days after contract award to keep responses from weekday to weekday.

4. A provision regarding removal of trade-ins is deleted. Trade-ins should be addressed in individual procurement documents, rather than by rule.

New rule 761—20.5(307) provides procedures for limited solicitation of bids.

Rule 761—20.8(307) regarding negotiated contracts for procurement of architectural, landscape architectural, engineering and related professional and technical services is rewritten. Highlights are as follows:

1. The revised rule requires subconsultants and firms selected using sole source or emergency procedures to be prequalified.

2. An on-line computer system is now used for prequalification. Firms wishing to prequalify are encouraged to use this system.

3. The selection procedures are modified to provide for both a "complete" process and a "small contract" process. A selection committee is used for both processes. A consultant steering committee is also used for the "complete" process. The revised rule sets out typical evaluation criteria used to evaluate firms submitting proposals.

4. The revised rule requires the Department to evaluate all contracts after completion of the work. The rule sets out the items to be considered in the evaluation.

5. The current rule allows sole source selection if the product of the work to be accomplished shall ultimately be maintained by the firm. This provision has been deleted.

6. Criteria for emergency selection have been added.

These amendments do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.state.ia.us.

5. Be received by the Director's Staff Division no later than December 17, 2002.

A meeting to hear requested oral presentations is scheduled for Friday, December 20, 2002, at 10 a.m. in the Administration Building, Third Floor Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to

TRANSPORTATION DEPARTMENT[761](cont'd)

Iowa Code section 17A.4A must be submitted to the Director's Staff Division at the address listed in this Notice by December 30, 2002.

These amendments are intended to implement Iowa Code chapter 307.

Proposed rule-making actions:

ITEM 1. Amend subrule 20.2(4), paragraphs "a" and "b," as follows:

a. "Formal advertising" means procurement by competitive bids and awards involving the following basic steps:

(1) No change.

(2) ~~Publicizing~~ *Distributing* the request for proposals by distributing it to prospective bidders, and advertising in appropriate publications, and by other appropriate means, media in sufficient time to enable prospective bidders to prepare and submit bids before the time set for public opening of bids.

(3) and (4) No change.

b. "Limited solicitation" means procurement by obtaining a sufficient number of quotations or bids from qualified sources:

(1) and (2) No change.

(3) *So that the procurement is competitive to the maximum practicable extent.*

ITEM 2. Amend rule 761—20.3(307) as follows:

761—20.3(307) Procurement policy. It is the policy of the department to procure equipment, materials, supplies and services in the most efficient and economical manner possible. It is also the policy of the department that procurement shall be competitive to the maximum practicable extent.

20.3(1) Formal advertising. The formal advertising method of procurement shall be used whenever this method is feasible and practicable under the existing conditions and circumstances. ~~When feasible and practicable, formal advertising shall be used for the procurement of equipment, materials or supplies if and the estimated, aggregate amount of the purchase equals or exceeds \$5,000~~ *\$50,000.*

20.3(2) Limited solicitation. The limited solicitation method of procurement may be used if formal advertising is not feasible or practicable, or ~~for the procurement of equipment, materials or supplies if the estimated, aggregate amount of purchase is \$5,000 or less than \$50,000.~~

20.3(3) Negotiation. The negotiation method of procurement may be used if formal advertising or limited solicitation is not feasible or practicable, or in any of the following instances:

a. No change.

b. The *estimated*, aggregate amount of the purchase is less than ~~\$500~~ *\$5,000.*

c. to i. No change.

j. *The manufacturer is willing to sell directly to the state at distributor cost.*

ITEM 3. Amend subrules 20.4(1) to 20.4(3) as follows:

20.4(1) Bidders list. The department's purchasing office shall maintain current bidders lists by commodity classification.

a. These lists are developed using available sources such as technical publications, telephone books, trade journals, commercial vendor registers, advertising literature, *Internet resources* and targeted small businesses certified by the department of inspections and appeals.

b. Any firm legally doing business in Iowa may be placed on an appropriate bidders list or lists by submitting a

written request to: DOT *Director of Purchasing Manager*, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

c. and d. No change.

20.4(2) Request for proposals and solicitation of bids. The department shall prepare a request for proposals complete with bidding documents, specifications and instructions to bidders and send (or deliver) the request for proposals to prospective bidders for the purpose of bidding.

a. In special situations (e.g., the procurement of new model equipment), the request for proposals may be marked "preliminary" and sent to prospective bidders requesting their review of the proposal to determine their ability to bid, ~~meeting and meet~~ the requirements of the procurement. The "preliminary" proposal process involves the following steps:

(1) A vendor's conference may be held to discuss the "preliminary" proposal when the item in question is a new acquisition for the department.

(2) Written requests for variations, deviations or approved equal substitutions to the proposal shall be accepted, evaluated and answered by the department.

(3) The proposal may be amended by the department to incorporate approved changes.

(4) A final request for proposals shall be sent to prospective bidders ~~for the purpose of bidding that participated in the preliminary process.~~

b. and c. No change.

d. The department shall publicize the procurement by advertising in appropriate publications media, giving the date and time of bid opening, a general description of the item to be procured, and the name and address of the person to contact to obtain a copy of the request for proposals.

~~e. Minority and small business enterprises shall be encouraged to participate in the bidding process.~~

20.4(3) Instructions to bidders. Each bidder shall prepare the bidding documents in the manner prescribed and furnish all information and samples requested in the request for proposals. The following shall be adhered to by all bidders when preparing and submitting bids:

a. Bid preparation. Bids shall be signed and prepared in ink or typewritten on the bidding documents provided. Telegraphic, or telephonic, *E-mail or facsimile* bids shall not be considered.

b. and c. No change.

d. Bid price. Where requested, the unit and total price for each separate item, and the total price for all items, shall be provided on the bidding documents. Alternate prices for *approved substitutions* may be submitted by attaching ~~an addendum~~ *a bid marked as an alternate bid* to the bidding documents. In case of error, the unit price shall prevail. If unit price is not requested on the bidding documents, the total price per item shall prevail.

e. to j. No change.

k. Changes and additions. No changes in or additions to the request for proposals shall be permitted ~~unless~~. ~~A~~ *unless* a written request for a change or an addition is submitted to the department's purchasing office *in sufficient time to allow an appropriate analysis and response to all bidders*, and the change or addition is approved by the purchasing office ~~at least five days prior to bid opening~~. The purchasing office shall notify all bidders of approved changes or additions.

Any unauthorized change in or addition to the request for proposals shall be sufficient grounds for rejection of the bid.

l. to o. No change.

ITEM 4. Amend subrule 20.4(7) as follows:

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20.4(7) Contract execution and performance.

a. Execution. The successful bidder shall enter into (execute) a formal contract with the department within ~~15~~ 14 days after award.

b. Performance bond and certificate of insurance. A performance bond or certificate of liability and property damage insurance, or both, may be required for those contracts involving services or specially constructed equipment. If required, the performance bond and certificate of insurance shall be filed with the department within ~~15~~ 14 days after award.

c. Return of proposal guaranty. The proposal guaranty of the successful bidder shall be returned following execution of the contract. However, if the successful bidder fails to execute the contract and file an acceptable performance bond and certificate of insurance (if they are required) within ~~15~~ 14 days after award, or fails to comply with Iowa Code chapter 494 ~~or 496A~~ 490, the award may be annulled and the proposal guaranty forfeited.

d. and e. No change.

~~f. Removal of trade-ins. If the procurement involves old equipment to be traded in for new equipment, the contractor shall be responsible for removing the old equipment from departmental storage facilities within 30 days after the department's acceptance of the new equipment. The department shall bill the contractor for all costs associated with the return of the trade-in equipment after the 30-day grace period.~~

g. and h. No change.

ITEM 5. Adopt the following new rule:

761—20.5(307) Limited solicitation of bids.

20.5(1) Bidders lists. The department shall use its current bidders lists (see subrule 20.4(1)) to the extent feasible and practicable. However, the solicitation will also be offered to any qualified bidder that has requested an opportunity to participate.

20.5(2) Form of solicitation. The documents soliciting bids shall be as detailed and complete as practicable for the time and resources available.

20.5(3) Form of bid. Bids shall be in writing when practicable. Written bids will prevail over oral bids in case of discrepancies, disputes or errors. Following is the order of preference:

1. Original, signed bid.
2. Electronic bid (facsimile, E-mail, Internet).
3. Oral bid (e.g., telephonic).

20.5(4) Award. The award shall be offered to that responsible bidder whose bid meets the requirements of the solicitation and is the most advantageous to the department. An Iowa bidder will be given preference over an out-of-state bidder when bids are equal in all respects and are tied in price.

ITEM 6. Rescind rule 761—20.8(307) and adopt in lieu thereof the following new rule:

761—20.8(307) Negotiation—architectural, landscape architectural, engineering and related professional and technical services. This rule prescribes procedures for the procurement of architectural, landscape architectural, engineering and related professional and technical services by negotiation.

20.8(1) Prequalification.

a. General information.

(1) When procuring any of these services, the department shall consider for contract award only those firms that are

prequalified with the department in the category of work to be contracted.

(2) Prequalification of subconsultants is also required if a work category exists for the services to be provided by the subconsultant. If no category exists, normal methods of acceptance shall be used such as experience, typical licensure, certification or registration, or seals of approval by others. A subconsultant is a firm contracted to the "prime" firm for the performance of work contracted by the department to the prime firm.

(3) When another party (e.g., a political subdivision), under agreement with the department or as prescribed by law, must obtain the department's approval of a contract between the party and a firm for provision of any of these services, the firm to be awarded the contract must be prequalified with the department in the category of work to be contracted.

b. Web site. Application forms, descriptions of the categories of work for which firms may be prequalified, the minimum qualification standards for each work category, and a list of firms prequalified in each work category are available on-line on the department's Web site. The home page is www.dot.state.ia.us. Prequalification information is found by clicking on the link "Doing Business with the DOT" and then the link "Professional and Technical Consultant Utilization."

c. Consultant coordinator. Information regarding prequalification is also available from the Consultant Coordinator, Engineering Bureau, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

d. Application forms. A firm wishing to prequalify with the department in one or more categories of work must submit Forms 102111 and 102113. An applicant firm may either submit the forms on-line or complete hard copies of the forms and mail them to the consultant coordinator. On-line submission is encouraged.

(1) On Form 102111, the applicant firm shall provide general information regarding the firm.

(2) On Form 102113, the applicant firm shall provide detailed information regarding the firm's qualifications to perform a specific category of work. A separate Form 102113 must be submitted for each category. The firm shall support its application for prequalification for a particular category of work on the basis of adequacy and expertise of personnel, specialized experience in the field or fields required, performance records, and the minimum qualification standards set forth for the category.

(3) The department does not recognize joint ventures for the purpose of prequalification. Each firm will be prequalified in terms of its own capabilities; i.e., the major, significant aspects of the work can be accomplished using the firm's own personnel and equipment.

This requirement does not preclude consideration during the department's selection process of joint ventures or firms in the practice of subcontracting for specialized services.

e. Initial prequalification.

(1) A firm may apply for prequalification at any time.

(2) The department shall evaluate each Form 102113 submitted in terms of the minimum qualification standards for the work category and, if applicable, the past performance of the firm on contracts with the department for work falling within the category.

(3) If the department prequalifies a firm for a particular category of work, the department will update its Web site to indicate the firm is prequalified for that category. If prequalification is denied, the department shall notify the firm; see paragraph "h" of this subrule.

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(4) A firm's prequalification status for all approved categories of work is effective during the calendar year of application and for one year thereafter, to expire on December 31.

f. Reapplication and renewal. At least two months but not more than three months prior to the expiration date, the department shall advise affected prequalified firms to reapply. A firm that reapplies on-line need only revise its on-line forms. A firm that does not reapply on-line must submit new Forms 102111 and 102113. The department shall process reapplications in the same manner as initial prequalification. A firm's renewal of prequalification is effective for two more years, to expire on December 31.

g. Amendment or expansion of prequalification. A prequalified firm may submit amended prequalification forms or apply for prequalification for additional categories of work at any time.

(1) Amended forms shall be accompanied by a separate statement explaining the submission. The firm must first contact the consultant coordinator for instructions on how to proceed.

(2) If the submission affects the minimum qualification standards or if it is an application for prequalification for an additional category of work, the department shall process the submission in the same manner as initial prequalification. However, the prequalification expiration date assigned to the firm will remain the same.

h. Denial or cancellation of prequalification. Prequalification may be denied or canceled if the firm fails to meet the minimum qualification standards or if the firm's performance on a contract with the department was unacceptable. Prequalification may also be denied or canceled for good cause including, but not limited to, omissions or misstatements of material fact on the application forms that could affect the prequalification status of the firm.

The department shall notify the firm by E-mail or in writing of denial or cancellation, the reason(s) therefor, and the person to contact in writing to protest the department's action.

20.8(2) Reserved.

20.8(3) Reserved.

20.8(4) Preselection. Prior to selecting a firm with which to initiate negotiations under this rule, the department shall document the need for outside services, a description of the needed services, the time frame within which the work must be performed, and the method of selection to be used. One of the following methods shall be used to select a firm with which to initiate negotiations:

a. Selection committee—complete process. See subrule 20.8(5).

b. Selection committee—small contract process. See subrule 20.8(6).

c. Sole source or emergency selection. See subrule 20.8(7).

20.8(5) Selection committee—complete process. This method of selection is used unless another selection method is justified.

a. Selection committee. The department shall appoint a selection committee to:

(1) Review the credentials of the firms prequalified to perform the services needed.

(2) Determine which firms will be sent a request for proposals (RFP). The committee may limit the number of firms sent an RFP to eliminate the effort required by a firm that submits a proposal for the work but, based on the evaluation criteria, would have a limited possibility of being selected.

(3) Establish weighted criteria for evaluating the firms submitting proposals. See paragraph "b" of this subrule.

(4) Prepare an RFP and send it to the firms identified in subparagraph (2). The department shall also notify all prequalified firms that an RFP has been issued and post the RFP on the department's Web site.

(5) If necessary, interview firms submitting proposals.

(6) Evaluate the firms submitting proposals. Select the top (three or more) firms.

(7) Document the committee's decision-making process.

b. Evaluation criteria. The selection committee is responsible for establishing criteria for evaluating each firm submitting a proposal, assigning weighted values to the criteria, and rating each firm on each criterion. Evaluation criteria are tailored to the needed services. Typical evaluation criteria are listed below. The list is not exhaustive, nor is each criterion mandatory.

(1) Staffing expertise consistent with special project needs.

(2) Past experience with similar types of work.

(3) Performance evaluations by the department and references included in a firm's proposal.

(4) Proximity to the project area, particularly when extensive field services are required.

(5) Current workload and commitment of key personnel.

(6) Specific qualifications of key staff who will be forming the firm's project team.

(7) Resources the firm has available and proposes to use on the project, including the firm's use of equipment and automated technology and their compatibility with equipment and technology used by the department.

(8) Identification of proposed subconsultants and the work they will perform.

c. Consultant steering committee. A consultant steering committee is responsible for reviewing the top firms selected by the selection committee, determining the order of preference for negotiations, and documenting its decision-making process. The consultant steering committee shall consider not only the selection committee's scoring but other factors such as:

(1) A firm's ability to complete required tasks in the time allotted, taking into account other work currently under contract.

(2) The volume of work a firm has with the department, both existing and potential.

(3) The department's goal of having a breadth of experienced firms capable of providing quality services to the department.

(4) Other items unique to the particular contract.

d. Completion of selection process. After selection committee and consultant steering committee activities are complete, the department shall determine whether negotiations may begin. If negotiations are approved, the department shall proceed to negotiate with the firm that is first in order of preference.

e. Notification to firms. The department shall notify those firms submitting proposals of the names of the top firms selected and the order of negotiations. Along with the notification, the department shall provide each firm other than the top firms a matrix showing the high, low and average scores for each item evaluated and that firm's score for each item.

20.8(6) Selection committee—small contract process. The small contract process may be used to identify a single firm with which to negotiate when the estimated work under the contract can normally be completed within a 12-month

TRANSPORTATION DEPARTMENT[761](cont'd)

period and the estimated cost of the contract will not exceed \$100,000.

a. Selection committee. The department shall appoint a selection committee to:

(1) Review the credentials of the firms prequalified to perform the services needed.

(2) If necessary, interview firms.

(3) Select a well-qualified firm with which to initiate negotiations.

(4) Document the committee's decision-making process.

b. Completion of selection process. After selection committee activities are complete, the department shall determine whether negotiations may begin. If negotiations are approved, the department shall proceed to negotiate with the selected firm.

20.8(7) Sole source or emergency selection. The department shall fully document and include in the contract file the justification for use of sole source or emergency selection and the basis on which a particular firm is selected.

a. Sole source selection. The department may select a single prequalified firm with which to negotiate when one of the following conditions exists:

(1) Only a single firm is determined qualified or eligible to perform the contemplated services or is eminently more qualified than other firms.

(2) The services involve work that is of such a specialized character or related to a specific geographical location that only a single firm, by virtue of experience, expertise, proximity to or familiarity with the project or ownership of intellectual property rights, could most satisfactorily complete the work.

b. Emergency selection. The department may select a single prequalified firm with which to negotiate when there is an emergency that will not permit the time necessary to use normal selection procedures. An emergency includes, but is not limited to, one of the following:

(1) A condition that threatens the public health, welfare or safety.

(2) A need to protect the health, welfare or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement.

(3) A situation in which the department must act to preserve critical services or programs.

20.8(8) Negotiation of contract. The purpose of negotiations is to develop a contract mutually satisfactory to the department and the selected firm.

a. The firm must submit a detailed cost proposal, including a detailed cost proposal for each proposed subcontract. The department shall prepare an independent estimate of the cost of the proposed services, including a detailed estimate of the firm's staff hours needed to complete the contract. Significant differences shall be evaluated and resolved to the satisfaction of both parties. If it is impractical to make an independent estimate, the department shall evaluate the acceptability of the firm's cost proposal on the basis of the reasonableness of the individual elements of the price proposed.

b. The department may perform a preaudit. A preaudit typically includes:

(1) An analysis of the firm's cost proposal and financial records for the method of accounting in place to ensure that the firm has the ability to adequately segregate and accumulate reasonable and allowable costs to be charged against the contract.

(2) An analysis of the firm's proposed direct costing rates and indirect overhead factors to ensure their propriety and allowability.

20.8(9) Unsuccessful negotiations. If a mutually satisfactory contract cannot be negotiated, the department shall formally terminate the negotiations and notify the firm in writing. Termination of negotiations is without prejudice. The substance of terminated negotiations is confidential.

When a selection committee was used, the department shall then initiate negotiations with the firm given second preference, and this procedure shall be continued until a mutually satisfactory contract has been negotiated. If a satisfactory contract cannot be negotiated with any of the selected firms, the department shall either:

a. Direct the selection committee to select one or more firms with which to continue negotiations, or

b. Redefine the scope of the project or work and start over (preselection).

20.8(10) Evaluation of performance under a contract.

a. The department shall evaluate all contracts under this rule after completion of the work. Those contracts which exceed one year in duration shall also be evaluated annually. Both the firm's performance and quality of the final product shall be evaluated. The evaluation shall consider:

(1) The quality and adequacy of work performed.

(2) The ability to meet established schedules and budgets.

(3) General administration of the contract, including substantiation of cost billings, payments to subconsultants, and documentation of claims.

(4) Cooperation shown by the firm in responding to requests for information and in revising procedures and products according to directions.

(5) Coordination exhibited by the firm in communicating with the department, subconsultants, agencies and others to accomplish tasks and resolve problems.

(6) Ingenuity displayed in solving unique and unusual design problems encountered during performance of contract objectives.

(7) The ability to obtain an acceptable end product with appropriate department staff guidance.

b. The evaluation may include a recommendation that the firm's prequalification be canceled (see paragraph 20.8(1)"h"). The firm shall be given an opportunity to review, comment on and sign the evaluation. The evaluation is confidential.

20.8(11) Conflicts with federal requirements. If any provision of this rule would cause a denial of federal funds or services or would otherwise be inconsistent with federal law, federal law shall be adhered to, but only to the extent necessary to prevent denial of the federal funds or services or to eliminate the inconsistency with federal law.

ITEM 7. Rescind the Appendix to rule 761—20.8(307).

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for November is 6.25%.

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

INTEREST RATES FOR PUBLIC
OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective November 12, 2002, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 1.10%
32-89 days	Minimum 1.10%
90-179 days	Minimum 1.20%
180-364 days	Minimum 1.30%
One year to 397 days	Minimum 1.30%
More than 397 days	Minimum 1.70%

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

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

NOTICE—USURY

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

November 1, 2001 — November 30, 2001	6.75%
December 1, 2001 — December 31, 2001	6.50%
January 1, 2002 — January 31, 2002	6.75%
February 1, 2002 — February 28, 2002	7.00%
March 1, 2002 — March 31, 2002	7.00%
April 1, 2002 — April 30, 2002	7.00%
May 1, 2002 — May 31, 2002	7.25%
June 1, 2002 — June 30, 2002	7.25%
July 1, 2002 — July 31, 2002	7.25%
August 1, 2002 — August 31, 2002	7.00%
September 1, 2002 — September 30, 2002	6.75%
October 1, 2002 — October 31, 2002	6.25%
November 1, 2002 — November 30, 2002	5.75%
December 1, 2002 — December 31, 2002	6.00%

ARC 2146B

CAPITAL INVESTMENT BOARD,
IOWA[123]

Adopted and Filed

Pursuant to the authority of 2002 Iowa Acts, House File 2078, section 3, the Iowa Capital Investment Board hereby adopts Chapter 1, "Iowa Capital Investment Board - Administration," and Chapter 2, "Tax Credit for Investments in Qualifying Businesses and Community-Based Seed Capital Funds," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXV, No. 7 (10/2/02) p. 552, **ARC 2042B**.

Item 1 adopts Chapter 1 to set forth the administrative duties of the Iowa Capital Investment Board.

Item 2 adopts Chapter 2 to provide for an investment tax credit administered by the Iowa Capital Investment Board for investments in qualifying businesses and community-based seed capital funds.

These rules are being filed by the Department of Revenue and Finance on behalf of the Iowa Capital Investment Board pursuant to an Administrative Services Agreement between the Department and the Board.

Two additions have been made to the Notice of Intended Action. Both additions relate to Item 2. Definitions of "person" and "professional services" have been added to rule 2.2(15E). The definition of "person" clarifies the qualifications for a community-based seed capital fund. The definition of "professional services" clarifies the qualifications for a qualifying business.

The new definitions read as follows:

"Person" means an individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity.

"Professional services" include, but are not limited to, services provided by professions listed in Iowa Code section 496C.2(4)."

These rules will become effective January 1, 2003, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement Iowa Code chapter 15E as amended by 2002 Iowa Acts, House Files 2078, 2271 and 2586.

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 [Chs 1, 2] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 2042B**, IAB 10/2/02.

[Filed 11/8/02, effective 1/1/03]
[Published 11/27/02]

[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2120B

ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby rescinds Chapter 3, "County Commissioners of Election," and amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

These amendments reflect the statutory changes in 2002 Iowa Acts, House File 2538, that moved the filing repository for campaign reports filed by a county, city, school, or other political subdivision committee from the county commissioners of elections to the Board.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on August 21, 2002, as **ARC 1875B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on October 31, 2002.

These amendments are intended to implement Iowa Code chapters 56 and 68B as amended by 2002 Iowa Acts, House File 2538.

These amendments will become effective on January 1, 2003.

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 [rescind Ch 3; 4.1(2), 4.1(3), 4.6(1), 4.7, 4.21, 4.23, 4.24, 4.26, 4.40, 4.70(6)] is being omitted. These amendments are identical to those published under Notice as **ARC 1875B**, IAB 8/21/02.

[Filed 11/1/02, effective 1/1/03]
[Published 11/27/02]

[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2122B

ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

These amendments reflect statutory amendments in 1999 Iowa Acts, chapter 136, and in 2002 Iowa Acts, Senate File 2275, by removing references to "support or oppose" and inserting "express advocacy." These amendments also reflect the outcome of litigation involving the Board in the Iowa Right to Life Committee, Inc. et al. v. Kay Williams, et al., 187 F. 3d 963 (8th Cir. 1999) case.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on September 4, 2002, as **ARC 1920B**. No oral or written com-

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on October 31, 2002.

These amendments are intended to implement Iowa Code chapters 56 and 68B.

These amendments will become effective on January 1, 2003.

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 [4.1(4), 4.3, 4.22(12), 4.27(4), 4.83, 4.87, 4.88(3)"c," 4.100(1), 4.100(2), 4.101 to 4.103] is being omitted. These amendments are identical to those published under Notice as **ARC 1920B**, IAB 9/4/02.

[Filed 11/1/02, effective 1/1/03]

[Published 11/27/02]

[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2121B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

These amendments permit a candidate who has registered a committee for one office and then ultimately seeks another office to file an amended statement of organization reflecting the change in office sought in lieu of organizing a new committee.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on August 21, 2002, as **ARC 1873B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on October 31, 2002.

These amendments are intended to implement Iowa Code section 56.5.

These amendments will become effective on January 1, 2003.

The following amendments are adopted.

ITEM 1. Rescind rule 351—4.2(56,68B) and adopt the following **new** rule in lieu thereof:

351—4.2(56,68B) Information required: committee name.

4.2(1) Full name required. The statement of organization shall include the full name of the committee. A committee using an abbreviation or acronym as part of the committee name shall provide with the statement of organization a written explanation of the full word or words that are abbreviated or that form the acronym.

4.2(2) Duplication of name prohibited. The committee name shall not substantially duplicate the name of another committee organized under Iowa Code chapter 56. The board shall determine whether two committee names are in

substantial duplication in violation of Iowa Code section 56.5(2)"a." A committee substantially duplicating the name of another organized committee shall choose a new committee name upon notification from the board. A candidate who files an amended statement of organization to reflect a change in office sought shall not be required to change the name of the candidate's committee unless the committee's name substantially duplicates the name of another organized committee.

4.2(3) Candidate's surname required in committee name. A candidate filing a statement of organization on or after July 1, 1995, shall include the candidate's surname within the committee name. This requirement also applies to a new candidate's committee organized by a candidate who has a preexisting candidate's committee but who organizes a new candidate's committee or files an amended statement of organization.

This rule is intended to implement Iowa Code section 56.5.

ITEM 2. Rescind subrule 4.6(2) and adopt the following **new** subrule in lieu thereof:

4.6(2) New office sought. A candidate who filed a statement of organization for one office but eventually seeks another office may file an amended statement of organization to reflect the change in office sought in lieu of dissolving the old committee and organizing a new committee. A candidate who files an amended statement of organization reflecting a change in office sought may be required to amend the committee's name to comply with Iowa Code section 56.5(2)"a" and rule 351—4.2(56,68B).

[Filed 11/1/02, effective 1/1/03]

[Published 11/27/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/27/02.

ARC 2125B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

These amendments combine two current rules involving the segregation of committee funds, the deposit and maintenance of committee funds, and the identification of financial institutions and accounts where committee funds are held. The amendments remove the requirement for a committee to attach a voided check with the statement of organization, bring the other requirements into compliance with the campaign finance statutes, and reflect current Board policies.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on August 21, 2002, as **ARC 1888B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on October 31, 2002.

These amendments are intended to implement Iowa Code sections 56.3 and 56.5.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

These amendments will become effective on January 1, 2003.

The following amendments are adopted.

ITEM 1. Rescind rule 351—4.5(56,68B) and adopt the following new rule in lieu thereof:

351—4.5(56,68B) Segregation and timely deposit of funds; information required: identification of financial institution, account name; notice to treasurer.

4.5(1) Segregation and deposit of funds. All committee funds shall be maintained in a financial institution and shall be segregated from any other funds held by a candidate, officer, member, or associate of the committee. The committee treasurer shall deposit all contributions within seven days of receipt by the treasurer in an account maintained by the committee.

4.5(2) Exception from segregation of committee funds. A candidate's committee that receives contributions only from the candidate is not required to maintain a separate account. A permanent organization temporarily engaging in activity that qualifies it as a political committee that uses existing general operating funds and does not solicit or receive funds from other sources for campaign purposes is not required to maintain a separate account.

4.5(3) Identification of financial institution and account. The committee shall disclose on the committee's statement of organization the name and mailing address of all financial institutions in which committee funds are maintained. The committee shall also disclose the name and type of all accounts in which committee funds are maintained, and the name of any such account shall be the same as the committee name on the statement of organization.

4.5(4) Notice to treasurer. Any person who receives contributions for a committee shall render the contributions to the treasurer within 15 days of receipt and provide the committee treasurer with the reporting information required by Iowa Code section 56.3(2).

This rule is intended to implement Iowa Code sections 56.3 and 56.5.

ITEM 2. Rescind and reserve rule **351—4.41(56,68B)**.

[Filed 11/1/02, effective 1/1/03]

[Published 11/27/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/27/02.

ARC 2123B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

These amendments combine two rules relating to campaign disclosure reports filed by a committee. These amendments reflect current statutory requirements and Board policies concerning the filing of campaign disclosure reports and the disclosure of financial transactions that took place before the committee organized.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on September 4, 2002, as **ARC 1917B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on October 31, 2002.

These amendments are intended to implement Iowa Code section 56.6.

These amendments will become effective on January 1, 2003.

The following amendments are adopted.

ITEM 1. Rescind rule 351—4.20(56,68B) and adopt the following new rule in lieu thereof:

351—4.20(56,68B) Disclosure reporting required; information on initial report; minimum filing if no activity.

4.20(1) Disclosure reporting required. Every committee that has filed a statement of organization under Iowa Code section 56.5 and rule 351—4.1(56,68B) shall file a campaign disclosure report summary page (Form DR-2) and any appropriate disclosure reporting schedules or shall file a voluntary committee statement as provided in rule 351—4.25(56,68B). Either the disclosure reporting information or the voluntary committee statement shall be filed on or before the due dates required under Iowa Code section 56.6 and rule 351—4.22(56,68B).

4.20(2) Information on initial report. The first disclosure report filed by a committee shall include the relevant financial information covering the period from the beginning of the committee's financial activity through the end of the current reporting period.

4.20(3) Funds available from prior committee. If funds are available to a candidate's committee from a prior candidacy of that candidate, or to a ballot issue committee from a prior effort on a ballot issue, and the prior candidacy or effort had not exceeded the financial reporting threshold, the carry-over balance shall be disclosed by the new committee. The disclosure shall be made on Schedule A - Contributions and shall include the amount of the carryover, the date of the prior election, and the name and address of any source that made contributions to the candidacy or ballot effort that totaled more than \$750 during the preceding three calendar years.

4.20(4) Funds available from preballot issue activity. Funds that are raised for an activity that is not included in the definition of a ballot issue in Iowa Code section 56.2(1) and that are made available to a subsequent ballot issue committee shall be disclosed by the committee. The disclosure shall be made on Schedule A - Contributions and shall include the amount of the carryover balance, the date of the preballot issue activity, and the name and address of any source that made contributions to the activity that totaled more than \$750 during the previous three calendar years.

4.20(5) No financial activity during reporting period. A committee that did not have any financial activity during the relevant reporting period for which a disclosure report is due shall be required to file only Form DR-2. However, if the committee had previously disclosed debts or loans, those obligations shall again be disclosed on either Schedule D - Incurred Indebtedness or Schedule F - Loans Received and Repaid, as appropriate, and the schedule or schedules shall be included with Form DR-2. A candidate's committee that has reportable campaign property under Iowa Code section 56.43 shall disclose the property on Schedule H - Campaign Property and the schedule shall be included with Form DR-2.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

This rule is intended to implement Iowa Code section 56.6.

ITEM 2. Rescind and reserve rule **351—4.38(56,68B)**.

[Filed 11/1/02, effective 1/1/03]

[Published 11/27/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/27/02.

ARC 2124B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

These amendments combine two current rules concerning the prohibition on a committee that receives contributions in excess of \$10 from an unknown source and concerning the procedure for the committee to escheat such contributions to the general fund of the state of Iowa. The amendments bring the rule provisions on anonymous contributions into compliance with the requirements of the statute.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on September 4, 2002, as **ARC 1919B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on October 31, 2002.

These amendments are intended to implement Iowa Code section 56.3A.

These amendments will become effective on January 1, 2003.

The following amendments are adopted.

ITEM 1. Rescind rule 351—4.46(56,68B) and adopt the following **new** rule in lieu thereof:

351—4.46(56,68B) Funds from unknown source prohibited; later identification of source; notice to contributors.

4.46(1) Anonymous contributions in excess of \$10 prohibited. No person shall make a contribution in excess of \$10 to a committee without providing the person's name and address to the committee. The committee shall not maintain in any campaign account funds in excess of \$10 that cannot be accounted for and reconciled with the committee's disclosure reports.

4.46(2) Escheat to the state. Any contribution in excess of \$10 from an unknown source or campaign funds in excess of \$10 that cannot be accounted for and reconciled shall escheat to the state of Iowa as required by Iowa Code section 56.3A. A committee required to escheat shall escheat such funds by depositing the funds into the committee's campaign account and issuing a committee check to the general fund in the same amount. The committee check shall be sent to the board office at 514 E. Locust, Suite 104, Des Moines, Iowa 50309, for transmittal to the director of revenue and finance.

4.46(3) Subsequent identification of source. A committee discovering the source of any funds that have been escheated to the state may make an application to the board for a return of the funds if the following requirements are met:

- a. The committee has not dissolved;
- b. Documentation of the name and address of the source is provided;
- c. The amount requested to be returned is in excess of \$100; and
- d. The application is made within 90 days of the date of the deposit in the general fund of the state of Iowa.

4.46(4) Notice at fundraising event. Pursuant to Iowa Code section 56.3A, a person requested to make a contribution at a fundraising event shall be advised that it is illegal to make a contribution in excess of \$10 unless the person making the contribution also provides the person's name and address. Notice of the requirement to provide a person's name and address for a contribution in excess of \$10 may be made orally or in a written statement that is displayed at the fundraising event.

This rule is intended to implement Iowa Code section 56.3A.

ITEM 2. Rescind and reserve rule **351—4.51(56,68B)**.

[Filed 11/1/02, effective 1/1/03]

[Published 11/27/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/27/02.

ARC 2128B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Barber Examiners hereby rescinds Chapter 22, "Sanitary Conditions for Barbershops and Barber Schools," and adopts new Chapter 22, "Sanitation for Barbershops and Barber Schools," Iowa Administrative Code.

The amendment rescinds the current rules and adopts new rules about sanitation for barbershops and barber schools.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 21, 2002, as **ARC 1893B**. A public hearing was held on September 10, 2002, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. No public comments were received on the Notice. Prior to publishing the Notice of Intended Action, the Board requested comments on the proposed rules from the Department of Inspections and Appeals, barber associations, barber schools and randomly selected barbershops.

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

This amendment was adopted by the Board of Barber Examiners on October 29, 2002.

This amendment will become effective January 1, 2003.

This amendment is intended to implement Iowa Code section 147.76 and chapter 158.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

these rules [Ch 22] is being omitted. These rules are identical to those published under Notice as **ARC 1893B**, IAB 8/21/02.

[Filed 11/6/02, effective 1/1/03]
[Published 11/27/02]

[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2143B

**PUBLIC SAFETY
DEPARTMENT[661]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 101.1, the Department of Public Safety hereby amends Chapter 5, "Fire Marshal," and adopts a new Chapter 51, "Flammable and Combustible Liquids," Iowa Administrative Code.

Iowa Code chapter 101 charges the State Fire Marshal with establishing standards for the transportation, storage, handling, and use of flammable liquids, liquefied petroleum gases, and liquefied natural gases. In order to simplify access to and use of the rules regarding flammable liquids, liquefied petroleum gases, and liquefied natural gases, the Department is rescinding rules 661—5.250(101) through 661—5.450(101) and adopting a new Chapter 51, "Flammable and Combustible Liquids." All of the rules adopted pursuant to rule-making authority contained in Iowa Code chapter 101 are in new Chapter 51, which includes only those rules.

The rules in Chapter 51 include the adoption by reference of several national standards developed and published by the National Fire Protection Association (NFPA). The NFPA from time to time updates its standards after following an extensive review process that provides for input from the public and from members of the fire service at various levels. Later editions have superseded the standards regarding flammable liquids, liquefied petroleum gases, and liquefied natural gases currently in force for Iowa; therefore, many of the items in new Chapter 51 contain updated references to the current editions of NFPA standards, previous editions of which were referenced in the rules in Chapter 5 which are being rescinded.

Notice of Intended Action was published in the September 18, 2002, Iowa Administrative Bulletin as **ARC 1996B**.

A public hearing was held on October 24, 2002. No comments were received at the hearing, although comments were received other than at the public hearing. Comments were received from trade associations representing those most directly affected by these rules: The Iowa Propane Gas Association and the Petroleum Marketers and Convenience Stores of Iowa each submitted written comments as well as commenting orally. The following changes from the Notice have been made in response to the comments received.

In rule 661—51.100(101), proposed subsection 1.4.3 contained language that would have amended NFPA 58 to add a requirement regarding notification of deficiencies in liquefied petroleum gas installations. Subsection 1.4.3 was not adopted in light of comments received to the effect that the requirement would be unworkable and might create liabilities for propane dealers and installers for actions not within their control.

In the same rule, NFPA 58 is amended to include subsection 1.5.3, which specifies training requirements for persons involved in installing equipment that uses propane. The De-

partment received a comment in support of such requirements but which included a request that the proposed language be simplified. Subsection 1.5.3 has been rewritten in response to that request.

A comment was received which suggested that language regarding installations that are not in compliance with requirements should require notification of the deficiency to the user and the owner. This requirement has been added to subsection 4.2.2.1, adopted as an addition to NFPA 58 in rule 661—51.100(101).

The Department was asked to change the term "valves," as used in rule 661—51.101(101) regarding transfer of liquefied petroleum gas into a container, to "appurtenances," which is more comprehensive and technically accurate. The adopted rule includes this change.

A request was received which asked that spill containers on aboveground petroleum storage tanks be required to hold only 5 gallons, rather than the 7 gallons specified in new (j) of subsection 2.3.2.3.3 of NFPA 30. The Fire Marshal has determined that changing this requirement will not have a negative impact on the level of safety achieved, so the requested change has been made.

The Department was requested to modify the language regarding parking of tanker vehicles in proposed new subsection 5.6.13 of NFPA 30. On consideration of this request, the Fire Marshal has determined that the issue requires further consideration as to its impact on the ability of operators, especially in rural areas, to function efficiently. Consequently, subsection 5.6.13, which would have been an amendment to the national standards, was not adopted in rule 661—51.200(101).

Internal cross references in rule 661—51.201(101) have been corrected to reflect current numbering.

The language in subrule 51.202(3) regarding the location of dispensing devices has been modified to clarify that the subrule applies to the construction or installation of dispensing devices and to the distance of a device from a dwelling unit at the time of installation or construction.

These amendments are intended to implement Iowa Code chapter 101.

These amendments will become effective on January 1, 2003.

The following amendments are adopted.

ITEM 1. Rescind and reserve rules **661—5.250(101)** through **661—5.450(101)**.

ITEM 2. Adopt new Chapter 51 as follows:

CHAPTER 51**FLAMMABLE AND COMBUSTIBLE LIQUIDS**

661—51.1(101) Definitions. The following definitions apply to rules 661—51.1(101) through 661—51.350(101).

"Mobile air-conditioning system" means mechanical vapor compression equipment which is used to cool the driver or passenger compartment of any motor vehicle.

"NFPA" means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form "NFPA xx," where "xx" is a number, refer to the NFPA standard or pamphlet of the corresponding number.

661—51.2 to 51.99 Reserved.

661—51.100(101) Storage and handling of liquefied petroleum gases. NFPA 54, "National Fuel Gas Code," 1999 edition, and NFPA 58, "Liquefied Petroleum Gas Code," 2001 edition, are adopted by reference as the rules governing liquefied petroleum gases.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

NFPA 54 is amended as follows:

Add the following sentence to section 1.4:

Individuals installing, testing, replacing, or servicing gas piping or systems which include gas piping shall perform such work in accordance with requirements set forth in NFPA 58.

Delete the exception to subsection 3.4.5.

Add the following new subsection 3.4.6:

3.4.6 Gas piping underground, outside a building, shall not be in physical contact with any concrete. Where it is necessary to install piping that will extend through or under an exterior concrete slab for connection to a regulator or other part of the system, before entering a building, the gas piping shall be sleeved. The sleeve shall extend through the concrete and be sealed only at the end extending above grade to prevent the entrance of insects, debris, or moisture.

NFPA 58 is amended as follows:

Add the following exception to subsection 1.4.1:

EXCEPTION: All permanent stationary installations on rooftops shall be prohibited.

Delete section 1.5 and insert in lieu thereof the following:

1.5 Qualification of Personnel.

1.5.1 Persons who transfer liquefied petroleum gas, who are employed to transport liquefied petroleum gas, or whose primary duties fall within the scope of this code shall be trained in proper handling procedures. Refresher training shall be provided at least every three years. The training shall be documented.

1.5.2 Persons who install, service, test, or maintain propane gas utilization equipment, or gas piping systems of which the equipment is a part, or accessories, shall be trained in the proper procedures in accordance with applicable gas codes. Refresher training shall be provided at least every three years. The training shall be documented.

1.5.3 Completion of the Certified Employee Training Program of the National Propane Gas Association or of another training program that is substantially equivalent shall satisfy the training requirements of this section.

Delete subsection 3.2.10 and insert in lieu thereof the following:

3.2.10 Installation of Containers on Roofs of Buildings.

3.2.10.1 Installation of permanent, stationary containers on roofs of buildings shall be prohibited.

Delete section 3.4.9 and insert in lieu thereof the following:

3.4.9 Cylinders on Roofs or Exterior Balconies.

3.4.9.1 Cylinders installed permanently on roofs of buildings shall be prohibited.

3.4.9.2 Any cylinder having a water capacity greater than 2.7 lb (1 kg) [nominal 1 lb (0.5 kg) LP-Gas capacity] shall not be located on a balcony above the first floor that is attached to a multiple family dwelling of three or more living units located one above the other.

EXCEPTION: Any cylinder of not greater than 108 lb (49 kg) water capacity [nominal 45 lb (20 kg) LP-Gas capacity] located on a balcony served by an outside stairway, where only such stairway is used to transport the cylinder, shall not be prohibited.

EXCEPTION: Any cylinder of greater than 108 lb (49 kg) water capacity [nominal 45 lb (20 kg) LP-Gas capacity] shall be prohibited from being located on a balcony.

Delete subsection 4.2.2.1 and insert in lieu thereof the following:

4.2.2.1 Containers shall be filled only by the owner or upon the owner's authorization. Transfer of LP-Gas to and from a container shall be accomplished only by qualified per-

sons who are trained in proper handling and operating procedures, who meet the requirements of section 1.5 and who are trained in emergency response procedures. Such persons shall notify the container owner and user in writing when a tank is not in compliance with section 2.2 or 2.3.

661—51.101(101) Transfer into container. No person shall transfer any liquefied petroleum gas into a container, regardless of the container's size, if the container has previously been used for the storage of any other product until the container has been thoroughly purged, inspected for contamination, provided with proper appurtenances, and determined suitable for use as a container for liquefied petroleum gas as prescribed in the standards established under rule 661—51.100(101).

661—51.102(101) Prohibition of certain refrigerants. The distribution, sale or use of refrigerants containing liquefied petroleum gas, as defined in Iowa Code section 101.1, for use in mobile air-conditioning systems is prohibited.

661—51.103 to 51.149 Reserved.

661—51.150(101) Production, storage, and handling of liquefied natural gas. NFPA 59A, "Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)," 2001 edition, is adopted by reference as the rules governing liquefied natural gas.

661—51.151 to 51.199 Reserved.

661—51.200(101) Flammable and combustible liquids. NFPA 30, "Flammable and Combustible Liquids Code," 2000 edition, is adopted by reference as the rules governing flammable and combustible liquids, with the following amendments:

Delete subsection 2.3.2.5 and insert in lieu thereof the following:

2.3.2.5 Each connection to an aboveground tank through which liquid can normally flow shall be provided with an external control valve that is located as close as practical to the shell of the tank. In addition to the control valve or any other normal tank valves, there shall be an emergency internal check valve at each pipe connection to any tank opening below normal liquid level. The emergency internal check valve shall be effectively located inside the tank shell and shall be operable both manually and by an effective heat-activated device that, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipelines from the tank are broken.

EXCEPTION: Emergency internal check valves are not required on crude oil tanks in oil fields, on tanks at refineries, or on tanks at terminals which are equipped with a swing line or where facilities are provided to transfer the contents of the tank to another tank in case of fire.

Delete paragraph (b) of subsection 2.3.2.3.3 and insert in lieu thereof the following new paragraph (b):

(b) The tank system shall have top only openings and shall be either an Underwriters Laboratories-listed steel double-walled tank or an Underwriters Laboratories-listed steel inner tank with an outer containment tank wall constructed in accordance with nationally accepted industry standards (e.g., those codified by the American Petroleum Institute, the Steel Tank Institute and the American Concrete Institute).

Add the following new paragraphs to subsection 2.3.2.3.3:

(j) The tank fill opening shall be provided with a spill container that will hold at least 5 gallons.

(k) The interstitial tank space shall be monitored by an approved, continuous, automatic detection system that is capa-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ble of detecting liquids, including water. An automatic detection system may be either electronically or mechanically operated.

661—51.201(101) Storage, handling and use—plans approved.

51.201(1) Before any construction of new or replacement installations for the storage, handling or use of flammable or combustible liquids is undertaken in bulk plants, service stations or processing plants, drawings or blueprints made to scale shall be submitted in duplicate to the state fire marshal with an application for approval. Within a reasonable time after receipt of the application and drawings or blueprints, the state fire marshal will examine them and, if the fire marshal finds that they conform to the applicable requirements of this chapter, shall signify approval of the application by endorsement or attachment, retain one copy for the files and return to the applicant all other copies. If the drawings or blueprints do not conform to the requirements of this chapter, the fire marshal shall notify the applicant accordingly. **EXCEPTION:** Plans for underground tank installations do not need to be submitted for approval if the plans have been approved in accordance with the provisions of 591—Chapter 15.

51.201(2) If the proposed construction or installation is to be located within a local jurisdiction which requires that a local permit first be obtained, the drawings or blueprints with the application for permit shall be submitted to the appropriate local official or body and then, except in case of dispute, need not be submitted to the state fire marshal. The local official or body shall require, as a condition to the issuance of the permit, compliance with the applicable requirements of this chapter. In the event of dispute as to whether the drawings or blueprints show conformity with the applicable requirements of this chapter, the plans and drawings shall be submitted to the state fire marshal whose decision shall be controlling.

51.201(3) Drawings shall show the name of the person, firm or corporation proposing the installation, the location and the adjacent streets or highways.

51.201(4) In the case of bulk plants, the drawings shall show, in addition to any applicable features required under subrules 51.201(6) and 51.201(7) and rule 661—51.206(101), with the exception of paragraph “4,” the plot of ground to be utilized and its immediate surroundings on all sides; complete layout of buildings, tanks, loading and unloading docks, and heating devices, if any.

51.201(5) In the case of service stations, the drawings shall show, in addition to any applicable features required under subrules 51.201(6) and 51.201(7) and rule 661—51.206(101), with the exception of paragraph “4,” the plot of ground to be utilized; the complete layout of buildings, drives, dispensing equipment, and greasing or washing stalls; and the type and location of any heating device.

51.201(6) In the case of aboveground storage, the drawings shall show the location and capacity of each tank; dimensions of each tank the capacity of which exceeds 50,000 gallons; the class of liquid to be stored in each tank; the type of tank supports; the clearances; the type of venting and pressure relief relied upon and the combined capacity of all venting and pressure relief valves on each tank; and the tank control valves and the location of pumps and other facilities by which liquid is filled into or withdrawn from the tanks.

51.201(7) In the case of underground storage, the drawings shall show the location and capacity of each tank; class of liquids to be stored; and the location of fill, gauge, vent pipes, openings and clearances.

51.201(8) In the case of an installation for storage, handling or use of flammable or combustible liquids within buildings or enclosures at any establishment or occupancy covered in this chapter, the drawing shall be in such detail as will show whether applicable requirements are to be met.

661—51.202(101) Motor vehicle and aircraft fuel dispensing.

51.202(1) Except as allowed by rule 661—51.203(101), NFPA 30A, “Automotive and Marine Service Station Code,” 2000 edition, is adopted by reference as the rules governing dispensing motor vehicle fuel into the fuel tanks of motor-driven vehicles, with the following amendments:

Delete subsection 4.3.2.7 and insert in lieu thereof the following:

4.3.2.7 Each tank having a capacity of not more than 6,000 gallons for motor vehicle fuel dispensing systems that is located at a commercial, industrial, governmental, or manufacturing establishment, and that is intended for fueling vehicles used in connection with the establishment shall be located at least:

(a) 40 feet from the nearest important building on the same property;

(b) 40 feet away from any property that is or may be built upon, including the opposite side of a public way;

(c) 100 feet away from any residence or place of assembly.

EXCEPTION: All distances may be reduced by 50 percent for tanks installed in vaults that comply with subsection 4.3.3 or are UL-listed aboveground double-walled tanks that have a two-hour fire-resistive rating and that comply with subsection 4.3.4 or 4.3.5.

51.202(2) NFPA 407, “Standard for Aircraft Fuel Servicing,” 2001 edition, is adopted by reference as the rules governing ground fuel servicing of aircraft with liquid petroleum fuel.

51.202(3) No device dispensing Class I or Class II flammable liquids shall be constructed or installed less than 100 feet from any existing dwelling unit.

661—51.203(101) Storage in isolated areas. NFPA 395, “Standard for the Storage of Flammable and Combustible Liquids at Farms and Isolated Sites,” 1993 edition, is adopted by reference as the rules governing flammable and combustible liquids on farms and isolated construction projects.

661—51.204(101) Registration of existing and new tanks—fees. All existing, new, replacement and out-of-service aboveground tanks of 1101-gallon capacity or greater shall be registered with the state fire marshal. This requirement applies to aboveground tanks used to store petroleum, as defined in Iowa Code section 455B.471, which includes crude oil, heating oil offered for resale, motor fuels and oils such as gasoline, diesel fuels and motor oil.

51.204(1) Registration form. Registration forms for aboveground storage tanks may be obtained from the fire marshal division. A completed registration form shall be submitted to the fire marshal division by the date on which it is due and shall be accompanied by a check, draft or money order made payable to the Fire Marshal Division, Iowa Department of Public Safety, for \$10 for each tank registered or reregistered. Cash will not be accepted.

51.204(2) Registration deadlines and late fees. All tanks registered prior to October 1, 1999, are due to be reregistered on October 1, 2000, and October 1 of each year thereafter. Any tank registered for the first time on or after October 1, 1999, is due to be reregistered on the first day of the month following the anniversary date of the initial registration and

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on the same date of each year thereafter. A late fee of \$25 per tank shall be imposed for failure to register a tank or tanks prior to the last day of the month in which the registration fee is due.

661—51.205(101) Underground leakage of flammable and combustible liquids. NFPA 329, "Recommended Practice for Handling Releases of Flammable and Combustible Liquids and Gases," 1999 edition, is adopted by reference as the rules governing underground leakage of flammable and combustible liquids, with the following amendment:

Add the following new subsection 5-3.2.6:

5-3.2.6 Testing Underground Tanks. Air tests of underground tanks or piping containing product shall not be permitted.

661—51.206(101) Observation wells. Observation wells may be required on new and existing tanks when a high environmental risk exists or in the event of suspected tank failure or leakage. When installed pursuant to this rule, an observation well shall be:

1. A minimum of 4 inches in diameter and adequately identified to avoid confusion with product fill openings.
2. Installed to a depth of 24 inches below the tank bottom or to the top of the concrete slab, if the slab is used for anchoring.
3. Installed with pipe section having 0.020-inch maximum slots with the slots extending to within approximately 12 inches of grade.
4. Capped and protected from traffic.

661—51.207 to 51.249 Reserved.

661—51.250(101) Oil burning equipment. NFPA 31, "Standard for the Installation of Oil Burning Equipment," 2001 edition, is adopted by reference as the rules governing oil burning equipment.

661—51.251 to 51.299 Reserved.

661—51.300(101) Stationary combustion engines and gas turbines. NFPA 37, "Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines," 2002 edition, is adopted by reference as the rules governing the installation and use of stationary combustion engines and gas turbines in the state of Iowa.

661—51.301 to 51.349 Reserved.

661—51.350(101) Tank vehicles for flammable and combustible liquids. NFPA 385, "Standard for Tank Vehicles for Flammable and Combustible Liquids," 2000 edition, is adopted by reference as the rules governing the transport and loading of flammable and combustible liquids, with the following amendment:

Delete subsection 1.2.16.

These rules are intended to implement Iowa Code chapter 101.

[Filed 11/8/02, effective 1/1/03]

[Published 11/27/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/27/02.

ARC 2144B

REVENUE AND FINANCE
DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue and Finance hereby amends Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest," Chapter 13, "Permits," Chapter 17, "Exempt Sales," Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," Chapter 26, "Sales and Use Tax on Services," Chapter 46, "Withholding," Chapter 107, "Local Option Sales and Service Tax," and Chapter 108, "Local Option School Infrastructure Sales and Service Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXV, No. 7 (10/2/02) p. 594, **ARC 2041B**.

Items 1 and 10 amend rule 701—12.13(422) and 701—subparagraph 46.3(3)"b"(4), respectively, based on 2002 Iowa Acts, House File 2622, sections 6, 11, and 14. These legislative changes provide the Department and the Iowa Department of Management the authority to change the statutory thresholds for sales and withholding taxes by Department rule. The changing of the thresholds allows the Department more flexibility based on Department need, budget and available resources, and provides benefits to various tax filers. In essence, due to budget reductions, the resources may not be available to process the volume of filers and deposit tax revenues as required by statute. Consequently, granting the Department the ability to change the thresholds will allow the number of monthly deposits and returns to be reduced. Conversely, there will be an increase in the number of filers in the semimonthly and quarterly periods. However, the net effect will be a reduction in the overall number of returns filed.

Item 2 amends 701—subrule 13.4(1) to implement 2002 Iowa Acts, Senate File 2305, section 8, which requires a schedule for consolidated sales tax returns and a penalty provision for failure to file a schedule.

Item 3 amends 701—subrule 17.9(1) and adds new 701—subrule 17.9(9) to implement 2002 Iowa Acts, Senate File 335, that classifies farm deer and bison as livestock, provides an exemption for farm deer and bison feed and additives, and allows for a retroactive refund of sales tax previously paid.

Item 4 amends 701—Chapter 17 to add two new rules, 701—17.40(422,423) and 701—17.41(422,423). New rule 701—17.40(422,423) is to implement 2002 Iowa Acts, House File 2622, section 9, to provide an exemption from sales tax for the purchase of tangible personal property and service for use by a community action agency as defined in Iowa Code section 216A.93. This item also adds new rule 701—17.41(422,423) to implement 2002 Iowa Acts, House File 2585, section 1, regarding sales by the Legislative Service Bureau.

Item 5 amends rule 701—18.61(422,423) to implement 2002 Iowa Acts, House File 2305, section 9, to remove the sunset date for electronic and digital transfer of property.

Item 6 amends 701—subrules 26.8(1) and 26.8(2) to implement 2002 Iowa Acts, House File 2622, section 8, regarding the taxability of nonproprietary ATM transactions.

Item 7 amends rule 701—26.38(422,423) to remove the licensing requirement for executive search agencies.

Item 8 amends 701—subrule 26.68(3) to implement 2002 Iowa Acts, House File 2622, section 29, that clarifies that

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airport-imposed fees are not part of the taxable gross receipts when renting a vehicle.

Item 9 amends 701—Chapter 26 to add a new rule 701—26.81(422) to implement Iowa Code section 422.43 as amended by 2001 Iowa Acts, House File 736, section 1, regarding the taxability of bundled services.

Items 11 and 12 amend rules 701—107.10(422B) and 701—108.7(422E) to implement 2002 Iowa Acts, House File 2622, sections 12 and 13, which provide that the director has until August 15 of each fiscal year to send estimates of local option tax to jurisdictions, instead of having to send the estimates out within 15 days of the beginning of each fiscal year.

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

These amendments will become effective January 1, 2003, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 422.16 as amended by 2002 Iowa Acts, House File 2622, section 6; 422.42 as amended by 2002 Iowa Acts, Senate File 335; 422.43 as amended by 2001 Iowa Acts, chapter 150, section 1, and 2002 Iowa Acts, Senate File 2305, section 6; 422.45 as amended by 2002 Iowa Acts, Senate File 335, and House File 2622, section 9; 422.51 as amended by 2002 Iowa Acts, Senate File 2305, section 8; 422.54(1) as amended by 2002 Iowa Acts, House File 2622, section 11; 423.13 as amended by 2002 Iowa Acts, House File 2622, section 14; 422B.10 as amended by 2002 Iowa Acts, House File 2622, section 12; 422E.3 as amended by 2002 Iowa Acts, House File 2622, section 13; 516D.13 as amended by 2002 Iowa Acts, House File 2622, section 29; and 2002 Iowa Acts, House File 2585, section 1.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to 12.13, 13.4, 17.9, 17.40, 17.41, 18.61, 26.8, 26.38, 26.68, 26.81, 46.3, 107.10, 108.7] is being omitted. These amendments are identical to those published under Notice as **ARC 2041B**, IAB 10/2/02.

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[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2145B**REVENUE AND FINANCE
DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue and Finance hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXV, No. 7 (10/2/02) p. 600, **ARC 2040B**.

Item 1 adopts new rule 42.18(15E,422), which provides for an investment tax credit for equity investments made in a qualifying business or community-based seed capital fund.

This investment credit is a new individual income tax credit available to individuals who make investments in qualifying businesses or community-based seed capital funds that have been approved by the Iowa Capital Investment Board.

Item 2 adopts new rule 52.21(15E,422), which provides for an investment tax credit for equity investments made in a community-based seed capital fund. This investment tax credit is a new corporation income tax credit available to corporations that make investments in community-based seed capital funds that have been approved by the Iowa Capital Investment Board.

Item 3 adopts new rule 58.11(15E,422), which provides for an investment tax credit for equity investments made in a community-based seed capital fund for franchise tax purposes. Rule 58.11(15E,422) is similar to the rule in Item 2.

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

These rules will become effective January 1, 2003, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement Iowa Code chapters 15E and 422 as amended by 2002 Iowa Acts, House File 2271.

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 [42.18, 52.21, 58.11] is being omitted. These rules are identical to those published under Notice as **ARC 2040B**, IAB 10/2/02.

[Filed 11/8/02, effective 1/1/03]
[Published 11/27/02]

[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2132B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on November 7, 2002, adopted amendments to Chapter 116, "Junkyard Control," Chapter 117, "Outdoor Advertising," Chapter 118, "Logo Signing," Chapter 119, "Tourist-Oriented Directional Signing," and Chapter 120, "Private Directional Signing," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the September 4, 2002, Iowa Administrative Bulletin as **ARC 1918B**.

Amendments to these chapters were identified as a result of reviews conducted in accordance with Executive Order Number 8. All five chapters are being amended to simplify language and clarify requirements where needed, strike wording that unnecessarily duplicates language that is in the Iowa Code or other rules, update the name of the Department's contact office for these rules, correct references to the "Manual on Uniform Traffic Control Devices," add cross references, and otherwise make minor corrections. More significant changes or clarifications are discussed in the following paragraphs.

TRANSPORTATION DEPARTMENT[761](cont'd)

Items 1 to 4 amend Chapter 116. This chapter, which pertains to junkyard control, is being amended to:

1. Add a definition for "inoperative motor vehicle." This term is used in the definition of "automobile graveyard." Defining "inoperative motor vehicle" provides an objective basis for determining whether a vehicle is inoperative.

2. Update the list of definitions to conform to the style currently used in rules and remove definitions that repeat those in Iowa Code section 306C.1.

3. Remove the term "freeway primary" because the term is not used in Iowa Code chapter 306C, division I (Junkyard Beautification).

Items 5 to 13 amend Chapter 117. This chapter, which pertains to outdoor advertising, is being amended to:

1. More fully define the term "nonconforming sign." A nonconforming sign is a legal sign that does not conform fully with current requirements due to changed conditions.

2. Provide that no advertising device may be erected within the adjacent area of a highway that has been designated a scenic highway or scenic byway if the advertising device is visible from the highway. This addition is authorized by Iowa Code section 306D.4 and will bring the Department's rules into compliance with federal law.

3. Add a provision stating that when a sign will be visible and subject to control from more than one highway, it must meet spacing requirements along each route. Under federal and state law, this has always been true, but has not been stated explicitly in the rules.

4. Adopt new rule 761—117.9(306B,306C), which states the Department's policy on the acquisition of advertising devices that have been issued provisional permits. The procedure outlined in this new rule for acquiring an advertising device is currently found in subrule 117.8(1), which is being rescinded.

Items 14 to 17 amend Chapter 118. This chapter, which pertains to logo signing, is being amended to:

1. Change the Department's policy for erecting ramp specific service signs on single-exit interchanges. A ramp specific service sign is a panel for a specific service. On it are placed individual business signs for businesses signed on the corresponding mainline specific service sign. The amended language provides that the Department will erect a ramp specific service sign when one or more of these businesses or their on-premises signing is not visible from the mainline. The current language specifies visibility from the ramp terminal rather than from the mainline.

2. Change the requirement for ramp business signs. The amended language provides that a ramp business sign is required if the business installation or its on-premises signing is not visible from the mainline. The current language specifies visibility from the ramp terminal rather than from the mainline.

3. Clarify the application process.

4. Make it clear that ramp business signs and trailblazing signs are allowed only for businesses that are signed on the mainline.

Items 18 to 25 amend Chapter 119. This chapter, which pertains to tourist-oriented directional signing, is being amended to:

1. Clarify that a tourist-oriented directional sign will display a directional arrow.

2. Make tourist-oriented directional signing available to more activities and sites. Currently, participation is limited to activities and sites that are located in unincorporated areas or within the corporate limits of communities with a popula-

tion of 1500 or less. The 1500 ceiling is being increased to 2500. This change will allow activities and sites in 87 percent of the incorporated communities in Iowa to qualify for tourist-oriented directional signing.

3. Allow signing if the activity or site or its on-premises sign is not readily recognizable from the highway far enough ahead of the entrance to allow the motorist time to safely make the turn. This amendment makes it clear that safety is the main concern in deciding whether a site that is along the highway qualifies for signing.

4. Clarify that the Department is responsible for all physical activities related to sign installation, maintenance and removal in the right-of-way. However, as stated below, seasonal activities or sites are allowed to install and remove "closed" panels on their signs.

5. Clarify the requirements for trailblazing signs.

6. Combine language regarding initial and renewal fees into one subrule and specify when initial and renewal fees are due. The initial fee is due once the application is approved, and the renewal fee is due on or before June 30 of each year. The fees are unchanged.

7. Allow seasonal activities or sites to install or remove "closed" panels. This option has been allowed as a pilot and has proven very popular.

8. State that the Department is not responsible for theft of or damage to tourist-oriented directional signs and allow businesses that are required to replace signs due to theft or damage the option to spread the cost over a 12-month period.

Items 26 to 33 amend Chapter 120. This chapter, which pertains to private directional signing, is being amended to:

1. Provide that the erection of a private directional sign within one mile of a tourist-oriented directional sign for the same attraction will be prohibited if both signs would be on the same route and face the same direction. This will eliminate the possibility of duplication of signing, which could be confusing to motorists. The tourist-oriented directional signing rules contain a similar prohibition.

2. Make the provisions governing the message allowed on private directional signs more liberal. These changes will allow the Department to authorize a more effective or appropriate message.

3. Provide that an activity or site is required to be open to the general public and not by appointment, reservation or membership only. An activity or site that is open by appointment, reservation or membership only is not serving the needs of motorists.

4. Clarify and update the application and approval process.

5. Provide that a directional signing permit is issued for a specific sign at a specific location for a qualifying activity or site and is not transferable.

6. Incorporate into this chapter those provisions of the outdoor advertising rules that apply to private directional signing. Private directional signing is an outgrowth of the advertising control provisions of Chapter 117, "Outdoor Advertising." Many of the requirements for the issuance of permits for private directional signs currently rely on the provisions of Chapter 117. Incorporating those provisions into Chapter 120 will make Chapter 120 more understandable and easier to use.

These amendments do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Two changes were made from the Notice of Intended Action, both in the definition of "inoperative motor vehicle" in

TRANSPORTATION DEPARTMENT[761](cont'd)

Item 1. In the phrase "a battery that cannot be recharged within 15 minutes," the phrase "within 15 minutes" was deleted. In the phrase "if the temperature is below 20 degrees Fahrenheit," the phrase "20 degrees" was changed to "32 degrees". These changes were made as a result of input received at the October 8, 2002, Administrative Rules Review Committee meeting. The amended definition now reads as follows:

"Inoperative motor vehicle" means any of the following:

- "1. A motor vehicle that does not have a valid title.
- "2. A motor vehicle that does not have a current registration, unless the motor vehicle is in the inventory of a motor vehicle dealer licensed under Iowa Code chapter 322.
- "3. A motor vehicle with one or more of the following items missing or in need of substantial repair: windshield, driver's seat, steering wheel or steering system, battery, ignition system, fuel tank or fuel supply system, engine, transmission, drive shaft, differential, axle, suspension system, brake system, or frame.

"4. A motor vehicle that is not immediately capable of legal operation on a public road or street.

"However, any one of the following by itself does not render a motor vehicle inoperative: a battery that can be recharged, one tire and wheel missing or in need of repair, or lack of fuel.

"The burden of proving that a motor vehicle is not inoperative rests with the person or persons in possession of that vehicle. However, if the temperature is below 32 degrees Fahrenheit, no person is required to demonstrate that the engine of a motor vehicle will start."

These amendments are intended to implement Iowa Code chapters 306B and 306C and section 321.252.

These amendments will become effective January 1, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 116 to 120] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 1918B**, IAB 9/4/02.

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[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2131B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 321.1, the Department of Transportation, on November 7, 2002, adopted amendments to Chapter 400, "Vehicle Registration and Certificate of Title," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the October 2, 2002, Iowa Administrative Bulletin as **ARC 2013B**.

1999 Iowa Acts, chapter 108, section 3, added a new definition to Iowa Code section 321.1 defining "product identification number" and required the Department to adopt rules. The product identification number (PIN) is a group of unique

numerical or alphabetical designations assigned by the manufacturer or by the Department to a fence-line feeder, grain cart or tank wagon and affixed to the vehicle as a means of identifying the vehicle or the year of manufacture. These amendments define which vehicles may be assigned a PIN, identify when the PIN should be assigned and identify the process to apply for a PIN. Other changes to this chapter were made to update form numbers and an office name, correct procedures used, and amend an implementation clause.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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

These amendments are intended to implement Iowa Code chapter 321.

These amendments will become effective January 1, 2003.

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 [400.13, 400.16, 400.17, 400.51] is being omitted. These amendments are identical to those published under Notice as **ARC 2013B**, IAB 10/2/02.

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[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2133B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 326.33, the Department of Transportation, on November 7, 2002, rescinded Chapter 500, "Interstate Registration and Operation of Vehicles," Iowa Administrative Code, and adopted a new Chapter 500 with the same title.

Notice of Intended Action for this amendment was published in the October 2, 2002, Iowa Administrative Bulletin as **ARC 2014B**.

The new chapter makes corrections that were identified as a result of reviews conducted in accordance with Executive Order Number 8 and 2002 Iowa Acts, Senate File 2192. The following summarizes the changes that have been incorporated in the new chapter:

- The rules reflect current practices and the Iowa Department of Transportation's participation in the International Registration Plan.
- Definitions are added to the rules.
- Language to allow for waivers in special or emergency circumstances is added.
- References to reciprocity permits and stickers are omitted since these are no longer issued.
- Trip permit provisions are updated.
- Deadlines for filing and payment of renewals, vehicle schedules and second-half invoices are clarified.
- The method for calculating the penalty is changed to equalize the penalty assessed to all carriers.
- The provisions for issuing a temporary authority are clarified.

TRANSPORTATION DEPARTMENT[761](cont'd)

- The dates for registration filing deadlines, registration expiration and enforcement action are clarified.

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

These rules are intended to implement Iowa Code chapter 326.

These rules will become effective January 1, 2003.

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 500] is being omitted. These rules are identical to those published under Notice as **ARC 2014B**, IAB 10/2/02.

[Filed 11/7/02, effective 1/1/03]
[Published 11/27/02]

[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2130B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 452A.59, the Department of Transportation, on November 7, 2002, adopted amendments to Chapter 505, "Interstate Motor Vehicle Fuel Permits," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the October 2, 2002, Iowa Administrative Bulletin as **ARC 2015B**.

The amendments to this chapter make corrections that were identified as a result of reviews conducted in accordance with Executive Order Number 8. The following summarizes these changes:

- Amend the rules to reflect current practices, Iowa Code changes and Iowa Department of Transportation's participation in the International Fuel Tax Agreement.
- Update the definitions to reflect compliance with the International Fuel Tax Agreement.
- Add language to allow for waivers in special or emergency circumstances.
- Increase penalty fees for failure to file and late filing of quarterly reports from \$10 to \$50 or 10 percent of the total tax due, whichever is greater.
- Change the bond requirement to comply with current practices and the International Fuel Tax Agreement.
- Change the title of the chapter.

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

These amendments are intended to implement Iowa Code chapter 452A.

These amendments will become effective January 1, 2003.

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 [505.1 to 505.5, 505.6(2)"b"] is being

omitted. These amendments are identical to those published under Notice as **ARC 2015B**, IAB 10/2/02.

[Filed 11/7/02, effective 1/1/03]
[Published 11/27/02]

[For replacement pages for IAC, see IAC Supplement 11/27/02.]

ARC 2119B**WORKERS' COMPENSATION
DIVISION[876]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 4, "Contested Cases," Iowa Administrative Code.

These amendments update a reference to the Iowa Rules of Civil Procedure. The amendments also modify requirements for filing petitions with the agency to initiate contested case proceedings seeking workers' compensation benefits.

Notice of Intended Action was published in the Iowa Administrative Bulletin September 18, 2002, as **ARC 1967B**.

Written comments were solicited until October 8, 2002. Item 1 has been added to reflect the fact that Iowa Rule of Civil Procedure 1.454 referred to in the rule has been rescinded. Changes to Items 2 and 3 have been made to make the amendments more workable and understandable.

These amendments will become effective January 1, 2003.

These amendments are intended to implement Iowa Code sections 17A.12, 85.27, 85.45, 85.48, 86.13, 86.17, 86.18 and 86.24.

The following amendments are adopted.

ITEM 1. Amend rule 876—4.2(86), introductory paragraph, as follows:

876—4.2(86) Separate evidentiary hearing or consolidation of proceedings. In addition to applying the provision of Iowa Rule of Civil Procedure 1.454, a A person presiding over a contested case proceeding in a workers' compensation matter may conduct a separate evidentiary hearing for determination of any issue in the contested case proceeding which goes to the whole or any material part of the case. An order determining the issue presented shall be issued before a hearing is held on the remaining issues. The issue determined in the separate evidentiary hearing shall be precluded at the hearing of the remaining issues. If the order on the separate issue does not dispose of the whole case, it shall be deemed interlocutory for purposes of appeal.

ITEM 2. Amend rule **876—4.6(86)**, third unnumbered paragraph, as follows:

~~A separate date of injury shall be alleged and a separate original notice and petition shall be filed on account of each injury, gradual injury, occupational disease or occupational hearing loss alleged by an employee. If more than one injury, gradual injury, occupational disease or occupational hearing loss is included in the same original notice and petition, the workers' compensation commissioner shall enter an order requiring filing of separate original notices and petitions. If a required correction is not made by a date specified in the order, the original notice and petition shall automatically be dismissed without prejudice without entry of further order. See rule 4.36(86). If correction is made within the specified time, the initial filing shall be sufficient to have tolled the~~

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

~~statute of limitations.~~ *For all petitions filed on or after January 1, 2003, the date (day, month and year) of occurrence of injury, disablement or occupational hearing loss shall be alleged in each petition that claims benefits for injury, occupational disease or occupational hearing loss. All alternative or additional dates of occurrence of injury, disablement or occupational hearing loss shall be alleged in the same petition if the claim or claims are alleged to have arisen from the same occurrence or series of occurrences and the correct date of occurrence is uncertain, the dates are alleged to be part of a series of cumulative trauma occurrences or multiple dates of occurrence affecting the same member or part of the body are alleged. An employee may join in the same petition as many related claims as the employee has against a single employer. Any number of employers may be joined in the same petition if the employee's claim is asserted against them jointly, severally or in the alternative and if the claim is alleged to have arisen out of the same occurrence or series of occurrences. Claims are related if they involve common issues of law or fact and the outcome of one claim is material to the outcome of the other claim. In addition to the provisions of Iowa Rule of Civil Procedure 1.236, the workers' compensation commissioner may, for administrative convenience or any good cause, order that a claim be severed and proceeded with separately or that multiple separate claims be joined or consolidated.*

ITEM 3. Amend subrule 4.8(2) as follows:

Amend paragraph "a" as follows:

a. On or after July 1, 1988, for all original notices and petitions for arbitration or review-reopening relating to weekly benefits filed on account of each injury, gradual or cumulative injury, occupational disease or occupational hearing loss alleged, a filing fee of \$65 shall be paid at the

time of filing. No filing fee is due for the filing of other actions where the sole relief sought is one of the following or a combination of any of them: medical and other benefits under Iowa Code section 85.27; burial benefits, Iowa Code section 85.28; determination of dependency, Iowa Code sections 85.42, 85.43, and 85.44; equitable apportionment, Iowa Code section 85.43; second injury fund, Iowa Code sections 85.63 to 85.69; vocational rehabilitation benefits, Iowa Code section 85.70; approval of legal, medical and other fees under Iowa Code section 86.39; commutation, Iowa Code sections 85.45 to 85.48; employee's examination, Iowa Code section 85.39; employee's examination or sanctions, Iowa Code section 85.39; application for alternate care, Iowa Code section 85.27; determination of liability, reimbursement for benefits paid and recovery of interest, Iowa Code section 85.21; interest, Iowa Code section 85.30; penalty, Iowa Code section 86.13; application for approval of third-party settlement, Iowa Code section 85.22; and petitions for declaratory orders or petitions for interventions filed pursuant to 876—Chapter 5. ~~An amendment that is filed on or after July 1, 1988, which alleges an additional injury date will be treated like an original notice and petition. No filing fee is due when an amendment corrects an erroneous injury date. An amendment to a petition that was filed on or after July 1, 1988, that alleges an additional or alternate date of occurrence does not require payment of an additional filing fee if a filing fee was paid when the petition was filed.~~

Rescind and reserve paragraphs "c" and "d."

[Filed 10/29/02, effective 1/1/03]

[Published 11/27/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/27/02.

AGENCY

Human Services Department[441]

RULE79.1(15)“d”(4)
[IAB 8/7/02, **ARC 1840B**]**DELAY**

Effective date of October 1, 2002, delayed 70 days by the Administrative Rules Review Committee at its meeting held September 10, 2002. [Pursuant to §17A.4(5)] At its meeting held November 19, 2002, the Committee voted to delay the effective date until adjournment of the 2003 Session of the General Assembly. [Pursuant to §17A.8(9)]

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