



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Iowa Code Chapter 17A and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, regulatory flexibility analyses and agenda for monthly committee meetings.

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

The ARC number which appears before each agency heading is assigned by the Administrative Rules Coordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to Iowa Code section 17A.6. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the administrative rules coordinator and published in the Bulletin.

PHYLLIS BARRY, Deputy Code Editor
LAVERNE SWANSON, Administrative Code Assistant
DONNA WATERS, Administrative Code Assistant

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
1	Friday, June 13, 1986	July 2, 1986
2	Friday, June 27, 1986	July 16, 1986
3	Friday, July 11, 1986	July 30, 1986

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly as follows:

First quarter	July 1, 1985, to June 30, 1986	\$122.00 plus \$4.88 sales tax
Second quarter	October 1, 1985, to June 30, 1986	\$ 92.00 plus \$3.68 sales tax
Third quarter	January 1, 1986, to June 30, 1986	\$ 61.00 plus \$2.44 sales tax
Fourth quarter	April 1, 1986, to June 30, 1986	\$ 33.00 plus \$1.32 sales tax

Single copies may be purchased for \$4.00 plus \$0.16 tax. Back issues may be purchased if the issues are available.

Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets and subscription basis only. All subscriptions for the Supplement (replacement pages) must be for the complete year and will expire on June 30 of each year.

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

Iowa Administrative Code - \$670.00 plus \$26.80 sales tax
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Iowa State Printing Division
Grimes State Office Building
Des Moines, IA 50319
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ATTENTION

To: All Agencies
 From: Administrative Rules Coordinator and Code Editor
 Re: Transition — Government Reorganization

Reorganization of state government will require numerous editorial changes in the organizational rules of most agencies.

Under certain circumstances, rules may be amended editorially without the need for rulemaking. These changes will be strictly limited to nonsubstantive changes such as agency names or addresses. Letters of request for editorial changes should be submitted in duplicate to the Administrative Rules Coordinator, State Capitol. Decisions will be made on a case-by-case basis as to whether the rule changes are nonsubstantive and will not require rulemaking.

EXAMPLES

1. Strike "Merit Employment Department" and insert "Department of Personnel" wherever it appears in Chapters ___ to ___. (Cite specific chapters or rules.)

2. Strike "Iowa Department of Substance Abuse" and insert "Division of Substance Abuse" wherever it appears in Chapters _____ to _____. (Cite specific chapters or rules.) Change the address of the new Division of Substance Abuse, Chapter ___, Rule ___ from Insurance Exchange Building, Suite 202, 505 Fifth Avenue, Des Moines, Iowa 50319 to Lucas Building, Fourth Floor, Des Moines, Iowa 50319. (Cite specific chapters or rules.)

Agencies are encouraged to develop long-range rulemaking plans for further implementation of rules pertaining to reorganization.

For your information, 1986 Iowa Acts, Senate File 2175, section 2065, subsection 1, is reproduced herein as follows:

TRANSITION PROVISIONS

Sec. 2065.

1. Any rule, regulation, form, order, or directive promulgated by any state agency mentioned in this Act, including any agency abolished, merged, or altered in this Act, and in effect on the effective date of this Act shall continue in full force and effect until amended, repealed, or supplemented by affirmative action of the appropriate state agency under the duties and powers of state agencies as established in this Act and under the procedure established in subsection two.

Any license or permit issued by any state agency mentioned in this Act, including any agency abolished, merged or altered, in this Act, and in effect on the effective date of this Act shall continue in full force and effect until expiration or renewal.

2. In regard to updating references and format in the Iowa administrative code in order to correspond to the restructuring of state government as established in this Act, the administrative rules coordinator and the administrative rules review committee, in consultation with the deputy Code editor, shall jointly develop a schedule for the necessary updating of the Iowa administrative code.



Schedule for Rulemaking 1986

FILING DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 10	Jan. 29	Feb. 18	Mar. 5	Mar. 26	Apr. 30	July 28
Jan. 24	Feb. 12	Mar. 4	Mar. 19	Apr. 9	May 14	Aug. 11
Feb. 7	Feb. 26	Mar. 18	Apr. 2	Apr. 23	May 28	Aug. 25
Feb. 21	Mar. 12	Apr. 1	Apr. 16	May 7	June 11	Sep. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 21	June 25	Sep. 22
Mar. 21	Apr. 9	Apr. 29	May 14	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	July 16	Aug. 20	Nov. 17
May 16	June 4	June 24	July 9	July 30	Sep. 3	Dec. 1
May 30	June 18	July 8	July 23	Aug. 13	Sep. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 27	Oct. 1	Dec. 29
June 27	July 16	Aug. 5	Aug. 20	Sep. 10	Oct. 15	Jan. 12 '87
July 11	July 30	Aug. 19	Sep. 3	Sep. 24	Oct. 29	Jan. 26 '87
July 25	Aug. 13	Sep. 2	Sep. 17	Oct. 8	Nov. 12	Feb. 9 '87
Aug. 8	Aug. 27	Sep. 16	Oct. 1	Oct. 22	Nov. 26	Feb. 23 '87
Aug. 22	Sep. 10	Sep. 30	Oct. 15	Nov. 5	Dec. 10	Mar. 9 '87
Sep. 5	Sep. 24	Oct. 14	Oct. 29	Nov. 19	Dec. 24	Mar. 23 '87
Sep. 19	Oct. 8	Oct. 28	Nov. 12	Dec. 3	Jan. 7 '87	Apr. 6 '87
Oct. 3	Oct. 22	Nov. 11	Nov. 26	Dec. 17	Jan. 21 '87	Apr. 20 '87
Oct. 17	Nov. 5	Nov. 25	Dec. 10	Dec. 31	Feb. 4 '87	May 4 '87
Oct. 31	Nov. 19	Dec. 9	Dec. 24	Jan. 14 '87	Feb. 18 '87	May 18 '87
Nov. 14	Dec. 3	Dec. 23	Jan. 7 '87	Jan. 28 '87	Mar. 4 '87	June 1 '87
Nov. 28	Dec. 17	Jan. 6 '87	Jan. 21 '87	Feb. 11 '87	Mar. 18 '87	June 15 '87
Dec. 12	Dec. 31	Jan. 20 '87	Feb. 4 '87	Feb. 25 '87	Apr. 1 '87	June 29 '87
Dec. 26	Jan. 14 '87	Feb. 3 '87	Feb. 18 '87	Mar. 11 '87	Apr. 15 '87	July 13 '87

20 days from the publication date is the **minimum** date for a public hearing or cutting off public comment.

35 days from the publication date is the **earliest** possible date for the agency to consider a noticed rule for adoption. It is the regular effective date for an adopted rule.

180 days See 17A.4(1)"b." If the agency does not adopt rules within this time frame, the Notice should be terminated.

NOTICE

Beginning on June 14, 1985, the deadline for filing rules with the office of the Administrative Rules Coordinator will be **12 o'clock noon** rather than 4:30 p.m.

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.

The Administrative Rules Review Committee will hold a special meeting in lieu of the statutory meeting on Tuesday, July 1, 1986, 10:00 a.m. and July 2, 1986, 9:00 a.m. in Committee Room 22, State Capitol. The following rules will be reviewed:

A supplemental agenda will appear in the Iowa Administrative Bulletin July 2, 1986.

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AGRICULTURE DEPARTMENT[30] Training and recordkeeping requirements for commercial pesticide applicators, 10.22, 10.26 IAB 6/18/86 ARC 6612	Conference Room Second Floor Wallace State Office Bldg. Des Moines, Iowa	July 9, 1986 1:00 p.m.
COMMERCE COMMISSION[250] Incentive rates, natural gas customers, 19.12 IAB 5/21/86 ARC 6575	Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	July 7, 1986 10:00 a.m.
Incentive rates, electric utility customers, 20.14 IAB 6/4/86 ARC 6607	Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	July 7, 1986 10:00 a.m.
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HEALTH DEPARTMENT[470] Public swimming pools, ch 15 IAB 6/4/86 ARC 6590	Conference Room Fourth Floor Lucas State Office Bldg. Des Moines, Iowa	June 24, 1986 1:00 p.m.
HUMAN SERVICES DEPARTMENT[498] Health maintenance organization, ch 88 IAB 5/21/86 ARC 6570	Council Bluffs District Office 417 East Kanesville Blvd. Council Bluffs, Iowa	June 16, 1986 10:00 a.m.
INSURANCE DEPARTMENT[510] Property and casualty insurance rate and form filing procedures, 20.4(4), 20.4(5), 20.4(6), 20.4(7) IAB 6/4/86 ARC 6586	Conference Room Insurance Department Lucas State Office Bldg. Des Moines, Iowa	June 24, 1986 1:00 p.m.
Life insurance, general filing requirements 30.5, 31.3(2)"c," 33.4(1)"c" IAB 6/4/86 ARC 6587	Conference Room Insurance Department Lucas State Office Bldg. Des Moines, Iowa	June 24, 1986 11:00 a.m.
Accident and health insurance, standards and health filing approval requirements 35.4, 35.7, 36.11 IAB 6/4/86 ARC 6588	Conference Room Insurance Department Lucas State Office Bldg. Des Moines, Iowa	June 24, 1986 3:00 p.m.
IOWA FINANCE AUTHORITY[524] Mortgage credit certificates, ch10 IAB 6/18/86 ARC 6627	Authority Office Suite 550 Liberty Bldg. Sixth and Grand Des Moines, Iowa	July 8, 1986 10:30 a.m.
LIVESTOCK HEALTH ADVISORY COUNCIL[565] Recommendations for fiscal year 1986-1987 IAB 6/18/86 ARC 6634	Dean's Conference Room College of Veterinary Medicine Iowa State University Ames, Iowa	July 8, 1986 10:00 a.m.

PUBLIC SAFETY, DEPARTMENT OF[680]

Devices and methods for testing
blood for drug and alcohol content
IAB 6/18/86 ARC 6635

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

July 8, 1986
10:00 a.m.

REGENTS, BOARD OF[720]

Selection of financial
advisors, 8.8
IAB 6/18/86 ARC 6620

(See also ARC 6619, herein)

Conference Room
Sixth Floor
Lucas State Office Bldg.
Des Moines, Iowa

July 22, 1986
10:00 a.m.

SOIL CONSERVATION DEPARTMENT[780]

Financial incentives
for soil erosion control,
amendments to 5.41
IAB 6/4/86 ARC 6597

Conference Room
Second Floor, North Half
Wallace State Office Bldg.
Des Moines, Iowa

June 30, 1986
1:00 p.m.

TREASURER OF STATE[830]

Invest in Iowa agriculture
diversification program, ch4
IAB 6/18/86 ARC 6611

(See also ARC 6610, herein)

State Treasurer Office
Capitol Bldg.
Des Moines, Iowa

July 8, 1986
10:00 a.m.

WATER, AIR AND WASTE MANAGEMENT[900]

Underground storage
tanks, amendments
to ch 135
IAB 6/18/86 ARC 6639

Auditorium
Second Floor
Wallace State Office Bldg.
Des Moines, Iowa

July 8, 1986
10:00 a.m.

ARC 6612

AGRICULTURE DEPARTMENT[30]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)"6", Iowa Code.

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 159.5(11), 189.2(2) and 206.19, the Iowa Department of Agriculture hereby gives Notice of Intended Action to amend Chapter 10, "Pesticides," of the Iowa Administrative Code.

The proposed rules establish training requirements for commercial pesticide applicators for household, institutional and structural pest control and recordkeeping requirements.

Any interested person may make written suggestions or comments on these proposed rules prior to July 9, 1986. Such written materials should be directed to Secretary of Agriculture, R. H. Lounsberry, Iowa Department of Agriculture, Henry A. Wallace Office Building, Des Moines, Iowa 50319. There will be a public hearing held on July 9, 1986, at 1:00 p.m. in the Second Floor Conference Room of the Henry A. Wallace Office Building, East Ninth and Grand Avenue, Des Moines, Iowa. Persons may present their views at this hearing either orally or in writing.

The following rules are proposed:

ITEM 1. Rescind rule 30—10.22(206) and insert in lieu thereof:

30—10.22(206) License and certification standards for pesticide applicators. No person shall engage in the business of applying pesticides to the land or property of another at any time without being licensed by the secretary. No person shall apply any restricted use pesticide without first complying with certification standards or unless the application is made under the direct supervision of a certified applicator.

10.22(1) Training requirements for commercial applicators. Commercial pesticide applicators in household, institutional and structural pest control shall receive a minimum of six hours training following a course of study approved by the secretary. This requirement is waived for applicators with at least two years of experience in the employ of a licensed pest control company.

10.22(2) License for commercial applicators. Before a license is issued, every commercial applicator shall demonstrate competence by qualifying for a commercial applicator's license by taking and passing an examination given by the secretary to demonstrate knowledge regarding recognition of common pests to be controlled, timing and methods of application, interpretation of label and labeling information, safety precautions and pre-harvest or re-entry restrictions, specific procedures to be used in disposing of pesticides and containers, and related legal responsibility under the classifications for which the applicant is to be licensed.

10.22(3) Certification of private applicators. Every private applicator who will apply a restricted use pesticide must demonstrate fundamental knowledge of principles and practices of pest problems and pest control practices as specified in 40 C.F.R. 171.5, as revised as of July 1, 1986, by either of the following methods:

a. Participating in at least one training course approved by the department; or

b. Passing a fundamental test administered by the secretary covering recognition of common pests to be controlled and damage caused by them; interpretation of label and labeling information; mixing and application of pesticides in accordance with label instructions including proper concentration of pesticide to be used; local environmental situations that must be considered during application to avoid contamination; recognition of poisoning symptoms and procedures to follow in case of a pesticide accident; and related legal responsibility.

10.22(4) Certification of commercial and public applicators.

a. In order to be certified, every commercial or public applicator who will apply restricted use pesticides, must demonstrate a fundamental knowledge of principles and practices of pest control and safe use of pesticides by passing a test equal to that required of commercial applicators in 40 C.F.R. 171.4, as revised as of July 1, 1986.

b. Separate examinations shall be taken and passed for each classification or category in which the commercial or public applicator intends to become certified, including the following: #1a—Agriculture Weed Control; #1b—Agriculture Insect Control; #1c—Agriculture Crop Disease Control; #1d—Fruit and Vegetable Pest Control; #1e—Animal Pest Control; #2—Forest Pest Control; #3ot—Ornamental and Turf Pest Control; #4—Seed Treatment; #5—Aquatic Pest Control; #6—Right-of-Way Pest Control; #7a—General and Household Pest Control; #7b—Structural Pest Control; #7c—Fumigation; #7d—Community Insect Pest Control; #8—Public Health Pest Control; #9—Regulatory Pest Control; #10—Demonstration and Research Pest Control.

10.22(5) Renewal of license and certification. Each commercial and public applicator's license shall expire annually on December 31. Each private applicator's license shall expire every three years on December 31. Each commercial, public and private applicator's certificate shall expire on December 31 of the third year following its issue. An expired license or certification shall be renewed upon payment of the required license fee and submission of evidence that the applicator has satisfied continuing education requirements.

10.22(6) Continuing education requirements. Beginning January 1, 1987, to December 31, 1987, each person licensed as a commercial applicator in this state shall complete, during each calendar year, a minimum of six hours of continuing education approved by the secretary. Compliance with the requirement of continuing education is a prerequisite for both license and certification renewal in each subsequent license or certification renewal year.

10.22(7) Report of licensee. Each licensee shall file with the license renewal application a certificate of attendance form furnished by the department, signed by the educational institution or organization sponsoring the continuing education no later than October 31 of the year in which claimed continuing education hours were completed.

10.22(8) Approval of sponsors, programs, and activities. A continuing education activity shall be qualified for approval if the secretary determines that it constitutes an organized program of learning which contributes directly to the professional competency of the licensee.

Topics to be covered in approved training shall include, but are not limited to, pest recognition, biology and habits; alternative, nonchemical controls; pesticide formu-

AGRICULTURE DEPARTMENT[30] (cont'd)

lation and application equipment and technique; environmental safety and protection; applicator safety and protection; customer safety; poisoning prevention, symptoms and first aid; and pesticide laws and regulations. Sources of training may include state and national trade associations, supplier or distributor seminars, pest control company formal training programs and pesticide applicator training meetings.

Application for approval shall be submitted to the secretary by the proposed sponsor at least sixty days in advance of the continuing education activity.

10.22(9) Standards for supervision of noncertified applicators by certified private and commercial applicators. Certified applicators whose activities indicate a supervisory role must demonstrate a practical knowledge of federal and state supervisory requirements, including labeling, regarding the application of restricted use pesticides by noncertified applicators.

The availability of the certified applicator must be directly related to the hazard of the situation. In many situations, where the certified applicator is not required to be physically present, "direct supervision" shall include verifiable instruction to the competent person, as follows: (1) Detailed guidance for applying the pesticide properly, and (2) provisions for contacting the certified applicator in the event the certified applicator is needed. In other situations, and as required by the label, the actual physical presence of a certified applicator may be required when application is made by a noncertified applicator.

Employees who are not certified in the appropriate categories and have less than two years of experience in the employ of a licensed pest control company must receive a minimum of six hours of approved training annually, prior to the commencement of pesticide application in the absence of a certified supervisor.

This rule is intended to implement Iowa Code section 206.6.

ITEM 2. Rescind rule 30—10.26(206) and insert in lieu thereof:

30—10.26(206) Recordkeeping requirements. Commercial applicators and retail dealers shall maintain records with respect to application of pesticides for a period of three years from the date of application of the pesticides to which the records refer; and shall furnish copies to the secretary upon request in writing.

10.26(1) Retail dealers—sales to certified applicators. Each restricted use pesticide retail dealer shall maintain at each individual dealership records of each transaction where a restricted use pesticide is made available for use by that dealership to a certified applicator. Record of each such transaction shall include the following information:

a. Name and address of the residence or principal place of business of each person to whom the pesticide was made available for use.

b. The certification number on the document evidencing that person's certification, the state (or other governmental unit) that issued the document, the expiration

date of the certification and the categories in which the applicator is certified, if appropriate.

c. The product name, EPA registration number granted under section 24(c) of the FIFRA (if any) on the label of the pesticide.

d. The quantity of the pesticide made available for use in the transaction.

e. The date of the transaction.

10.26(2) Sales to uncertified persons. No dealer or dealership may make a restricted use pesticide available to an uncertified person unless the dealer or dealership can document that the restricted use pesticide will be used by a certified applicator and the dealer or dealership maintains the records required in this subrule. Each restricted use pesticide retail dealer shall maintain records at each individual dealership of each transaction where a restricted use pesticide was made available to an uncertified person for use by a certified applicator. Records of each transaction shall be maintained for a period of thirty-six months after the date of the transaction and shall include the following information:

a. The name and address of the residence or principal place of business of the uncertified person to whom the restricted use pesticide is made available for use by a certified applicator.

b. The name and address of the residence or principal place of business of the certified applicator who will use the restricted use pesticide.

c. The certified applicator's certification number, the state (or other governmental unit) that issued the certification document, the expiration date of the certification and the categories in which the applicator is certified, if appropriate.

d. The product name, EPA registration number and the state special local need registration number granted under section 24(c) of the FIFRA (if any) on the label of the pesticide.

e. The quantity of the pesticide made available for use in the transaction.

f. The date of the transaction.

10.26(3) Commercial applicators. Every commercial applicator shall make or cause to have made office records of all application activities on each pesticide applied which shall include the following:

a. The name and license number of the licensee.

b. The name and address of the landowner or customer.

c. Address of the place of application of restricted use pesticide.

d. Date of pesticide application.

e. Trade name of pesticide product used.

f. The quantity of pesticide product used and the concentration or rate of application.

g. If applicable, the temperature and the direction and estimated velocity of wind at time of application to any outdoor area.

h. Use of "restricted use" pesticide.

This rule is intended to implement Iowa Code section 206.15.

NOTICE — AGRICULTURAL CREDIT CORPORATION MAXIMUM LOAN RATE

In accordance with the provisions of Iowa Code section 535.12, the Superintendent of Banking has determined that the maximum rate of interest that may be charged on loans by Agricultural Credit Corporations as defined in Iowa Code section 535.12, subsection 4, shall be:

August 1, 1985 — August 31, 1985	14.90%
September 1, 1985 — September 30, 1985	14.70%
October 1, 1985 — October 31, 1985	14.65%
November 1, 1985 — November 30, 1985	14.65%
December 1, 1985 — December 31, 1985	14.60%
January 1, 1986 — January 31, 1986	14.60%
February 1, 1986 — February 28, 1986	14.75%
March 1, 1986 — March 31, 1986	14.95%
April 1, 1986 — April 30, 1986	14.95%
May 1, 1986 — May 31, 1986	14.90%
June 1, 1986 — June 30, 1986	14.85%

ARC 6628

BEER AND LIQUOR CONTROL DEPARTMENT[150] TERMINATION OF NOTICE

Pursuant to the authority of Iowa Code section 17A.4(1)"b," the Iowa Beer and Liquor Control Department gives Notice of its intention to terminate ARC 6172 and ARC 6173, Iowa Administrative Bulletin, December 4, 1985; and ARC 6276, Iowa Administrative Bulletin, January 15, 1986. (Amendments to Chapter 14).

All three of these ARCs implement the wine bill (1985 Iowa Acts, chapter 32). ARC 6172 and ARC 6276 were filed emergency. The agency is terminating the three listed Notices of Intended Action with permission from the Iowa Administrative Rules Review Committee.

ARC 6630

COMMERCE COMMISSION[250] NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 476.2 and 17A.4, the Iowa State Commerce Commission gives notice that on May 30, 1986, the Commission issued an order in Docket No. RMU-86-11, In Re: Natural Gas Distribution Utilities — Obligation to Serve and Transportation Tariffs, "Order Commencing Rulemaking."

The proposed rule would clarify the natural gas local distribution company's (LDC's) obligation to serve customers desiring transportation of gas owned by the

customer in place of purchasing gas owned by the LDC. Briefly, the LDC's obligation to former customers is an extremely limited one; customers electing to bypass the utility system supply will surrender any rights they may have to the LDC's system supply, although they may purchase those rights in addition to transportation services. The LDC will be obligated to provide transportation services for customers desiring those services, to the extent the LDC has capacity available.

Transportation service will be divided into several classes. Interruptible transportation will be available both with and without standby service (the ability to return to the LDC's service and draw upon its system supply). To receive standby service, the customer must pay a standby charge established by the LDC. If these charges are paid, there will be no charge to return to the LDC's full service; the only requirement will be adequate notice. The customer will be required to pay cost-based charges for use of the LDC facilities.

For customers which are currently firm customers of the LDC, there will be a range of transportation options, ranging from full standby to no standby service. The charge for full standby service will be equal to all administrative charges associated with the customer, the directly assignable demand charges from the LDC's suppliers, and all appropriate other charges. There will be no charge to reconnect if adequate notice is given.

Current firm customers may also elect to take partial standby service. The standby charge will be equal to the administrative charges, appropriate other charges, and the directly assignable demand charges for the portion of standby service rights the customer elects to keep. In addition, the customer must pay the discounted value of any contract rights released at the time of the switch to transportation services.

In order to take transportation without buying standby service, the customer must buy itself out of any current contract, will be required to pay a reconnect charge to return to the LDC system, and must pay cost-based charges for any LDC facilities used.

The LDC's obligations may be summarized as follows: First, it must maintain the quality of service to its remaining full service customers. Second, the LDC may not deny transportation service to a customer if capacity is available. Third, the LDC may not transfer any costs of released services to any other customers. Those costs must be recovered through transportation charges. Fourth, the LDC will be required to determine the actual rates appropriate for these services, subject to Commission review. Finally, the LDC will be subject to minimal reporting requirements to allow the Commission to assess the effectiveness of this program. (Basically, the LDC must file copies of all transportation contracts within thirty days of the date of execution. The LDC may delete the customer name and supply an identification number instead, in order to preserve the customer's anonymity.)

The proposed rule is intended to protect the LDC's full-service customers, promote transportation on fair terms where it is best for all concerned, and put bypassers on notice that they leave the LDC system at their own risk. The proposed rule sets minimum requirements, but leaves the most significant factor (pricing) to the LDC, subject to Commission review.

Other requirements of the proposed rule include requirements that any additional facilities necessary to provide transportation service must be paid for by the customer requesting those facilities (with payment prior

COMMERCE COMMISSION[250] (cont'd)

to construction, if necessary) and that the transportation customer must be assessed for a fair portion of all lost and unaccounted-for gas.

The Commission specifically requests comment concerning two aspects of the proposed rule. The first concerns sale of LDC facilities to the customer. It appears it would be appropriate to sell dedicated facilities to customers when doing so will avoid duplication of facilities (pipeline used to serve mainline customers, for instance). The Commission requests public comment concerning any conditions which may be appropriate to such sales.

The second issue concerns the treatment of funds paid by firm-service customers for release from their obligations to the LDC. The LDC may be able to resell the gas supplies released by the customer, or may be able to reduce its supply obligations to adjust for the lost sales. In either of these situations, the LDC may receive a windfall. The Commission requests comment concerning the appropriate regulatory response to these situations.

Any interested person may file a written statement of position pertaining to this proposed rule. The statement must be filed on or before July 14, 1986, by filing an original and ten copies in a form substantially complying with 250 Iowa Administrative Code subrule 2.2(2). All communications shall be directed to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319.

Amend 250 Iowa Administrative Code Chapter 19 by adding rule 19.13(476), "Transportation service."

250—19.13(476) Transportation service.

19.13(1) Purpose. This subrule requires gas distribution utility companies to provide transportation of natural gas owned by an end-user on a nondiscriminatory basis, subject to the capacity limitations of its system. System capacity is defined as the maximum flow of gas the system is capable of handling. Capacity availability shall be determined using the total current firm gas flow, including both system and transportation gas.

19.13(2) End-user rights. The end-user purchasing transportation services from the utility shall have the following rights and be subject to the following conditions:

a. The end-user shall have the right to receive, pursuant to agreement, one hundred percent of the gas delivered by it or on its behalf to the transporting utility (adjusted for the system-wide average of unaccounted-for gas).

b. The volumes which the end-user is entitled to receive shall be subject to curtailment or interruption due to limitations in the deliverability or system capacity of the transporting utility. Curtailment of the transportation volumes will take place according to the priority class, subdivision, or category which the end-user would have been assigned if it were purchasing gas from the transporting utility.

c. During periods of curtailment or interruption, the party is entitled to a credit equal to the difference between the volumes delivered to the utility and those received by the end-user, adjusted for lost and unaccounted-for gas. The credit shall be available at any time, within the conditions of the agreement.

d. The end-user shall be responsible for all costs associated with any additional plant required for providing transportation services to the end-user.

19.13(3) Transportation service charges. Transportation service shall be offered to the following classes:

- a. Interruptible service with standby
- b. Interruptible service without standby.
- c. Firm service with standby.
- d. Firm service without standby.

19.13(4) Transportation service charges and rates. All rates and charges for transportation shall be based on the cost of providing the service.

a. Standby service shall entitle the end-user to return to the system service to the extent of the standby capacity purchased. The charge shall be at least equal to the administrative costs of monitoring the service, plus any other costs (including but not limited to gas demand costs which are directly assignable to the end-user).

b. End-users without standby service may only return to system service by paying an additional charge and are subject to the availability of adequate system capacity. An end-user wishing to receive service on a "no standby" basis must pay the utility for the discounted value of any contract remaining in effect at the time of beginning transportation service. The discounted values shall include all directly assignable costs (including but not limited to gas costs).

c. The utility shall require a reconnection charge when an end-user receiving transportation service without standby service requests to return to the system supply. The end-user shall return to the system and receive service under the appropriate classification as determined by the utility.

d. The end-user electing to receive transportation service shall pay reasonable rates for any use of the facilities, equipment, or services of the transporting utility.

19.13(5) Reporting requirements. A natural gas utility shall file with the commission two copies of each transportation contract entered into within thirty days of the date of execution. The utility may delete any information identifying the end-user and replace it with an identification number. The utility shall promptly supply the deleted information if requested by the commission staff. The deleted information may be filed with a request for confidentiality.

ARC 6631

COMMERCE COMMISSION[250]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 476.2 and 17A.4, the Iowa State Commerce Commission gives notice that on May 30, 1986, the Commission issued an order in Docket No. RMU-86-16, In Re: Intrastate Billing and Collection Service Tariffs, "Order Commencing Rulemaking." This rulemaking is being commenced in response to a Federal Communications Commission (FCC) decision to detariff interstate billing and collection services, FCC Report and Order in CC Docket No. 85-88, released January 29, 1986 ("FCC Order").

COMMERCE COMMISSION[250] (cont'd)

Billing and collection services are services offered by the local exchange carriers (LECs) to the interexchange carriers (IXCs). The LECs collect all monthly telephone charges from telephone customers on behalf of IXCs electing to purchase the services. Some IXCs may be unable to bill on their own behalf in any effective manner; this has been true of AT&T, for example, because the billing functions of the nationwide Bell network were transferred to the LECs at the time of the divestiture. (See FCC Order, n. 50.) Other IXCs purchase the service because the LEC may be able to use its power to disconnect local service to persuade customers to pay bills for interexchange service, although that issue has not been specifically addressed in Iowa.

Intrastate access tariffs filed in Iowa are required to mirror the interstate access tariffs filed by the same local exchange carriers with the FCC, see 250 Iowa Administrative Code subrule 22.14(2), paragraph "b." There are four exceptions to that rule: The carrier common line charge, the end-user charge, the universal service fund, and the use of transitional and premium rates. The FCC has decided to detariff interstate billing and collection services, as noted above, based on its findings that (a) billing and collection is not a communications service per se and (b) the services have the potential to be competitive, and so need not be regulated under the FCC's ancillary jurisdiction. The FCC has made its detariffing order effective January 1, 1987. The FCC did not attempt to preempt state commissions from continuing to regulate rates for intrastate billing and collection services. The FCC order applies only to LEC billing and collection for interstate services of IXCs. FCC Order, paragraph 52.

The Iowa Commission does not intend to detariff billing and collection services. The Commission believes that, as conducted in Iowa, billing and collection is a utility service because it is inextricably tied to the local exchange carrier's other utility services. Billing and collection is a necessary adjunct to providing communications services; few IXCs would care to offer communications services if they were unable to effectively bill their customers. In addition, the LEC is sometimes the only entity with access to certain information necessary to billing, including lists of customers, their addresses, and their usage of LEC facilities. Because of this close relationship with other utility services, there is also little reason to believe that the service is or will become competitive in any effective manner. However, if the Commission takes no action, intrastate billing and collection services would be detariffed by the FCC order, because intrastate tariffs would be changed to mirror the interstate tariffs. Therefore, the Commission is proposing to amend 250 Iowa Administrative Code subrule 22.14(3) to clarify that intrastate billing and collection services in Iowa will continue to be tariffed services subject to Commission jurisdiction.

Any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before July 14, 1986, by filing an original and ten copies in a form substantially complying with 250 Iowa Administrative Code subrule 2.2(2). All communications shall be directed to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319.

Amend 250 Iowa Administrative Code subrule 22.14(3) to read as follows:

22.14(3) Rates for access service. The access service rate elements, as defined by 47 C.F.R. Part 69, 1985, shall be used to determine intrastate interexchange access rates, with the following exceptions:

a. Carrier common line charge. The rate for the intrastate carrier common line charge shall be three cents per access minute or fraction thereof for both originating and terminating segments of the communication. The carrier common line charge shall be assessed to exchange access made by any interexchange telephone utility, including resale carriers. In lieu of this charge, interconnected private systems shall pay for access as provided in subrule 22.14(1)"b."

b. End-user charge. No intrastate end-user charge shall be assessed.

c. Universal service fund. No universal service fund shall be established.

d. Transitional and premium rates. There shall be no discounted transitional rate elements applied in Iowa except as otherwise specifically set forth in these rules.

e. *Billing and collection services.* The rate for intrastate billing and collection services shall continue to be regulated by the commission. Billing and collection services are defined as including recording message detail, aggregating detail to create an individual message, applying an interexchange carrier's rates to the individual message, processing the rated message into customer billing form, mailing the bill, collecting payment, accepting customer deposits, handling customer inquiries, and investigating billing evasion activities, plus any other services performed as a part of billing and collecting a third-party account on behalf of an interexchange carrier.

An exchange utility may, pursuant to tariff, bill for access on the basis of assumed minutes of use where measurement is not practical. However, if the interexchange utility provides actual minutes of use to the exchange utility, the actual minutes shall be used.

Intrastate access rates are subject to approval of the commission.

ARC 6644

**CORRECTIONS,
DEPARTMENT OF[291]
NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code chapter 246, the Department of Corrections hereby gives Notice of Intended Action to amend rules 23.2(218), 23.3(218), 25.1(217A), 26.1(217A) and 27.2(218) of the Iowa Administrative Code.

The rules being amended specify by institution the hours during which visits to inmates are permitted. Changes in visiting hours have been geared toward peak use periods and more efficient management of space and staff. Additionally, a change is made relating to tours which allows the superintendent to approve tours by minors and provides for scheduling of tours with

CORRECTIONS, DEPARTMENT OF[291] (cont'd)

consideration for institution operations at the Iowa Correctional Institution for Women.

Any interested persons may make oral or written suggestions or comments on these proposed rules not later than noon, July 11, 1986. Such written materials shall be directed to the Director, Department of Corrections, Jewett Building, Tenth and Grand, Des Moines, Iowa 50309. A meeting will be held for the purpose of oral presentation at 8:00 a.m., July 11, 1986, in the north conference room, Grimes State Office Building, East 14th and Grand, Des Moines, Iowa, 50319. Persons who want to convey their views orally should contact the Director's office at (515) 281-4811 at least one day prior to the date of the public hearing.

ITEM 1. Rule 23.2(246) "Visiting," is amended as follows:

23.2(1) Visiting hours are from 9:30 a.m. to 11:15 a.m. and 1:00 p.m. to 4:00 p.m. daily. Children of the resident may visit from 9:30 a.m. to 4:00 p.m. daily. Monday, Tuesday, Friday, Saturday and state designated holidays from 9:30 a.m. to 4:30 p.m. and Sundays from 9:30 a.m. to 7:30 p.m. The frequency of visits and approved visitors is as follows:

Residence	Visitors	Frequency
Cottage III—Security	Approved immediate family	Two visits per week
Cottage III—General	Approved list	No limit
Cottage II—General	Approved list	No limit
Cottage I—General	Approved list	No limit

General population: Visits shall be limited to three hours in length or upon closing of the visiting room with no limit on frequency of visits. Visits from children under the age of seventeen may be extended beyond three hours with prior approval of the superintendent or designee.

Security unit: Inmates will be allowed a maximum of two visits per week. Visits shall be limited to three hours in length or closing of the visiting room and may be limited to one inmate at a time in the security visiting area.

Inmates in segregation/detention may have visits modified as to length, time and location by the security director depending on the conduct or reason for segregation. Visitors must be members of the inmate's immediate family and on the approved visiting list. Immediate family shall be defined as husband, mother, father, brother, sister, son, daughter or legal guardian.

23.2(2) Prior approval for a visit must be obtained by writing or calling the institution in advance. Visits during scheduled work or treatment activity will not be permitted without prior approval. Requests for special or extended visits may be approved by the superintendent if requested at least three days in advance. Such requests shall include the names of the visitors and the date of the visit. Telephone calls must be received by 10:00 a.m. on the day of the visit.

23.2(3) A maximum of four five visitors per inmate shall be allowed unless otherwise approved. at one time. Visitors may visit with a maximum of two inmates at any one time all of whom must be members of the same immediate family.

23.2(4) Visitors shall leave all carried possessions, except for cigarettes and matches, at the reception desk.

23.2(5)(4) Visitors' vehicles shall be parked in the designated parking lot area and all passengers visitors shall go report to the administration office control center.

23.2(6)(5) Visitors shall have contact only with the inmate with whom the appointment was made they are visiting and remain in the designated visiting area only.

23.2(7)(6) Money or other articles for the inmate shall be left at the reception desk control center in the administration building. Visitors shall not leave medications, pills or contraband items.

23.2(7) All visitors must sign in at the control center.

23.2(8) All visitors must be on the inmate's approved visiting list.

23.2(9) Visits with attorneys, chaplains, etc., shall be during normal business hours unless previously authorized by appointment.

ITEM 2. Rule 23.3(246) "Tours," is amended as follows:

23.3(1) Persons wishing to tour the institution may request permission to do so. Scheduled tours for the general public may be scheduled through the superintendent's office. Tours shall will be conducted Monday through Friday, excluding holidays, as arrangements are able to be made.

23.3(2) Tours are limited to persons eighteen years of age or older unless approved by the superintendent.

23.3(3) Prior approval of the superintendent is required for relatives, friends or persons on visiting lists of inmates to tour the institution.

ITEM 3. Subrule 25.1(3) is amended as follows:

25.1(3) Visiting hours are Monday and Thursday, 8:00 a.m. to 4:00 7:30 p.m.; Friday, noon to 7:30 p.m.; Saturday, Sunday and all holidays from 12:00 noon to 8:00 p.m. 9:00 a.m. to 7:30 p.m. Inmates will be permitted a three-hour visit on any day that the visiting room is open. To avoid overcrowding, an inmate will be allowed a maximum of five visitors in the visiting room at a time.

ITEM 4. Subrule 26.1(2) is amended as follows:

26.1(2) Visiting hours are 8:30 a.m. to 3:30 p.m., Monday, Thursday, Friday, Saturday, Sunday and all recognized holidays. There is no visiting on Tuesday and Wednesday. Inmates are permitted three-hour visits on Saturday, Sunday and recognized holidays. Four-hour visits are permitted on Monday, Thursday and Friday. with There are no limits on the number of visits. A maximum of five persons may visit with one inmate at any one time.

ITEM 5. Rule 27.2(218), is amended as follows:

291—27.2(218246) Visiting.

27.2(1) Visiting hours are from 9:00 a.m. noon to 3:45 8:00 p.m. Monday Thursday through Thursday Monday except as provided in paragraph "b" of this subrule. and holidays from 8:00 a.m. to 8:30 p.m. Friday, Saturday and Sunday. There are no visits on Tuesday and Wednesday. Visits shall be limited in duration according to four hours in length: the space available in the facility's visiting room. A patient will only be available for a visit when not actively involved in a scheduled treatment program. Limitations on the frequency and duration of visits are as follows:

a. Psychiatric program. Patients are permitted to have visits only at times when not involved in a scheduled treatment activity unless prior approval is granted by the patient's counselor.

CORRECTIONS, DEPARTMENT OF[291] (cont'd)

b. Reception program. Reception inmates may have two 2-hour visits per week commencing seven days after admission. Visiting hours for reception inmates are from 4:00 to 8:00 p.m. on Monday, Thursday, Friday and Saturday and from noon to 8:00 p.m. on Sunday.

c. General population. The frequency and duration of visits for general population inmates is dependent upon level assignment according to the following schedule:

Level	Duration (Hrs.)	No. Visits (Per Month)
Special Needs	2	4
I	2	4
II	4	4
III	4	6
IV	4	8

No change in subrules 27.2(2) to 27.2(4).

ARC 6626

FAIR BOARD[430]

NOTICE OF INTENDED ACTION

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

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 §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 173.14(8) and chapter 17A, the Iowa State Fair Board proposes to amend 430—Chapter 6 of the Iowa Administrative Code.

The rule 6.1(173) is amended by adding a second paragraph to define the superintendent's duties in regard to competitive classes.

Interested persons may present written comments or statements on the proposed amendment not later than 1:30 p.m., July 8, 1986, to Secretary/Manager, Iowa State Fair, Statehouse, Des Moines, Iowa 50319, at the Administration Building, Iowa State Fairgrounds, Des Moines, Iowa.

The Iowa State Fair Board approved this intended action at its regular meeting on May 21, 1986.

This amendment implements Iowa Code section 173.14.

The following new paragraph is added to 430—6.1(173):

All competitive exhibits and competitions shall be coordinated by a superintendent appointed by the board. The superintendent's duties shall consist of assisting with the preparation and execution of rules and regulations of the competition with the approval of the secretary of the fair.

ARC 6621

HEALTH DEPARTMENT[470]

BOARD OF OPTOMETRY EXAMINERS

NOTICE OF INTENDED ACTION

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

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 §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 17A.9, the Board of Optometry Examiners hereby gives Notice of Intended Action to amend Chapters 143 and 144 of the Iowa Administrative Code.

The proposed amendments provide a procedure for declaratory rulings and provide for a reinstatement fee of one hundred dollars for applicants who wish to reinstate a license to practice optometry.

Any interested person may make written comments concerning the proposed rules not later than July 8, 1986, addressed to Irene G. Howard, Director, Professional Licensure, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

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

ITEM 1. Chapter 143 is amended by adding the following new rule:

470—143.11(17A) Declaratory rulings.

143.11(1) Upon petition filed by any individual, partnership, corporation, association, governmental subdivision, private or public organization or state agency, the board may issue a declaratory ruling as to the applicability of statutes and rules, policy statements, decisions and orders under its jurisdiction.

143.11(2) A petition for a declaratory ruling shall be typewritten or printed and at the top of the first page shall appear in capitals the words: PETITION FOR DECLARATORY RULING BEFORE THE IOWA BOARD OF OPTOMETRY EXAMINERS.

143.11(3) The petition shall include the name and official title, if any, address and phone number of each petitioner. If the request is at the behest of any entity mentioned in subrule 143.11(1), it shall name the entity.

143.11(4) The body of the petition shall contain:

a. A detailed statement of facts upon which petitioner requests the board to issue its declaratory ruling.

b. The statute, rule, policy statement, decision or order for which a ruling is sought.

c. The exact words, passages, sentences or paragraphs which are the subject of inquiry.

d. The specific questions presented for declaratory ruling.

e. A consecutive numbering of each multiple issue presented for declaratory ruling.

f. A brief may be attached thereto.

143.11(5) The petition shall be filed either by serving it personally to the Director, Professional Licensure, or by mailing it to the Director, Professional Licensure, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

143.11(6) The director shall acknowledge receipt of petitions or return petitions not in substantial conformity with the above rules.

HEALTH DEPARTMENT[470] (cont'd)

143.11(7) The board may decline to issue a declaratory ruling for the following reasons:

- a. Lack of jurisdiction.
- b. Lack of clarity of the issue and facts presented.
- c. The issue(s) presented are pending resolution by a court of Iowa or by the attorney general.
- d. The issue(s) presented have been resolved by a change in circumstances or by other means.
- e. The issue(s) are under investigation for purposes of formal adjudication.
- f. The petition does not comply with the requirements imposed by subrules 143.11(1) to 143.11(5).
- g. Where a ruling would necessarily determine the legal rights of other parties not represented in the proceeding.

143.11(8) In the event the board declines to make a ruling, the director shall notify the petitioners of this fact and the reasons for the refusal.

143.11(9) When the petition is in proper form and has not been declined, the board shall issue a ruling disposing of the petition within a reasonable time after its filing.

143.11(10) Rulings shall be mailed to petitioners and to other parties at the discretion of the director. Rulings shall be indexed and available for public inspection.

143.11(11) A declaratory ruling by the board shall have a binding effect upon subsequent board decisions and orders which pertain to the party requesting the ruling and in which the factual situation and applicable law are indistinguishable from that presented in the petition for declaratory rulings. To all other parties and in factual situations which are distinguishable from that presented in the petition, a declaratory ruling shall serve merely as precedent.

ITEM 2. Rule 470—143.10(147) is amended by adding thereto the following new subrule:

143.10(5) Fee for reinstatement of a license to practice optometry is one hundred dollars.

ITEM 3. Subrule 144.1(5) is amended to read as follows:

144.1(5) Applicants to be considered for reinstatement ~~who have not practiced for one or more years must shall complete the appropriate forms, a reinstatement application, satisfy Iowa requirements for continuing education study hours for each year the Iowa license was not renewed, and pay license renewal fees for each year out of practice the Iowa license was not renewed, and pay the reinstatement fee as provided by rule 470—143.10(147).~~

ARC 6622**HEALTH DEPARTMENT[470]****BOARD OF COSMETOLOGY EXAMINERS****NOTICE OF INTENDED ACTION**

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

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 §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 157.6 and 157.14, the Board of Cosmetology Examiners hereby

gives Notice of Intended Action to amend Chapter 150 of the Iowa Administrative Code.

The proposed amendment requires that cosmetology establishments operated in connection with any other business, except where food is handled, shall be separated by a minimum six-by six-foot solid stationary permanent partition.

Any interested person may make written comments concerning the proposed rule not later than July 8, 1986, addressed to Grace M. West, Board Administrator, Board of Cosmetology Examiners, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rule is intended to implement Iowa Code sections 157.6 and 157.14.

Subrule 150.4(2) is amended to read as follows:

150.4(2) Cosmetology establishments operated in connection with any other business, except where food is handled, shall be separated ~~either by a complete or a partial partition~~ *minimum six-foot by six-foot solid stationary permanent partition*. Should the cosmetology establishment be operated immediately adjacent to a business where food is handled, ~~such~~ the establishment shall be entirely separated, and any doors between the aforesaid shall be rendered unusable except in an emergency.

ARC 6623**HEALTH DEPARTMENT[470]****BOARD OF BARBER EXAMINERS****NOTICE OF INTENDED ACTION**

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

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 §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 158.15 and 147.80, the Board of Barber Examiners hereby gives Notice of Intended Action to amend Chapters 152 and 160 of the Iowa Administrative Code.

The proposed rules provide that a student shall not be required to attend more than nine hours on any given school day, rescind a provision which prohibits a student from returning to school until the class is in the same point in the textbook, and place the fees in Chapter 152 without a change in any of the fees. The rule was clarified to make the fees nonrefundable.

Any interested person may make written comments concerning the proposed rules not later than July 8, 1986, addressed to Keith Rankin, Board Administrator, Board of Barber Examiners, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rules are intended to implement Iowa Code sections 158.7 and 147.80.

ITEM 1. Subrule 152.6(1) is rescinded and the following adopted in lieu thereof:

152.6(1) All schools of barbering shall establish regular school hours. No student shall be required to attend more than nine hours on any given school day. The board shall be notified of established hours.

HEALTH DEPARTMENT[470] (cont'd)

ITEM 2. Subrule 152.6(4) is rescinded.

ITEM 3. Rule 470—160.6(147) is rescinded.

ITEM 4. Chapter 152 is amended by adding the following new rule:

470—152.214(147) License fees. All fees are nonrefundable.

152.214(1) License to practice barbering issued on basis of an examination is seventy-five dollars.

152.214(2) Fee for license by reciprocity in this state is one hundred dollars.

152.214(3) Renewal of a license to practice barbering for the biennial period is sixty dollars. The penalty fee for failure to submit the renewal application and fee by the date due is twenty-five dollars, which shall be paid in addition to the renewal fee.

152.214(4) License for a new barber school is five hundred dollars.

152.214(5) Renewal of a barber school license is two hundred fifty dollars.

152.214(6) License to instruct in a licensed barber school on basis of examination is seventy-five dollars.

152.214(7) Renewal of license to instruct in a licensed barber school for a biennial period is seventy dollars.

152.214(8) Fee to license a new barbershop is fifty dollars.

152.214(9) Renewal of a barbershop license is twenty-five dollars. The penalty fee for failure to submit the renewal application and fee by the date due is ten dollars, which shall be paid in addition to the renewal fee.

152.214(10) Fee to transfer a barbershop or barber school license is twenty-five dollars.

152.214(11) Fee for an original barber assistant license is twenty-five dollars.

152.214(12) Renewal of a barber assistant license is five dollars.

152.214(13) Fee for a temporary permit to practice barbering is ten dollars.

152.214(14) Fee for a certified statement that a licensee is licensed in this state is five dollars.

152.214(15) Fee for a demonstrator license in this state is five dollars.

152.214(16) Fee for a duplicate license is five dollars.

The proposed amendment requires that a barbershop operated in conjunction with a cosmetology establishment shall be separated from the cosmetology establishment by a minimum six by six foot solid stationary permanent partition.

Any interested person may make written comments concerning the proposed rule not later than July 8, 1986, addressed to Keith Rankin, Board Administrator, Board of Barber Examiners, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rule is intended to implement Iowa Code sections 158.5 and 158.15.

Rule 470—153.5(158) is amended to read as follows:

470—153.5(158) Quarters adjacent to other business. A barbershop located in a room adjacent to a food service establishment, tavern or grocery shall be in a completely separate room. Doors between the barbershop and the aforesaid shall be rendered unusable except for emergencies. A barbershop may be operated in conjunction with a cosmetology establishment provided it meets all the requirements of the law pertaining to barbering. A barbershop operated in conjunction with a cosmetology establishment shall be separated from the cosmetology establishment by a minimum six by six foot solid stationary permanent partition.

ARC 6625

HEALTH DEPARTMENT[470]

BOARD OF SOCIAL WORK EXAMINERS
NOTICE OF INTENDED ACTION

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

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 §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 17A.9, the Board of Social Work Examiners hereby gives Notice of Intended Action to amend Chapter 161 of the Iowa Administrative Code.

The proposed amendment provides a procedure for declaratory rulings.

Any interested person may make written comments concerning the proposed rules not later than July 8, 1986, addressed to Irene G. Howard, Director, Professional Licensure, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rule is intended to implement Iowa Code section 17A.9.

Subrule 161.3(5) is rescinded and the following adopted in lieu thereof:

161.3(5) Upon petition filed by any individual, partnership, corporation, association, governmental subdivision, private or public organization, or state agency, the board may issue a declaratory ruling as to the applicability of statutes and rules, policy statements, decisions and orders under its jurisdiction.

ARC 6624

HEALTH DEPARTMENT[470]

BOARD OF BARBER EXAMINERS
NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 158.5 and 158.15, the Board of Barber Examiners hereby gives Notice of Intended Action to amend Chapter 153 of the Iowa Administrative Code.

HEALTH DEPARTMENT[470] (cont'd)

ARC 6613

HUMAN SERVICES
DEPARTMENT[498]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.3(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, 217.6, and 249A.4, the Department of Human Services proposes to amend Chapter 1, "Department Organization and Procedures," and Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code, and to adopt Chapter 60, "Refugee Cash Assistance," and Chapter 61, "Refugee Services Program," Iowa Administrative Code.

The Iowa Refugee Service Center has been the agency administratively responsible for co-ordinating and providing refugee services funded through the United States Department of Health and Human Services and the United States State Department since 1975. The Iowa Refugee Service Center was formally established by Executive Order on January 27, 1984, to:

(1) Co-ordinate, develop, and implement federal, state and local programs which provide resettlement services and other social services which promote the economic self-sufficiency and social self-reliance of refugees and other eligible groups.

(2) Provide specialized cultural information and immigration and other services to refugees, entrants, and immigrants as well as the private individuals, organizations, corporations, and state agencies whose activities are associated with them.

As part of the Governor's plan to reorganize state government, it was determined that the refugee program should become administratively part of the Department of Human Services. On December 24, 1985, Governor Branstad signed Executive Order Number Twenty-One implementing this change.

The Iowa Refugee Service Center is now known as the Bureau of Refugee Programs in the Department of Human Services. The Department is now administratively responsible for all federal funds and refugee programs heretofore administered by the Center. The Commissioner is now the State Coordinator of Refugee Affairs and the Chief of the Bureau is the Deputy State Coordinator.

This amendment makes appropriate changes in language and fulfills the intent of the reorganization by filing the rules governing the refugee program under the Department of Human Services.

This amendment also incorporates rules for the operation of the refugee cash assistance and refugee medical programs. These programs operate under federal guidelines.

Consideration will be given to all written data, views, or arguments thereto, received by the Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114 on or before July 9, 1986.

These rules are intended to implement Iowa Code sections 17A.3(1)"a," 217.6, and 249A.4.

a. A petition for a declaratory ruling shall be typewritten or printed and at the top of the first page shall appear in capitals the words: PETITION FOR DECLARATORY RULING BEFORE THE IOWA BOARD OF SOCIAL WORK EXAMINERS.

b. The petition shall include the name and official title, if any, address and phone number of each petitioner. If the request is at the behest of any entity mentioned in subrule 161.3(5), it shall name the entity.

c. The body of the petition shall contain:

(1) A detailed statement of facts upon which petitioner requests the board to issue its declaratory ruling.

(2) The statute, rule, policy statement, decision or order for which a ruling is sought.

(3) The exact words, passages, sentences, or paragraphs which are the subject of inquiry.

(4) The specific questions presented for declaratory ruling.

(5) A consecutive numbering of each multiple issue presented for declaratory ruling.

(6) A brief may be attached.

d. The petition shall be filed either by serving it personally to the Director, Professional Licensure, or by mailing it to the Director, Professional Licensure, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

e. The director shall acknowledge receipt of petitions or return petitions not in substantial conformity with the above rules.

f. The board may decline to issue a declaratory ruling for the following reasons:

(1) Lack of jurisdiction.

(2) Lack of clarity of the issue and facts presented.

(3) The issue or issues presented are pending resolution by a court of Iowa or by the attorney general.

(4) The issue or issues presented have been resolved by a change in circumstances or by other means.

(5) The issue or issues are under investigation for purposes of formal adjudication.

(6) The petition does not comply with the requirements imposed by this subrule.

(7) Where a ruling would necessarily determine the legal rights of other parties not represented in the proceeding.

g. In the event the board declines to make a ruling, the director shall notify the petitioners of this fact and the reasons for the refusal.

h. When the petition is in proper form and has not been declined, the board shall issue a ruling disposing of the petition within a reasonable time after its filing.

i. Rulings shall be mailed to petitioners and to other parties at the discretion of the director. Rulings shall be indexed and available for public inspection.

j. A declaratory ruling by the board shall have a binding effect upon subsequent board decisions and orders which pertain to the party requesting the ruling and in which the factual situation and applicable law are indistinguishable from that presented in the petition for declaratory ruling. To all other parties and in factual situations which are distinguishable from that presented in the petition, a declaratory ruling shall serve merely as precedent.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

ITEM 1. Amend subrule 1.3(8) as follows:

1.3(8) The ~~assistant~~ *deputy* commissioner, who has been assigned responsibility for the division of community services, shall provide primary support services to all line elements of the department in the areas of child support and foster care collections, *refugee services* and volunteer services. The division is also responsible for the management of local offices of the department aligned with district subdivisions. The division delivers community-based programs and services through these offices.

ITEM 2. Adopt the following new chapter:

**CHAPTER 60
REFUGEE CASH ASSISTANCE**

PREAMBLE

These rules define and structure the department's refugee cash assistance program. Eligibility criteria, application procedures, reasons for adverse action, payment procedures, and recoupment procedures for overpayments are outlined.

498—60.1(217) Alienage requirements.

60.1(1) Immigration status. Refugees with the following immigration status meet the alienage requirement:

a. A person from any country who has a "parole" status as a "refugee" or "asylee" under Section 212(d)(5) of the Immigration and Nationality Act.

b. A person admitted from any country as a "conditional entrant" under Section 203(a)(7) of the Immigration and Nationality Act.

c. A person admitted from any country as a "refugee" under Section 207 of the Immigration and Nationality Act.

d. A person from any country who has been granted "asylum" under Section 208 of the Immigration and Nationality Act.

e. A person from any country who previously held one of the statuses in subrule 60.1(1), paragraphs "a" through "d," whose status has subsequently been adjusted to that of "permanent resident alien."

60.1(2) Nonrefugee child of refugee parents. A nonrefugee child of refugee parents, when both parents in the home are refugees as defined in subrule 60.1(1), meets the alienage requirements. When only one parent is in the home and that parent is a refugee as defined in subrule 60.1(1), the child meets the alienage requirements.

60.1(3) Each refugee shall provide Immigration and Naturalization Service documents in the form of either an I-94 card, an I-151 card or an I-551 card to support the immigration status defined in subrule 60.1(1).

498—60.2(217) Application procedures. Application policies are defined in rules 498—40.3(239), 498—40.4(239) and 498—40.5(239).

498—60.3(217) Effective date of grant. The date of eligibility for a grant is defined in rule 498—40.6(239).

498—60.4(217) Accepting other assistance.

60.4(1) Aid to dependent children. A refugee applicant or recipient shall accept an aid to dependent children (ADC) grant or an ADC-unemployed parent grant if eligible under 498—chapters 40, 41 and 42.

60.4(2) Supplemental security income (SSI). Refugees who are sixty-five or older, blind, or disabled shall apply

for supplemental security income and accept such income if eligible.

498—60.5(217) Eligibility factors.

60.5(1) Age.

a. An unmarried refugee is considered an adult at age eighteen, except as defined in subrule 41.1(1), and is eligible to receive refugee cash assistance if otherwise eligible.

b. Married refugees with or without children, as defined in subrule 41.1(1), are eligible regardless of age if other eligibility factors are met.

60.5(2) Residency. Residency requirements are defined in subrule 41.3(1).

60.5(3) Social security numbers. Refugees are required to furnish a social security number as defined in subrule 41.2(13).

60.5(4) Determination of need. Need shall be determined as defined in rule 498—41.8(239) except as otherwise provided in this chapter.

60.5(5) Income. Income is defined in rules 498—40.1(239) and 498—41.7(239) except that applicants or recipients are not entitled to the \$30.00 or \$30.00 and one-third disregards defined in subrule 41.7(2), paragraph "c."

60.5(6) Resources. Resource requirements are defined in rule 498—41.6(239).

498—60.6(217) Students in institutions of higher education. A refugee who is a full-time student in an institution of higher education (other than a correspondence school) is ineligible for assistance unless the program is approved as part of a short-term employability plan as defined in subrule 60.9(3) or the program is solely in English as a second language.

60.6(1) Institution of higher education. An institution of higher education is defined as an educational institution which provides an education program as specified below:

a. A public or private nonprofit institution of higher education is an educational institution which provides an educational program for which it awards an associate, baccalaureate, graduate, or professional degree; or at least a two-year program which is acceptable for full credit toward a baccalaureate degree; or at least a one-year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation.

b. A proprietary institution of higher education is an educational institution which provides at least a six-month program of training to prepare students for gainful employment in a recognized occupation.

c. A postsecondary vocational institution is a public or private nonprofit educational institution which provides at least a six-month program of training to prepare students for gainful employment in a recognized occupation.

60.6(2) Full-time student. A full-time student is defined as a student who is carrying a full-time academic workload which equals or exceeds the following:

a. Twelve semester or twelve quarter hours per academic term in those institutions using standard semester, trimester, or quarter-hour systems.

b. Twenty-four semester hours or thirty-six quarter hours per academic year for institutions using credit hours to measure progress, but not using semester, trimester, or quarter systems, or the prorated equivalent for programs of less than one academic year.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

c. Twenty-four clock hours per week for institutions using clock hours.

d. A series of courses or seminars which equals twelve semester hours or twelve quarter hours in a maximum of eighteen weeks.

e. The work portion of a co-operative education program in which the amount of work performed is equivalent to the academic workload of a full-time student.

498—60.7(217) Time limit for eligibility. A refugee may receive assistance, if eligible, during the first eighteen months the refugee is in the United States, beginning the month the refugee enters the country. A nonrefugee child in the home with a refugee parent (or refugee parents, if both are in the home) is eligible for assistance until the parent(s) has been in the United States for eighteen months, or until the child reaches eighteen months of age, whichever occurs first.

60.7(1) Resources. The resources of refugees excluded because of the eighteen-month limit shall be considered in the same manner as though such refugees were included in the eligible group.

60.7(2) Income.

a. When the eligible refugee group has income, the income shall be diverted to meet the needs of the refugees ineligible because of the time limit who would otherwise have been included in the refugee assistance group as defined in subrule 60.5(4).

b. The income of the refugees ineligible because of the time limit who would otherwise have been included in the assistance group as defined in subrule 60.5(4), shall be used first to meet the needs of the ineligible group and then applied to the eligible group's needs.

c. The amount of need for the ineligible group is the difference between the needs of the group including the ineligible refugees and the needs of the group excluding the ineligible refugees. Any excess income shall be applied to the needs of the eligible group.

498—60.8(217) Work registration. Each refugee applying for or receiving assistance shall register for employment or training unless the local office determines such refugee is exempt because of reasons listed in subrule 60.8(1).

60.8(1) Exemptions. The following refugees are exempt from registration:

a. A refugee who is under the age of sixteen; or who is age sixteen but under age eighteen and attending elementary, secondary, or vocational or technical school full time; or a refugee who is enrolled full time in training approved by the local office as part of an approved employability plan; or a refugee eighteen years of age who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age nineteen.

(1) A refugee shall be considered as attending school full time when enrolled or accepted full time (as certified by the school or institute attended) in a school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) The refugee also shall be considered in regular attendance in months when the refugee is not attending because of an official school or training program, vacation, illness, convalescence, or family emergency. A refugee meets the definition of regular school attendance

until the refugee has been officially dropped from the school rolls.

(3) When the refugee's education is temporarily interrupted pending adjustment of the education or training program, assistance shall be continued for a reasonable period of time to complete the adjustment.

b. A refugee age sixty-five or older or who is prevented from engaging in employment or training because of a temporary or permanent medically determinable physical or mental impairment. Medical evidence may be obtained from either an independent physician or psychologist or the state rehabilitation agency in the same manner specified in subrule 41.1(5)"c."

c. A refugee required in the household on a substantially continuous basis because of a medically determinable condition of another member of the household. Such condition shall be established in the same manner as specified in subrule 41.1(5)"c."

d. A woman who has been medically verified to be in the sixth month or more of pregnancy. Verification of the pregnancy and estimated date of birth shall be obtained in the same manner as specified in subrule 41.1(5)"a."

e. A parent or other eligible caretaker of a child under the age of six who personally provides care for the child with only very brief and infrequent absences from the child. "Brief and infrequent absence" means short-term absences which do not reoccur on a regular basis. Any involvement by the parent in work of less than one hundred twenty-nine hours per month or attendance in school of less than full time, as defined by the school, shall be considered brief and infrequent. Recreational activities and vacations by the parent or child which result in the parent being absent from the child shall be considered brief and infrequent.

f. A parent or other eligible caretaker of a child, when the nonexempt parent or other nonexempt adult relative in the home is registered and has not refused to accept employment without good cause.

60.8(2) Registration. A refugee not exempt under subrule 60.8(1) shall be considered an employable refugee. An employable refugee shall register with job service and with the bureau of refugee programs.

60.8(3) Refusal to register.

a. An employable applicant refugee who refuses or fails to co-operate in accepting a referral to job service or the bureau of refugee programs, refuses or fails to appear at the job service office for registration, or refuses or fails to mail or deliver the registration form to the bureau of refugee programs, shall be denied assistance.

b. Assistance for an employable recipient refugee shall be terminated when the refugee refuses or fails to register with job service or the bureau of refugee programs.

498—60.9(217) Work and training requirements.

60.9(1) Standards applicable to both work and training assignments. The following standards must be met before an employable refugee can be required to accept a work or training assignment.

a. The job or training referral must be related to the physical and mental capability of the person to perform the task on a regular basis. Any claim of adverse effect on physical or mental health shall be based on adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the person's physical or mental health.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

b. The total daily commuting time to and from home to the work or training site to which the person is referred shall not normally exceed two hours, not including the transporting of a child to and from a child care facility, unless a longer commuting distance and time is generally accepted in the community, in which case the round trip commuting time shall not exceed the generally accepted community standards.

c. The work or training site to which the person is referred must not be in violation of applicable federal, state and local health and safety standards.

d. Referrals shall not be made which are discriminatory in terms of age, sex, race, creed, color, or national origin.

60.9(2) Appropriate work requirements. The local office, in making a determination of appropriate work, shall utilize the following criteria:

a. Appropriate work may be temporary, permanent, full time, part time, or seasonal work if such work meets the other work standards defined in subrule 60.9(1).

b. The wage shall meet or exceed the federal or state minimum wage law, whichever is applicable, or if such laws are not applicable, the wage shall not be less favorable than the wage normally paid for similar work in that labor market but in no event shall it be less than three-fourths of the minimum wage rate.

c. The daily hours of work and the weekly hours of work shall not exceed those customary to the occupation.

d. No person shall be required to accept employment if:

(1) The position offered is vacant due to a strike, lockout, or other bona fide labor dispute.

(2) The person would be required to work for an employer contrary to the conditions of the person's existing membership in the union governing that occupation. However, employment not governed by the rules of a union in which the person has membership may be deemed appropriate.

60.9(3) Short-term employability plan. A short-term employability plan is an employability plan of less than one year approved by the local office after consulting with the individual education and training plan unit and the bureau of refugee programs.

One year means the twelve-month period beginning with the date that the applicant's or recipient's employability or training plan is established by the local office. In the case of applicants, this shall occur shortly after the date of application. In recipient cases, it shall occur within thirty days after the recipient's eighteenth birthday.

60.9(4) Training requirements for employed refugees. An employable refugee recipient, employed less than one hundred hours per month, shall be required to participate in part-time training when it is available and appropriate as determined by the local office after consulting the individual education and training plan unit and the bureau of refugee programs.

60.9(5) Refusal to apply for, accept or continue employment or training.

a. An employable refugee applicant who during the thirty consecutive calendar days immediately prior to the receipt of assistance refuses to apply for or accept an offer of employment meeting the standards above, or who voluntarily quits employment meeting the

standards above for the purpose of receiving assistance, shall be denied assistance.

b. Assistance for an employable refugee recipient shall be terminated if the refugee refuses to apply for, accept or continue employment or employment-related training as defined above. For the first refusal the refugee shall be sanctioned for three payment months. Subsequent refusals after the first refusal shall result in a six-payment month sanction for each refusal. If the assistance grant includes other persons and the sanctioned refugee is a caretaker relative, assistance provided to the other persons shall be made in the form of protective payments as defined in rule 498—43.2(239).

498—60.10(217) Uncategorized factors of eligibility.

60.10(1) Duplication of assistance. A refugee whose needs are included in a refugee cash assistance grant shall not concurrently receive a grant under any other public assistance program administered by the department. Neither shall a recipient concurrently receive a grant from a public assistance program in another state.

60.10(2) Contracts for support. A person entitled to total support under the terms of an enforceable contract is not eligible to receive refugee cash assistance when the other party, obligated to provide such support, is able to fulfill that part of the contract.

60.10(3) Participation in a strike.

a. The spouse and children shall be ineligible for assistance for any month in which the other spouse or parent is participating in a strike on the last day of the month.

b. Any person shall be ineligible for assistance for any month in which the person is participating in a strike on the last day of that month.

c. Definitions of a strike and participating in a strike are defined in subrule 41.5(5), paragraph "c."

498—60.11(217) Temporary absence from home. Temporary absence from home is defined in subrule 41.3(3).

498—60.12(217) Application. The application shall be processed as defined in 498—40.2(239).

498—60.13(217) Continuing eligibility. Continuing eligibility shall be determined as defined in rule 498—40.7(239) except that refugee cash assistance shall be substituted for aid to dependent children whenever it appears.

498—60.14(217) Alternate payees. Alternate payees are defined in 498—chapter 43 except that refugee cash assistance shall be substituted for aid to dependent children whenever it appears.

Exception: Subrule 43.2(1) paragraph "c" shall not apply to refugee cash assistance applicants or recipients.

498—60.15(217) Payment. Payment shall be issued as defined in 498—chapter 45 except that refugee cash assistance shall be substituted for aid to dependent children whenever it appears.

498—60.16(217) Recoupment. Recoupment shall be determined as defined in 498—chapter 46 except that refugee cash assistance shall be substituted for aid to dependent children whenever it appears.

These rules are intended to implement Iowa Code section 217.6.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

ITEM 3. Adopt the following new chapter:

**CHAPTER 61
REFUGEE SERVICES PROGRAM
PREAMBLE**

The department of human services manages and coordinates refugee program activities in the state of Iowa. In this capacity, the department develops, implements and oversees refugee activities which reflect policy priorities of the United States Department of State and the United States Department of Health and Human Services and which address sound practices on behalf of the state of Iowa as outlined in the Iowa state refugee program plan. Serving in the role of Iowa state refugee program co-ordinator, the commissioner co-ordinates with resettlement agency administrators active in the resettlement of refugees within the state of Iowa. Although the department manages many activities and programs in the administration of the state of Iowa's refugee program, the central focus is to promote as expeditiously as possible economic self-sufficiency and social self-reliance for refugees.

These rules define and structure the department's refugee services program. Eligibility criteria, application procedures, reasons for adverse actions and appeal procedures for clients and sponsors are outlined.

498—61.1(217) Definitions.

"Bureau" means the bureau of refugee programs within the department.

"Client" means refugees or others determined eligible for services funded under the refugee program.

"Commissioner" means the commissioner of the department of human services or a designee.

"Department" means the Iowa department of human services.

"Employability plan" means the plan and goals developed at the time a client applies for employment services.

"Iowa state refugee program co-ordinator" means the commissioner, serving as the refugee program administrator, as appointed by the governor to administer programs funded and required by the Office of Refugee Resettlement within the United States Department of Health and Human Services.

"Iowa state refugee program plan" means the report that describes the state of Iowa's refugee program plan to meet the standards, goals and priorities required under the Refugee Act of 1980 and developed by the director of the office of refugee resettlement for the successful resettlement of refugees.

"Refugee," as stated in the Refugee Act of 1980 (PL 96-212), means "a. Any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or b. In such special circumstances as the President after appropriate consultation (as defined in section 207(e) of the Refugee Act of 1980) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is

habitually residing, and who is persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion," and designated as such by the U.S. Immigration and Naturalization Service. "The term 'refugee' does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of a particular social group, or political opinion."

"Resettlement agency" means any business, organization or group, or related persons serving in association with or on behalf of, having a current contract with the U.S. Department of State's Bureau for Refugee Programs for the resettlement of refugees within the United States of America.

"Refugee unit" means either an individual refugee or two or more refugees representing an identifiable group, as determined by the bureau of refugee programs.

"Unaccompanied refugee minor" means any person under the age of eighteen who has been designated by the U.S. Immigration and Naturalization Service to be a "refugee" and recognized by the U.S. Department of State as having no family members to care for the child's well-being.

498—61.2(217) Authority. The department has been given authority to administer the refugee program by Executive Order Number Twenty-One, signed by the governor December 24, 1985. U.S. Department of State and U.S. Department of Health and Human Services rules govern various program operations.

498—61.3(217) Location. The refugee program staff is primarily located at 4626 S. W. 9th Street, Des Moines, Iowa 50315. The office hours are 7:00 a.m. to 5:00 p.m., Monday through Friday. The Iowa toll-free number is 1-800-362-2780 and the general number is 515-281-4334. Bureau staff are also stationed in selected cities outside of Des Moines and can be contacted through these same telephone numbers.

498—61.4(217) Other resettlement agencies. The commissioner and chief administrators from the other resettlement agencies in Iowa meet regularly to plan joint projects, share program concerns and report on resettlement plans. Each resettlement agency in Iowa is required to report to the bureau on Form 395-0135, VOLAG Resettlement Plan, four times each year regarding the agency's future refugee resettlement plans and significant refugee program activities.

498—61.5(217) Services of the department available for refugees. The department's direct services include, but are not limited to, the areas of:

61.5(1) Job development. Job development services involve working with employers in job development and placement, job training, job retention and job upgrading.

61.5(2) Social adjustment. Social adjustment services provide assistance with housing, legal involvements, education, English training, school enrollment and family counseling.

61.5(3) Health programs co-ordination. Health programs co-ordination services provide information on refugees and assistance in treating refugees to Iowa health providers.

61.5(4) Resettlement services. Resettlement services involve securing and training refugee sponsors, arranging for the refugees to come to Iowa and providing case management, job development and social adjustment services.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

As required under the resettlement contract with the U.S. Department of State, the department provides case management job development and social adjustment services to the refugees it resettles during their first ninety days in Iowa. For refugees resettled by the department who have been in Iowa longer than ninety days and for those refugees who were resettled by other resettlement agencies, the bureau makes available job development and social adjustment services using funds from the U.S. Department of Health and Human Services.

61.5(5) Volunteer services. Volunteer services include co-ordinating a volunteer English language tutoring program for refugees, scheduling volunteer activities and linking with educational institutions that serve refugees through volunteers.

61.5(6) Information and publication. Information and publication services provide information to Iowans about Iowa's refugee program, the refugees in Iowa and their cultures.

61.5(7) Bilingual publication. Bilingual publication services provide refugees with publications in their native languages which assist in their successful resettlement.

61.5(8) Translation and interpretation services. Translation and interpretation services provide interpreter service from English into the refugee languages or vice versa and assistance in translating written materials.

61.5(9) Immigration services. Immigration services provide assistance in U.S. residency status and travel.

61.5(10) Adjustment of status. Adjustment of status services provide guidance in obtaining permanent alien status and citizenship.

498—61.6(217) Eligibility for services. All persons who meet the definition of refugee as outlined in rule 498—61.1(217) and who are legally admitted into the United States are eligible for services. The department shall determine what services are appropriate. The department may provide services to nonrefugees who are legally residing in Iowa who are involved in or affected by Iowa's refugee program.

498—61.7(217) Application for services. Persons wanting refugee services from the department should contact the bureau in Des Moines either by telephone or in writing, or contact any of the bureau staff members. Refugees wanting job development services must provide the department with a complete employment application on Form 395-0133, Individualized Employability Worksheet.

498—61.8(217) Adverse service actions.

61.8(1) Denial. Services shall be denied when it is determined by the department that any of the following reasons apply:

- a. The client is not in need of the service.
- b. The client is not legally eligible.
- c. The service is not covered in the state refugee program plan.
- d. There is another community resource available to provide the services or a similar service free of charge to the client that will meet the client's needs.
- e. The service for which the client is eligible is currently not available. A list of these services will be posted in the bureau's offices.

f. Funding is not available to provide the service. A list of services not available due to lack of funding shall be posted in the bureau offices.

g. The client refuses to allow documentation of eligibility.

h. The services requested are those for which other resettlement agencies are contractually responsible.

61.8(2) Termination. A particular service may be terminated when the department determines that any of the following reasons apply:

a. The need to attain the goals to which the service was directed has been achieved.

b. After repeated assessment, it is evident that the family or individual is unable to achieve or maintain goals set forth in the individual employability plan.

c. After repeated efforts, it is evident that the client is unwilling to accept further service.

d. The service is no longer available in the Iowa state refugee program plan.

e. There is another community resource available to provide the services or a similar service free of charge to the client that will meet the client's needs.

f. Funding is not available to provide the service. A list of services not available due to lack of funding shall be posted in the bureau's offices.

61.8(3) Reduction. A particular service may be reduced when the department determines that any of the following reasons apply:

a. Continued provision of service at its current level is not necessary. The department shall determine the level to which the service may be reduced without jeopardizing the client's continued progress toward achieving or maintaining the goal.

b. Another community resource is available to provide the same or similar service to the client, at no financial cost to the client, that will meet the client's need.

c. Funding is not available to continue the service at the current level. The client shall be reassessed to determine the level of service to be provided.

498—61.9(217) Client appeals. Decisions made by the department or its designee adversely affecting its clients may be appealed according to 498—chapter 7.

498—61.10(217) Refugee sponsors. The department is required under its resettlement contract with the U.S. Department of State to secure a sponsor for each refugee unit it resettles. Applications for sponsorship through the department are open, but not limited to, Iowans representing: Individuals; individuals representing a group, club, organization or business; and churches or other religious organizations. Refugee sponsors must comply with a formal application process with the department and complete Form 375-0043, Sponsorship Application. The refugee sponsor must be able to provide certain types of nonfinancial assistance to the refugee unit as outlined by the department. The deputy chief of the bureau accepts or rejects each refugee sponsor application.

498—61.11(217) Adverse actions regarding sponsor applications. Applications shall be denied when it is determined by the department that any of the following reasons apply:

61.11(1) The potential sponsor seeks to benefit financially by sponsoring a refugee family.

61.11(2) The potential sponsor refuses to fill out and sign the Sponsorship Application.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

61.11(3) The potential sponsor is not economically self-sufficient.

61.11(4) The potential sponsor seeks to engage a refugee family in political, economic, religious or social activities which are intended to restrict the refugees' freedom of choice after they have arrived in Iowa. This includes but is not limited to instances where a potential sponsor seeks to impose the sponsor's beliefs, lifestyle or efforts for economic gain on the refugee.

61.11(5) The potential sponsor refuses to take part in the department's orientation programs for sponsors.

61.11(6) The placement of a refugee family with a specific sponsor would cause undue physical or psychological hardship on the newly arrived refugee due to geographic isolation from support services or activities.

61.11(7) The potential sponsor lacks the commitment of time and resources necessary to fulfill the responsibilities of sponsorship as defined in the Sponsorship Application.

498—61.12(217) Administrative review of denial of services. Sponsors may request an administrative review when their applications are denied. The request shall be in writing and must be received by the department no later than thirty days after the date of the notification of denial.

61.12(1) When a sponsor wishes a review of a denial, it will be referred to the chief of the bureau. The bureau chief will affirm or reverse the denial within twenty days of the request.

61.12(2) When the bureau chief affirms the denial, the sponsor may request further review by sending a letter requesting review and the bureau chief's denial to the director of the division of community services within ten days of the date of the bureau chief's denial. When more information is needed, the director shall request the information within five days. The director shall review the denial and issue a decision within ten days of the request for the review or the receipt of additional information, whichever is later.

498—61.13(217) Refugee resettlement moneys. The department receives a certain amount of money from the U.S. Department of State for each refugee it resettles. A portion of that money is made available to the refugee sponsor for financial assistance in resettling the refugee unit. All of the moneys must be spent in accordance with financial requirements and approved expenditures of the department, U.S. Department of State, and the state of Iowa comptroller and must go toward the benefit of the refugee unit. The sponsor must sign Form 395-0025, Receipt Letter, to document the receipt of all refugee resettlement funds. The refugee sponsor must not financially benefit in any way from the refugee resettlement moneys.

498—61.14(217) Unaccompanied refugee minors program. The department administers the unaccompanied refugee minors program under rules covered in 498—chapters 156, 202, 112, 113, 114, 115, and 116 and by federal guidelines provided by the U.S. Department of Health and Human Services. In consultation with other resettlement agencies, the commissioner determines the number of unaccompanied minors to be resettled in Iowa. Resettlement agencies may not bring unaccompanied minors into Iowa without the authorization of the commissioner.

ITEM 4. Amend rule 498—75.1(249A) as follows:

Amend subrule 75.1(1) as follows:

75.1(1) Individuals Persons receiving aid to dependent children or refugee cash assistance. Medical assistance shall be available to all recipients of aid to dependent children or refugee cash assistance. Recipient means a person for whom an aid to dependent children (ADC) or refugee cash assistance (RCA) payment is received and includes individuals persons deemed to be receiving ADC or RCA. Individuals Persons deemed to be receiving ADC or RCA are:

a. Individuals Persons denied ADC or RCA because the amount of payment would be less than \$10.00.

b. Individuals Persons suspended from ADC or RCA because of recovery of an overpayment such as five weekly checks received in the budget month instead of the usual four.

Amend subrule 75.1(17) as follows:

75.1(17) Individuals Persons who would be eligible for but are not receiving cash assistance. Medical assistance shall be available to individuals persons who would be eligible for aid to dependent children, supplemental security income, or state supplementary assistance, or refugee cash assistance but who choose not to receive payments.

Add the following new subrules:

75.1(22) Refugee spenddown participants. Medical assistance shall be available to persons who are eligible in every respect for refugee cash assistance except for excess income and resources and who meet one of the following criteria:

a. Their income and resources are within the guidelines for the medically needy program as set forth in 498—chapter 86.

b. Their resources are within the guidelines for the medically needy program and their income is above the current guidelines for the medically needy program but medical expenses have accrued which, when deducted from the income amount, have reduced the difference to the current medically needy income limit.

ITEM 5. Rescind Refugee Services Center, Iowa[715]—chapters 1 to 8.

ARC 6627

IOWA FINANCE AUTHORITY[524]

NOTICE OF INTENDED ACTION

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

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 §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 220.15, subsection 7, the Iowa Finance Authority hereby gives Notice of Intended Action to adopt Chapter 10, “Mortgage Credit Certificates,” Iowa Administrative Code.

The Iowa Finance Authority proposes rules that will specify the eligibility, participation requirements and procedures followed in the issuance of Mortgage Credit Certificates (MCCs).

IOWA FINANCE AUTHORITY[524] (cont'd)

The proposed rulemaking appears to have no impact on small businesses.

Any interested person may make written suggestions or comments on the proposed rules prior to July 8, 1986. Such written material should be directed to the General Counsel, Iowa Finance Authority, 550 Liberty Building, 6th and Grand, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the General Counsel, Larry L. Tuel, at 515/281-4058 or in the offices of the Authority at Suite 550, Liberty Building, 6th and Grand, Des Moines, Iowa 50309. There also will be a public hearing on Tuesday, July 8, 1986, at 10:30 a.m. in the Authority's offices at Suite 550, Liberty Building, 6th and Grand, Des Moines, Iowa 50309. Persons may present their views at this public hearing either orally or in writing. The public hearing will be concluded at 11:30 a.m. or whenever all persons wishing to convey their views have finished, whichever is later.

These rules are intended to implement Iowa Code section 220.15, subsection 7.

The following new chapter is proposed:

CHAPTER 10

MORTGAGE CREDIT CERTIFICATES

524—10.1(220) General. Mortgage Credit Certificates (MCCs) were authorized by Congress in the 1984 Tax Reform Act as a new concept for providing housing assistance. The Iowa finance authority may elect to allocate a portion of its mortgage revenue bonding authority for single-family housing toward an MCC program. The program would be made available to home buyers through participating Iowa lenders on a first-come-first-served basis.

The MCC operates as a federal income tax credit. The MCC tax credit will reduce the federal income taxes of qualified home buyers purchasing qualified residences in effect assisting buyers with their house payments.

A purchaser of a new or existing single-family residence may apply for an MCC through a participating lender at the time of purchasing a home and obtaining financing through the lender. An MCC cannot be issued to a home buyer who is refinancing an existing mortgage or land contract, nor can it be used in conjunction with a mortgage financed through a mortgage subsidy bond.

MCCs will be made available to home buyers with generally the same noncredit eligibility requirements as are in effect for the authority's single-family mortgage program. However, mobile and manufactured housing are eligible under the MCC program.

524—10.2(220) Participating lenders. The authority will disseminate a summary of the MCC program to mortgage lenders operating within Iowa. Each branch office of a mortgage lender is deemed to be a separate mortgage lender. Any mortgage lender as defined in Iowa Code section 220.1, subsection 14, may become a participating lender by entering into an MCC lender participation agreement with the authority. Any participating lender that has executed and submitted

a participation agreement to the authority not later than May 9, 1986, may take applications for MCCs on loans closed after April 29, 1986. All other participating lenders may take applications for MCCs on loans closed after the effective date of the participation agreement. Each participating lender shall pay a \$100 annual participation fee.

524—10.3(220) Eligible borrowers. To be eligible to receive a mortgage credit certificate, an eligible borrower must, on the date the loan is closed:

1. Be a resident of Iowa.
2. Be a purchaser of a single-family residence who will occupy the single-family residence as a permanent, primary, principal residence located within the state.
3. Have the legal capacity to incur the obligations of the loan.
4. Agree not to rent the single-family residence any time during the term of the loan except under special circumstances and with a lease arrangement, the terms and conditions of which are acceptable to the authority.
5. To the extent determined by the authority to assure its MCCs will be qualified mortgage credit certificates pursuant to a qualified mortgage credit certificate program, the authority shall require that the eligible borrower meet the requirements of Section 25 of the Internal Revenue Code of 1954 as amended and the rules and regulations promulgated thereunder as amended, as well as the requirements set forth in the MCC program guide. Copies of the program guide are available from the authority.

524—10.4(220) MCC procedures. Applications for MCCs may be made with any participating lender. The applicant shall provide the lender with all information that is necessary to secure a mortgage loan and an MCC. An applicant must meet the eligibility requirements set out in rule 10.3(220). If the eligibility requirements are met, the participating lender may nonetheless deny a loan, subject to all reporting and disclosure requirements of applicable state and federal law, for any reason premised on sound lending practices, including underwriting risk evaluation, portfolio diversification, and limitations on restrictions on investments or available funds. If the loan is approved, the terms of the loan, including interest rate, length of loan, down payment, fees, origination charge and repayment schedule, shall not be greater than those available to similar customers that do not make application for an MCC. However, the lender may collect a one-time MCC commitment fee of up to \$200, which may be paid by the borrower, lender, or any other party. Of this fee, \$100 must accompany the MCC application and be submitted to the authority by the lender. The balance of the fee may be kept by the lender as compensation for processing the MCC.

No MCC will be issued unless the requirements and procedures set out in the MCC program guide are complied with by all parties to the home sale and financing.

ARC 6634

**LIVESTOCK HEALTH
ADVISORY COUNCIL[565]
NOTICE OF INTENDED ACTION**

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

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 §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 267.5, subsection 3, the Livestock Health Advisory Council proposes to amend Chapter 1, "Recommendations," by rescinding the Chapter and replacing it with the Council's recommendations for fiscal year 1986-1987.

The Livestock Health Advisory Council recommendations contained in the Iowa Administrative Code set forth the recommendations of the Council for expenditure of an annual state appropriation to be used by the Iowa State University College of Veterinary Medicine for research into livestock diseases. The statute provides for a standing appropriation of \$300,000. The proposed recommendation for fiscal year 1986-1987 is somewhat different from the 1985-1986 recommendation.

The Council will meet at 10:00 a.m. on Tuesday, July 8, 1986, at the Dean's Conference Room at the College of Veterinary Medicine of Iowa State University, Ames, Iowa, to make its recommendation for expenditures of the 1986-1987 appropriation. This meeting will constitute the public hearing on the proposed recommendation. Persons may present their views at this public hearing either orally or in writing.

Persons who wish to make oral presentations at the public hearing should contact the Chairman of the Council, Dr. William Blohm, 278 Bass Street, Carroll, Iowa 51401, phone number 712/792-4338, at least one day prior to the date of the public hearing. Persons desiring to submit written comments may submit them to the Livestock Health Advisory Council in care of Dr. William Blohm, 278 Bass Street, Carroll, Iowa 51401 on or before July 8, 1986.

This recommendation is intended to implement Iowa Code section 265.5, subsection 3.

The following recommendation is proposed:

Rescind chapter 1 and insert in lieu thereof the following:

**CHAPTER 1
RECOMMENDATIONS**

565—1.1(267) Recommendation for fiscal year 1986—1987. Iowa Code chapter 267 makes an appropriation for \$300,000 for fiscal year 1986-1987 to be used by the Iowa State University College of Veterinary Medicine for research into livestock disease. The livestock health advisory council recommends that this appropriation for fiscal year 1986-1987 be applied in the following manner:

1. \$31,200 for pseudorabies research.
2. \$28,600 for bovine respiratory diseases research.
3. \$29,100 for transmissible gastroenteritis research.
4. \$10,400 for calf and lamb viral enteritis research.
5. \$15,600 for turkey coryza research.

6. \$30,200 for pasteurilla subunit research.
7. \$34,300 for pinkeye research.
8. \$20,750 for necroproliferative enteritis research.
9. \$36,400 for swine pneumonia research.
10. \$21,850 for bovine virus diarrhea research.
11. \$15,600 for Newcastle disease research.
12. \$15,600 for sheep pneumonia research.
13. \$10,400 for bovine respiratory syncytial virus research.

ARC 6635

**PUBLIC SAFETY
DEPARTMENT[680]
NOTICE OF INTENDED ACTION**

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

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 §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 chapter 321B, the Iowa Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 7, "Devices and Methods to Test Blood for Alcohol or Drug Content," Iowa Administrative Code.

The current rules of the Department do not adequately address that anticoagulant and antibacterial agents in the test tube used for collection are not contaminants. These rule amendments address that problem.

Any interested person may make written suggestions or comments on these proposed rules prior to July 8, 1986. Such written material should be directed to the Division of Criminal Investigation Laboratory Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Laboratory Administrator at 515/281-3666 or in the Division of Criminal Investigation offices on the Second Floor of the Wallace State Office Building. Also, there will be a public hearing on Tuesday, July 8, 1986, at 10:00 a.m. in the Conference Room on the Third Floor of the Wallace State Office Building, west half. Persons may present their views at this public hearing either orally or in writing.

Persons who wish to make oral presentations at the public hearing should contact the Division of Criminal Investigation Laboratory Administrator at least one day prior to the date of the public hearing.

These rules are intended to implement Iowa Code chapter 321B.

The following amendments are proposed:

ITEM 1. Subrule 7.2(1) shall be amended as follows:
7.2(1) A peace officer desiring to perform direct testing of a subject's breath for the purpose of determining the alcohol concentration shall employ or cause to be used, a breath testing device of a type meeting the minimum performance requirements established by the "Standard for Devices to Measure Breath Alcohol" (published in 38 Federal Register 30459); Highway Safety Programs, Standard for Devices to Measure Breath Alcohol, Federal Register/Vol. 49, No. 242, pg. 48854 as revised periodically by the National Highway Traffic

PUBLIC SAFETY DEPARTMENT[680] (cont'd)

Safety Administration or its successor. All devices so used must be certified to be in proper working order within a period of one year immediately preceding such use. The operator of such device shall proceed in accordance with the instructions furnished by the Iowa department of public safety's criminalistic laboratory, and shall have been certified as competent in the operation of said breath testing device. All certifications of devices and operators hereunder shall be made by the Iowa department of public safety's criminalistics laboratory, established by *Iowa Code* chapter 691, of the ~~Code of Iowa~~, hereinafter referred to as the department's criminalistics laboratory.

ITEM 2. Subrule 7.2(3) shall be amended as follows:

7.2(3) Although any breath testing device that meets the minimum performance requirements established by the National Highway Traffic Safety Administration or its successor is authorized by the commissioner to be employed or to be caused to be used to determine the alcohol content of a subject's blood concentration, the following devices are being used in Iowa at the time of the adoption of this rule and do meet those standards:

- a. Intoxilyzer Model 4011A-CMI, Inc., Minturn, Colorado;
- b. Mark IV Gas Chromatograph, Intoximeters, Inc., St. Louis, Missouri;
- c. Mark IVA Gas Chromatograph, Intoximeters, Inc., St. Louis, Missouri;
- d. Mark II Gas Chromatograph, Intoximeters, Inc., St. Louis, Missouri;
- e. Breathalyzer Model 1000, Smith & Wesson Electronics Co., Eatontown, New Jersey.

ITEM 3. Subrule 7.3(5) shall be amended as follows:

7.3(5) Upon collection, a peace officer shall cause the sample to be sealed within a clean, dry container. Said container shall be free of visible contamination. *If the blood alcohol kit of any manufacturer is utilized for the preservation of a urine sample, it is hereby noted that the anticoagulant substances and antibacterial substances in that kit do not constitute visible contamination.* Said peace officer shall cause a tag or other device to be attached to the container showing the date and time the sample was collected and identifying the arresting officer, the subject, the collecting officer and the person present during the collection of the sample, if other than the collecting officer.

ARC 6620**REGENTS, BOARD OF[720]****NOTICE OF INTENDED ACTION**

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

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 §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 262.9(7), 262.9(11), 262.44, 262.57, 262A.5, and 263A.3, the state Board of Regents hereby gives Notice of Intended Action to amend Chapter 8, "Purchasing," Iowa Administrative Code.

The proposed rule provides for procedures and criteria for the selection of advisors and agents used by the Board of Regents in the issuance of bonds or notes.

Any interested person may make written suggestions or comments to the proposed rule on or prior to July 22, 1986. Such written materials should be addressed to R. Wayne Richey, Executive Secretary, State Board of Regents, Lucas State Office Building, Des Moines, Iowa 50319. An opportunity for oral presentations will be provided at 10:00 a.m. on July 22, 1986, in the Sixth Floor Conference Room, Lucas State Office Building, Des Moines, Iowa.

This rule is intended to implement 1986 Iowa Acts, Senate File 2175, section 844, concerning the selection of advisors and agents necessary for the issuance of bonds or notes.

The rule is also being emergency adopted and implemented, as published herein as **ARC 6619** and the content of that filing is incorporated here by reference.

ARC 6611**TREASURER OF STATE[830]****NOTICE OF INTENDED ACTION**

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 1986 Iowa Acts, House File 2313, section 4, subsection 2, the Treasurer of State hereby gives Notice of Intended Action to promulgate Chapter 4, "Invest in Iowa Agriculture Diversification Program," Iowa Administrative Code.

The 1986 Iowa Acts, House File 2313, provided for a program whereby the Treasurer may designate up to thirty million dollars for investment in certificates of deposit in Iowa depositories which will lend the money at reduced rates for the purposes of producing, processing, or marketing horticultural crops within the state. The borrower may use such funds to purchase or lease land, machinery, equipment, seed, fertilizer, direct marketing facilities, and new or expanding horticultural crop processing plants.

These rules are filed as emergency, adopted and implemented as **ARC 6610** and are incorporated herein by reference.

The date of the public hearing is July 8, 1986, at 10:00 a.m. in the State Treasurer's Office, Capitol Building. Written comments are welcome. The deadline will be 10:00 a.m., July 8, 1986.

These rules are intended to implement 1986 Iowa Acts, House File 2313.

ARC 6639**WATER, AIR AND WASTE
MANAGEMENT[900]****WATER, AIR AND WASTE MANAGEMENT COMMISSION
NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code section 455B.474, the Water, Air and Waste Management Commission proposes to adopt amendments to Chapter 135, "Underground Storage Tanks," Iowa Administrative Code.

By the 1985 Iowa Acts, chapter 162, the Commission is required to adopt rules applicable to all owners and operators of underground storage tanks which, in part, are to relate to the detection, prevention and correction of releases from underground storage tanks and standards of performance for new tanks. These rules are to be those necessary to protect human health and the environment. In accordance with this authority, the Commission proposes to adopt rules which are described herein in detail.

Item 1 of these amendments adds to the definitions under Chapter 135 previously adopted by the Commission as rule 900—135.2(455B). These include definitions of technical terms used throughout the rules and of the acronyms of organizations providing specifications applicable to regulatory requirements.

Item 2 of these amendments adds new rules 900—135.4(455B) to 900—135.12(455B). Rule 900—135.4(455B) prohibits the installation of tanks after January 1, 1986, unless the tank meets the criteria set forth in 900—135.4(455B). These are interim standards mandated by the legislature which apply until the Commission adopts new standards. Rule 900—135.5(455B) provides monitoring requirements for tanks installed prior to May 1, 1986, which rules are effective May 1, 1988. Rule 900—135.6(455B) provides monitoring requirements for pipelines installed prior to May 1, 1986, which rules are also effective May 1, 1988.

Tanks and pipelines installed after May 1, 1986, are subject to the requirements of rules 900—135.7(455B) and 900—135.8(455B), respectively. Inventory reconciliation requirements for all tanks are set forth in rule 900—135.9(455B). Also, closure and reporting requirements are set forth in rules 900—135.10(455B) and 900—135.11(455B), respectively. Variances from the requirements of Chapter 135 may also be granted in accordance with rule 900—135.12(455B).

Any interested person may file written comments on the proposed rules through July 18, 1986, with the executive director. Interested persons may also provide the Commission with oral comments at a public hearing to be held on July 8, 1986, at 10:00 a.m. This hearing will be held in the second floor auditorium in the Henry A. Wallace Building, 900 E. Grand Avenue, Des Moines, Iowa.

These rules are intended to implement Iowa Code chapter 455B.

The following amendments are proposed:

ITEM 1. Amend rule 900—135.2(455B) to include the following definitions:

"ANSI" means the American National Standards Institute, 1430 Broadway, New York, NY 10018, 212/354-3473.

"API" means the American Petroleum Institute, 2101 L Street, N.W., Washington, D.C. 20037, 202/457-7000.

"ASME" means the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, 215/299-5400.

"ASTM" means the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

"Cathodic protection" means corrosion protection for an underground metal tank or pipe by causing a continuous electric current to flow from one or more electrodes or a sacrificial anode to the protected structure.

"Continuous monitoring" means a system using automatic equipment which routinely performs the required monitoring on a periodic or cyclic basis throughout each day.

"Double-wall tank" means a container with two complete shells which provide both primary and secondary containment. The outer shell must provide structural support and must be constructed primarily of nonearthen materials including, but not limited to, concrete, steel, and plastic.

"Membrane liner" means any polymer sheet material fabricated into a system for secondary containment.

"Membrane liner fabricator" means the company which converts the liner membrane sheeting into a system for secondary containment.

"Membrane manufacturer" means the company which processes the constituent polymers into membrane sheeting from which the membrane liner is fabricated into a system for secondary containment.

"NACE" means the National Association of Corrosion Engineers, P.O. Box 986, Katy, TX 77450, 713/492-0535.

"NFPA" means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, 617/328-9290.

"Single-wall tank" means a single shell that may be coated on the exterior or interior surface to prevent interaction between the tank's contents and the surrounding environment. The primary materials of the shell may be constructed of, but not limited to, steel, concrete, and plastic.

"Sniffer type observation well" means an observation well that is used to detect and monitor the presence of specific gases and vapors in the soil.

"STI" means the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, 312/498-1980.

"UL" means the Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062, 312/272-8800.

"ULC" means the Underwriters Laboratories of Canada, Inc., 7 Crouse Road, Scarborough, Ontario.

ITEM 2. Amend chapter 135 by adding the following new rules:

900—135.4(455B) Interim prohibitions. Until the commission adopts new underground storage tank standards and after January 1, 1986, a person shall not install an underground storage tank for the purpose of storing regulated substances unless the tank (whether of single- or double-wall construction) meets all the following conditions:

WATER, AIR AND WASTE MANAGEMENT[900] (cont'd)

135.4(1) The tank will prevent a release due to corrosion or structural failure for the operational life of the tank.

135.4(2) The tank is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance.

135.4(3) The material used in the construction or lining of the tank is compatible with the substance to be stored.

135.4(4) If soil tests conducted in accordance with ASTM, standard G 57-78 show that soil resistivity in an installation location is twelve thousand ohm/cm or more, a storage tank without corrosion protection may be installed in that location.

900—135.5(455B) Monitoring requirements for tanks installed prior to May 1, 1986.

135.5(1) For single-wall tank facilities the following is required:

a. All tanks shall have observation wells at each end. These wells will be a minimum of one foot from the tank but within the tank excavation.

b. Observation wells shall be located as follows:

(1) Each shall have a minimum of two observation wells. One well shall be located at each end of the tank along the longitudinal center line; except for

(2) Facilities which contain tank clusters where the tank separation distance is equal to or less than ten feet shall have a minimum of four observation wells. An observation well shall be located at each corner of the tank cluster.

c. The maximum depth of an observation well shall be forty feet. In the case where a permanent groundwater surface is not found within the forty-foot depth at the time of installation, a sniffer type observation well shall be installed which will extend two feet below the bottom of the tank.

d. Monitoring methods for observation wells may utilize visual or electrical methods.

e. The owner of the tank shall demonstrate to the department that the specific equipment proposed is compatible with the substance stored.

f. The observation wells shall be monitored at least twice monthly. A monitoring report shall be prepared pursuant to 900—135.11(455B).

g. All wells constructed for the purpose of monitoring in this rule shall have:

(1) Soil samples taken at five-foot intervals for that portion of the well outside the tank excavation. These samples shall be taken in accordance with ASTM D-1586.

(2) The samples shall be analyzed to determine the soil classification based on grain size. These results shall be kept onsite.

h. The facility shall be provided with a well log indicating depths, corrected to National Geodetic Vertical Datum of 1929 and kept onsite.

i. All wells shall be properly developed by pumping prior to the installation of sensors or water sampling.

j. All wells shall have a weathertight-locking cap.

135.5(2) For double-wall tanks the following is required:

a. Monitoring shall be limited to the space between the primary and secondary container, utilizing one or more of the methods provided in Table 1 of this chapter.

b. The owner of the tank shall demonstrate to the department that the specific equipment proposed is compatible with the substance stored.

c. Any method used shall continuously monitor the space and be connected to an audio/visual alarm system.

d. The system shall be monitored at least twice a month.

e. All observation ports shall have a weathertight-locking cap.

135.5(3) Metal underground storage tanks which utilize a cathodic protection system must be inspected at least annually. The system shall be inspected under the direction of a NACE registered corrosion engineer or corrosion specialist. Inspection reports shall be kept onsite.

135.5(4) All tanks shall use and maintain a reliable means of detecting and preventing an overfill condition of a storage system before it can occur. Overfill protection shall consist of:

a. An impervious containment system unique to the fill pipe; or

b. A tight fill device; or

c. Another equivalent design approved by the department.

900—135.6(455B) Monitoring requirements for pipelines installed prior to May 1, 1986.

135.6(1) All pipelines shall have an in-line leak detector except those located on the intake side of a suction type pump.

135.6(2) All metal underground pipelines which utilize a cathodic protection system must be inspected at least annually. The system shall be inspected under the direction of an NACE registered corrosion engineer or corrosion specialist. Inspection reports shall be kept onsite.

900—135.7(455B) Monitoring requirements for tanks installed after May 1, 1986.

135.7(1) Rule 900—135.7(455B) applies only to those underground storage tanks installed after May 1, 1986.

135.7(2) All tanks shall be either double-wall or single-wall tanks enclosed within a membrane liner.

135.7(3) For double-wall tanks, the following is required:

a. Monitoring shall be limited to the space between the primary and secondary container, utilizing one or more of the methods provided in Table 1 of this chapter.

b. The owner of the tank shall demonstrate to the department that the specific equipment proposed is compatible with the substance stored.

c. Any method used shall continuously monitor the space and be connected to an audio/visual alarm system.

d. The system shall be tested daily.

135.7(4) All single-wall tanks with membrane liners are required to meet the following:

a. The membrane liner shall have a permeability factor of 0.25 oz. per square foot per 24 hours and after 28 days of soil burial. Such permeability shall constitute a maximum rate of transport over time of the hazardous substance proposed for storage. Permeability shall be evaluated simultaneously for virgin material and material subject to a soil burial test per accepted engineering practices as provided in Appendix A of this chapter, or their equivalent.

b. The membrane liner shall be considered to have satisfied the requirements of this rule only if the liner membrane meets the following standards. The material properties specified in these standards shall be

WATER, AIR AND WASTE MANAGEMENT[900] (cont'd)

determined using accepted engineering practices for materials testing. Acceptable methods for determining these properties are provided in Appendix A of this chapter.

c. The volume swell after a 24-hour period and 24 hours hazardous substance exposure after a 28-day period of soil burial shall not exceed three percent of the original liner membrane thickness. Volume swell shall be evaluated on virgin material.

d. The maximum change in elongation of the liner membrane material at break after 24-hour exposure to the hazardous substance and 24 hours after 28 days of soil burial shall not exceed five percent of the original elongation.

e. The liner membrane material (Shore D Hardness) after 24-hour fuel exposure and 24 hours hazardous substance exposure after 28 days of soil burial shall be within five percent of the original hardness. Hardness shall be evaluated simultaneously on virgin and buried material.

f. The rate of solubility of the liner membrane material exposed to the hazardous substance for a period of 24 hours and 24 hours after 28 days soil burial shall not exceed 0.1 percent by weight of the sections of liner being tested. Solubility shall be evaluated simultaneously on both virgin and buried material.

g. The liner seam strength shall be equal to the tensile strength of the parent material when tested in accordance with accepted engineering practices for materials tested. Seam strength shall be evaluated simultaneously on both virgin and buried materials.

h. The liner shall be installed under the supervision of a representative of the membrane liner fabricator or a contractor certified by such fabricator.

i. The depth of the backfill over the liner shall be adequate for bedding of the horizontal portion of the monitoring well as well as protect the liner.

j. The design of the leak detection system shall be that in Figure 1.

k. The well should be located along the center line of the tank.

l. The excavation bottom and the horizontal leak detection pipe shall have a minimum back slope of $\frac{1}{8}$ inch per foot.

m. All horizontal and vertical piping for the monitoring well shall be a minimum of six inches in diameter and constructed of schedule 40 PVC or other compatible material.

n. Screening or slotting shall extend to a minimum elevation equal to the top of the tank. Where a change in direction occurs, requiring the use of a fitting, the fitting is not required to be slotted or screened.

o. All wells shall have a minimum of two feet of solid wall pipe below the finish grade properly sealed to prevent infiltration before slotting or screening material may be used.

p. Screening and slotting shall be designed to prevent the migration of the backfill material into the monitoring well without a filter fabric wrap. All screening and slotting shall be factory constructed.

q. All observation wells shall have weathertight caps that can be locked and a sealed end plug in the sump.

135.7(5) All single- or double-wall storage tanks located within an underground vault must meet the following:

a. Monitoring of the space between the primary and secondary container shall be done visually.

b. All interior surfaces of the vault and the exterior surfaces of the storage tank shall be monitored by direct viewing.

c. Visual inspections shall be performed at least daily and may be more frequent if required by the department.

d. The liquid level in the storage tank shall be recorded at the time of the inspection.

e. The observation of any liquid on the interior vault wall, the exterior walls of the storage tank or the surface immediately beneath the underground storage tank being visually monitored shall cause the owner or operator to notify the department pursuant to Iowa Code section 455B.386, and department rules, chapter 131.

135.7(6) All tanks shall use and maintain a reliable means of detecting and preventing an overflowing condition of a storage system before any discharge can occur. Overfill protecting may consist of:

a. An impervious containment system unique to the fill pipe, or

b. A tight fill device, or

c. Another equivalent design approved by the department.

135.7(7) Metal underground tanks which utilize a cathodic protection system must be inspected at least annually. The inspection of the system shall be inspected under the direction of a NACE registered corrosion engineer or corrosion specialist. Inspection reports shall be kept onsite.

900—135.8(455B) Monitoring requirements for piping systems installed after May 1, 1986.

135.8(1) Subrule 135.8(1) shall apply only to piping systems associated with single-wall tanks with a membrane liner. The monitoring of leak interception and detection system shall incorporate all of the following:

a. All pipeline excavations shall be lined with a membrane liner, Figure 1, that will meet the following requirements:

b. The membrane liner shall meet or exceed those requirements in subrule 135.7(4), paragraphs "a" through "g."

c. All lines and the excavation bottom shall slope back to the tank. The minimum slope for both shall be $\frac{1}{8}$ inch per foot.

d. The pipeline trench must form a physical cutoff by and across the trench which will prevent any pipeline leaks from entering the tank excavation.

e. Prior to the cutoff wall an observation well shall be constructed. The bottom of the well shall extend one foot below the excavation bottom and shall not perforate the liner.

f. The well shall be constructed as follows:

(1) The casing and screening for each monitoring well shall be a minimum of six inches in diameter and constructed of schedule 40 PVC or other compatible material.

(2) Screening and slotting shall be designed to prevent the migration of the backfill material into the monitoring well without a filter fabric wrap. All screening and slotting shall be factory constructed.

135.8(2) For all piping systems associated with a double-wall tank, the system installed after the effective date of this rule, shall incorporate all of the following:

a. All pipelines shall be double-wall in construction.

b. The interstitial space shall be continuously monitored by a system which is connected to an audio/visual alarm or manual inspection performed daily. Monitoring may be required more frequently by the

WATER, AIR AND WASTE MANAGEMENT[900] (cont'd)

department based on the accuracy of the proposed monitoring method.

Approved methods of continuous monitoring of leak interception and detection system include liquid level indicators, hazardous substance sensors and vapor monitors as specified for volatile hazardous substances in Table 1 of this chapter.

c. All lines shall slope back to the tank. The minimum slope shall be $\frac{1}{8}$ inch per foot.

d. Prior to the pipeline entrance to the tank excavation the interstitial space shall be physically cut off to prevent leaks from entering the tank excavation.

e. Prior to the cutoff an observation port at least six inches in diameter shall be constructed.

f. The observation port shall have weathertight caps that can be locked.

135.8(3) All metal underground pipelines which utilize a cathodic protection system must be inspected at least annually. The system shall be inspected under the direction of a NACE registered corrosion engineer or corrosion specialist. Inspection reports shall be kept onsite.

900—135.9(455B) Inventory reconciliation.

135.9(1) Rule 139.9(455B) applies to all underground storage tanks.

135.9(2) All underground storage tanks shall be individually monitored utilizing a daily inventory reconciliation system that takes into account: Separate daily underground storage tank quantity measurements for the regulated substances and any water layer, and daily meter readings for underground storage tank input and withdrawals. Underground storage tank input and withdrawal meter shall comply with Iowa Code chapters 214 and 215 and the rules of the department of agriculture, 30—chapter 55, Iowa Administrative Code.

135.9(3) For the purpose of this rule, daily shall be defined as at least five days per week.

135.9(4) Underground tank quantity measurements shall be based on liquid elevation measurements which are:

a. Performed during periods when no additions or withdrawals were being made to the underground storage tanks.

b. Performed by the underground storage tank owner, operator, or other designated personnel who have had appropriate training.

c. Based on the average of two readings if stick or tape measurements are used.

d. Capable of detecting a water layer at the bottom of the underground storage tank. If the underground storage tank is not level, then the measurement should occur at the lowest level of the underground storage tank.

e. Measured at the center of the longitudinal axis of the underground storage tank if access is available or measured at the lowest end of the underground tank with a calibration measured at both ends, if possible, to determine if any underground storage tank tilt exists and, if so, its magnitude.

f. Converted to volume measurements based on a calibration chart for the underground storage tank. This chart shall take into account the actual tilt of the underground storage tank as determined initially as described in subrule 135.9(4), paragraph "e."

g. The volume measurements shall be corrected for the average temperature of the regulated substance. The average temperatures shall be taken as follows:

(1) The average temperature shall be based on two readings taken simultaneously within the tank; or two separate readings taken within five minutes of each.

(2) The temperature shall be taken at a depth not greater than one-half the depth of the regulated substance but no less than one-third the depth of the regulated substance.

135.9(5) If inventory reconciliation indicates a loss of the hazardous substance, the owner or operator shall notify the department pursuant to Iowa Code section 455B.386, and department rules, chapter 131.

135.9(6) Inventory reconciliation records shall be part of the monitoring report required by rule 135.11(455B).

900—135.10(455B) Closure.

135.10(1) Rule 135.10(455B) defines permanent closure and describes those steps that must be accomplished in order to protect water quality.

135.10(2) During the period of time between cessation of storage of petroleum products or hazardous substances and the actual storage tank closure pursuant to this rule, the applicable containment and monitoring requirements of this chapter shall continue to apply.

135.10(3) Underground storage tanks that have experienced an unauthorized release and that cannot be repaired by authorized methods must be permanently closed pursuant to this rule.

135.10(4) Owners of underground storage tanks proposing to remove the underground storage tank shall comply with the following provisions:

a. All residual liquid, solids, or sludges shall be removed.

b. If the underground tank contained a petroleum product or hazardous substance that could produce flammable vapors at standard temperature and pressure, then the underground storage tank shall be purged of the flammable vapors to levels that would preclude explosions or such lower levels as required by local regulations.

c. When an underground storage tank or any part of an underground storage tank is to be disposed of, the owner must document to the department that proper disposal has been completed.

d. All piping associated with the underground storage tank shall be removed and disposed of unless removal might damage structures or other pipes that are being used and that are contained in a common trench, in which case the piping to be closed shall be emptied of all contents and capped.

e. The underground storage tank that is being closed pursuant to this rule shall be removed entirely from the ground.

f. The owner of the underground storage tank being closed pursuant to this rule shall conduct soil sampling of the bottom of the excavation.

(1) Soil samples shall be taken from directly beneath the tank. A separate sample shall be taken for every 200 square feet of area occupied by the tank and for every 20 lineal feet of trench for piping, at a minimum.

(2) Soils shall be analyzed for all constituents of the previously stored petroleum products or hazardous substances and their breakdown or transformation products.

135.10(5) When a spill, leak or otherwise loss of a regulated substance is detected, the owner or operator is required to notify the department within six hours pursuant to Iowa Code section 455B.386 and rules of the department, chapter 131, of this hazardous condition.

WATER, AIR AND WASTE MANAGEMENT[900] (cont'd)

900—135.11(455B) Reporting requirements. Reporting requirements for all monitoring systems shall include the following:

135.11(1) A written monitoring procedure must be at the facility which includes, where applicable: The frequency of performing the monitoring, the methods and equipment to be used for performing the monitoring, the location(s) from which the monitoring will be performed, the name(s) and title(s) of the person(s) responsible for performing the monitoring, and maintaining equipment, and the reporting format.

135.11(2) All monitoring records shall be kept at the facility for a minimum of two years.

135.11(3) Each facility shall maintain onsite as built plans of the installation. These plans shall be certified by a licensed land surveyor or professional engineer. All elevations shall be corrected to the National Geodetic Vertical Datum of 1929.

135.11(4) When a spill, leak or otherwise loss of a regulated substance is detected, the owner or operator is required to notify the department within six hours pursuant to Iowa Code section 455B.386 and rules of the department, chapter 131, of this hazardous condition.

900—135.12(455B) Variances. Variance to the requirements of this chapter may be granted when any one of the following is determined:

135.12(1) Other monitoring equipment or systems provide equal or greater effectiveness in the protection of the environment.

135.12(2) The systems specified in this chapter may not be effective in monitoring leaks. An alternative effective system will then be required.

135.12(3) Where the removal of a storage tank would endanger the structural integrity of a building, alternative methodology may be required. This methodology should include provisions to verify that the tank and piping system did not leak.

TABLE 1

**Methods of Monitoring for Hazardous Substances
in the Secondary Container**

Methods of Monitoring						
Condition of the Secondary System [1]	Type of Substance Stored [2]	Liquid Level Indicator [3]	Annular Space Liquid Level Indicator [4]	Hazardous Substance Sensor [5]	Vapor Monitoring	Pressure or Vacuum Loss Detector [6]
Dry	Volatile	X		X	X	X
Dry	Nonvolatile	X		X		X
Wet	Volatile	X	X	X	X	X
Wet	Nonvolatile	X	X	X		X

[1] A "dry" system does not contain liquid within the secondary container during normal operating conditions while a "wet" system does.

[2] A volatile substance has the same definition as a flammable liquid pursuant to NFPA 321-1982.

[3] Includes the following: mechanical or electronic operated devices; manual determinations using mechanical, electronic, or "stick" readings; or visual determinations to detect the presence of any liquid in "dry" systems or a change in liquid levels in "wet" systems.

[4] Detects changes in the hydrostatic level of a liquid completely filling the annular space of a double-wall tank.

[5] Detects changes in pressure or vacuum in the annular space of a double-wall storage tank.

[6] Primarily used for double-wall underground storage tanks to detect changes in pressure or vacuum between primary and secondary container. The use of pressure or vacuum must be approved as part of the primary and secondary container approval by a nationally recognized, independent testing organization.

WATER, AIR AND WASTE MANAGEMENT[900] (cont'd)

FIGURE 1

Example of a U-Tube Installation

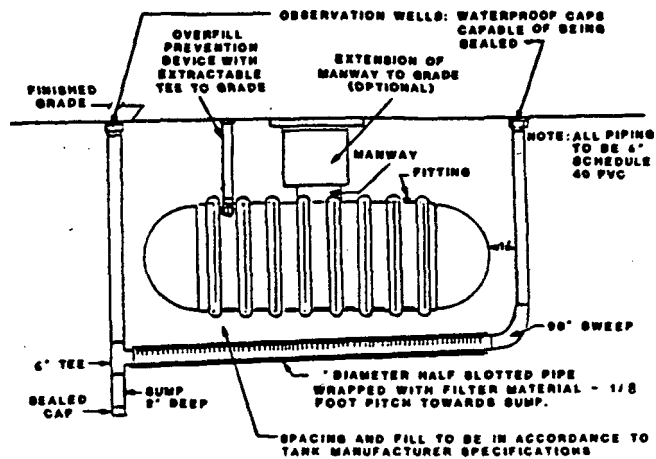
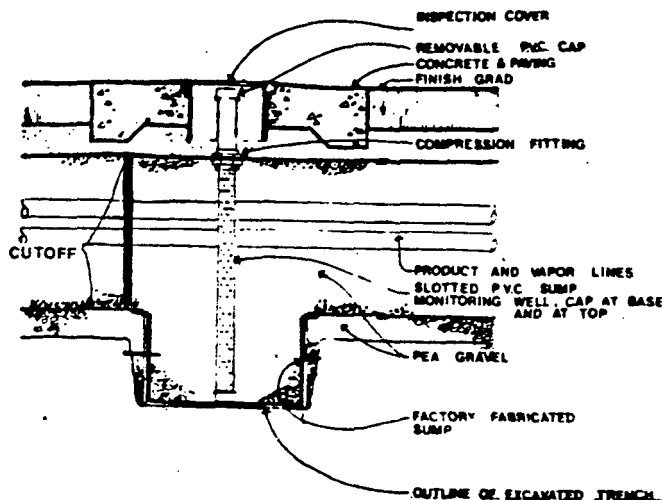


FIGURE 2

Example of a Pipeline Installation



APPENDIX A

Test Methods for Membrane Liners

<u>RULE NUMBER</u>		
135.7(3)1	ASTM E-96-66	Permeability Test
135.7(3)1,2,b,c,d	ASTM D-3083-76 or Federal Test Standard 191A- Method 5762.	Soil Burial Test
135.7(3)2,a	ASTM E-96-66 Test Methodology for Swell: After Permeability has been mea- sured (24 hours and 28 days), remove the liner specimen. Quickly wipe the specimen free of liquid and immediately weigh to 0.1 mg. Measure the diameter to 1 mil (0.001 inches) and the thickness to 0.1 mils (0.0001 inches).	Volume Swell
135.7(3)2,b	ASTM E-96-66	Elongation Test
135.7(3)2,c	ASTM D-2240	Hardness
135.7(3)2,d	ASTM E-96-66 Solubility of the liner is de- termined by drying the specimen used for determining permeabili- ty and swell. The specimen should be allowed to dry at standard laboratory temperature and humidity. Weigh the speci- men every 24 hours until a weight change of less than 0.05 percent is seen between weigh- ings. Solubility is equal to the percent weight loss from the original unexposed specimen.	Solubility
135.7(3)	ASTM Procedure 751	Seam Strength

ARC 6615

HUMAN SERVICES
DEPARTMENT[498]

Pursuant to the authority of Iowa Code sections 239.18 and 234.6(7), the Department of Human Services hereby amends Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," and Chapter 65, "Administration," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these rules May 21, 1986. Notice of Intended Action regarding these rules was filed in the Iowa Administrative Bulletin on April 9, 1986, as ARC 6462.

The 1985 Regular Session of the Seventy-first General Assembly required the Department to study the recipient classifications under the Aid to Families with Dependent Children (ADC) program and the Food Stamp (FS) program which are subject to monthly reporting and retrospective budgeting requirements to determine if the classifications are appropriate and if the costs associated with the classifications are justified.

Federal law requires monthly reporting and retrospective budgeting in certain categories of recipients, primarily those with earned income and recent work histories. States do have flexibility in determining what other categories are required to report monthly. Also, states have the option of using prospective budgeting for households not required to report monthly.

A focus group representing business, labor, religion, field staff, client and special interests assisted the Department to assure that this study sufficiently addresses all the relevant issues. This group met three times with department staff to discuss methodology, review preliminary findings and the final report.

The findings from the study indicated that it would be cost effective to remove the following categories from monthly reporting:

1. ADC and FS clients with earned income of \$75.00 or less.
2. ADC and FS clients with annualized self-employment income.
3. ADC and FS clients receiving job insurance benefits.
4. ADC and FS clients receiving unearned student income.
5. FS clients required to register for work.

The above categories represent approximately 3,500 ADC and ADC-related medical cases and 9,000 food stamp cases.

The findings from the study were presented to the Joint Appropriations Subcommittee on Human Services and it supported the Department's recommendations.

Therefore, the Notice of Intended Action exempted the above five categories from monthly reporting. However, the exemption of ADC cases with persons receiving monthly earned income of \$75.00 or less or receiving annualized self-employment income is contingent upon a waiver from the United States Department of Health and Human Services (DHHS) and the exemption of all FS cases listed is contingent upon a waiver from the United States Department of Agriculture. The waivers have been requested but have not yet been approved.

Since it is possible to exempt ADC clients receiving job insurance benefits and unearned student income from monthly reporting without a waiver, the Department has decided to implement those exemptions at this time.

The Food Security Act of 1985 which was adopted December 23, 1985, will limit the mandatory aspects of monthly reporting and retrospective budgeting for food stamp households to those households with earnings or recent work history. This is consistent with the ADC program. The provisions of the Act will not be effective, however, until regulations are issued by the Department of Agriculture.

The Department has decided to also exempt food stamp clients receiving job insurance benefits and unearned student income and food stamp clients required to register for work from monthly reporting at this time even though the waiver has not been received. This decision will match ADC and food stamp policy and it is doubtful if sanctions will be imposed because of the provisions of the Food Security Act.

Those portions of the Notice of Intended Action which exempted ADC and FS clients with earned income of \$75.00 or less per month and ADC and FS clients with annualized self-employment income from monthly reporting are being delayed at this time. There is some indication that a waiver may not be approved by DHHS.

This amendment also makes the following changes:

1. The definition of recent work history has been revised to shorten the period from three to two months. Since persons with recent work histories are required to report monthly, this is anticipated to remove an additional 1,400 ADC and ADC-related medical cases and 1,600 FS cases from monthly reporting.

2. Changes have been made in client reporting requirements to accommodate the additional monthly reporting exemptions.

3. The rules on certification periods are expanded.

4. The term "eligibility groups" in ADC policy is replaced by the term "assistance units" and a definition of "assistance unit" is added to clarify current policy.

The Department of Human Services finds that these rules confer a benefit on the public by removing a reporting requirement which is not cost effective. Therefore, these rules are implemented pursuant to Iowa Code section 17A.5(2)"b"(2).

Subrule 40.7(1), paragraph "a," subparagraph (3), was reworded for clarity.

Subrule 41.7(1), paragraph "i," and subrule 65.29(2) were revised by inserting the word "federal" in front of the words "legal holiday" for clarification.

The definition of recent work history in rule 498—65.1(234) was revised by inserting a comma after the word "month."

Subrule 65.19(6), paragraph "c," subparagraph (1), was revised by inserting the word "or" between the words "disability" and "blindness" to correct an oversight. Paragraph "d" was revised by adding a paragraph to exempt migrant farm worker households with earned income from monthly reporting.

These rules are intended to implement Iowa Code sections 239.6 and 234.12.

These rules became effective June 1, 1986.

ITEM 1. Amend rule 498—40.1(239) as follows:

Add the following new definition:

"Assistance unit" includes any person whose income is considered when determining eligibility or the amount of assistance for aid to dependent children.

ITEM 2. Amend rule 498—40.7(239) as follows:

Rescind subrule 40.7(1) and insert the following in lieu thereof:

HUMAN SERVICES DEPARTMENT[498] (cont'd)

40.7(1) Eligibility factors shall be reviewed at least every six months for aid to dependent children using information contained in and verification supplied with Form PA-2140-0, Public Assistance Eligibility Report. A face-to-face interview shall be conducted at least annually at the time of a review.

a. Any assistance unit with one or more of the following characteristics shall be reviewed monthly:

(1) The assistance unit contains any member with earned income, including earnings in kind, unless the income is disregarded under 41.7(2)"e."

(2) The assistance unit contains any member with a recent work history. A recent work history means the person received earned income during either one of the two calendar months immediately preceding the budget month unless the income was subject to the disregard in 41.7(2)"e."

(3) The assistance unit contains any member receiving nonexempt unearned income, the source or amount of which is expected to change more often than once annually, unless the income is either from job insurance benefits or educational income as described in 41.7(1)"d"; or unless the assistance unit's adult members are sixty years old or older, or are receiving disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act; or unless all adults, who would otherwise be members of the assistance unit, are receiving supplemental security income including state supplementary assistance.

(4) The assistance unit contains any member whose eligibility is dependent upon unemployment of the principal wage earner.

(5) The assistance unit contains any member residing out of state on a temporary basis.

b. The assistance unit subject to monthly review shall complete a Public Assistance Eligibility Report, Form PA-2140-0, for each budget month.

ITEM 3. Amend subrule 41.7(1), paragraph "i," as follows:

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

ITEM 4. Amend rule 498—65.1(234) by amending the definition of "recent work history" as follows:

"Recent work history" means that the individual has been without person received income from employment no more than three full during either one of the two calendar months immediately preceding the budget month, except the exempt earnings of a child shall not be considered. Income disregarded in accordance with 7

CPR 273.9(e) as amended in 498—65.3(234) shall not be considered income from employment for this exemption.

ITEM 5. Amend rule 498—65.10(234) as follows:

498—65.10(234) Change report form *Reporting changes*. Households may report changes on the Change Report Form, FP-2232-0. Households are supplied with this form at the time of initial certification, at the time of recertification ~~when it~~ *whenever the household needs* a new form, whenever a form is returned by the household, and upon request by the household.

ITEM 6. Amend rule 498—65.19(234) as follows:

Rescind subrule 65.19(6) and insert the following in lieu thereof:

65.19(6) Households required to submit monthly reports. The following are subject to monthly reporting:

a. Households who are required to submit aid to dependent children monthly reports.

b. Households with one or more members who have a recent work history except when the adult members are all sixty years old or older, or are receiving disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act.

c. Households with one or more members receiving countable unearned income which is not constant except when one or more of the following apply:

(1) The adult members are all sixty years old or older, or are receiving disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act.

(2) The income is from job insurance benefits.

(3) The income is from educational income such as grants, scholarships, educational loans, fellowships or veterans educational benefits.

d. Households with one or more members receiving countable earned income except when one or more of the following apply:

(1) The earned income is that of persons in a group living arrangement whose only source of earned income is from a sheltered workshop program.

(2) The earned income is that received by migrant farm worker households.

Rescind subrule 65.19(19) and insert the following in lieu thereof:

65.19(19) Certification periods. Households in which all members are receiving aid to dependent children (ADC) cash assistance or ADC-related medical assistance programs will be assigned certification periods of six to twelve months. However, a certification period of less than six months may be assigned to match the food stamp recertification date and the public assistance review date.

Households in which one or more members are not receiving ADC cash assistance or ADC-related medical assistance and which are not required to file a monthly report will be assigned certification periods of one to six months based on the predictability of the household's circumstances except when the adult members are all sixty years of age or older with very stable income such as social security, supplemental security income, pensions or disability payments. These households shall be certified for up to twelve months.

ITEM 7. Amend subrule 65.22(1) as follows:

65.22(1) Income. Households shall be required to verify income (~~except interest income and the public assistance grant~~) at time of *application*, recertification and when income is reported or when income changes *with the following exceptions*:

HUMAN SERVICES DEPARTMENT[498] (cont'd)

a. Households are not required to verify the public assistance grant.

b. Households are not required to verify job insurance benefits when the information is available to the department from the department of job service.

c. Households are only required to verify interest income at the time of application and recertification.

ITEM 8. Amend rule 498—65.29(234) as follows:

498—65.29(234) Income.

65.29(1) Uneven proration of self-employment income. Once a household with self-employment income is determined eligible based on its monthly net self-employment income, the household has the following options for computation of the benefit level:

65.29(1) a. Using the same net monthly self-employment income which was used to determine eligibility, or

65.29(2) b. Unevenly prorating the household's annual self-employment income over the period for which the household's self-employment income was averaged to more closely approximate the time when the income is actually received. If this option is chosen, the self-employment income assigned in any month together with other income and deductions at the time of certification cannot result in the household's exceeding the maximum monthly net income eligibility standards for the household's size.

65.29(2) Job insurance benefits. When the local office of the department of human services uses information provided by the department of job service to verify job insurance benefits, the benefits shall be considered received the second day after the date that the check was mailed by job service. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the local office that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A benefit adjustment shall be made when indicated. The client must report the discrepancy prior to the benefit month or within ten days of the date on the Notice of Decision, PA-3102-0, applicable to the benefit month, whichever is later, in order to receive corrected benefits.

[Filed emergency after Notice 5/28/86, effective 6/1/86]
[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6614

HUMAN SERVICES DEPARTMENT[498]

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 73, "Federal Surplus Food Program," appearing in the Iowa Administrative Code.

Income eligibility guidelines for the Federal Surplus Food Program in Iowa are based on the income guidelines for the reduced price meals in the National School Lunch Program. New income guidelines have been received from the Food and Nutrition Service, Department of Agriculture, which are effective July 1, 1986.

The Department of Human Services finds that notice and public participation are impracticable. This amendment merely incorporates new federal income guidelines. Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

The Department of Human Services finds this rule confers a benefit on the public by increasing the income guidelines and thereby making more persons eligible for the free food. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Human Services adopted this rule May 21, 1986.

This rule is intended to implement Iowa Code section 234.12.

This rule shall become effective July 1, 1986.

Amend subrule 73.4(3), paragraph "d," subparagraph (2), as follows:

(2) Income eligible status. The gross income according to family size is no more than the following amounts:

Household Size	Yearly Income	Monthly Income	Weekly Income
1	\$ 9,713 9,916	\$ 810 827	\$187 191
2	13,043 13,394	1,087 1,117	251 258
3	16,373 16,872	1,365 1,406	315 325
4	19,703 20,350	1,642 1,696	379 392
5	23,033 23,828	1,920 1,986	443 459
6	26,363 27,306	2,197 2,276	507 526
7	29,693 30,784	2,475 2,566	572 592
8	33,023 34,262	2,752 2,856	636 659

For each additional household member add:

\$ 2,330 3,478 278 290 65 67

[Filed emergency 5/28/86, effective 7/1/86]
[Published 6/18/86]

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ARC 6616

HUMAN SERVICES DEPARTMENT[498]

Pursuant to the authority of Iowa Code section 249C.15, the Department of Human Services hereby amends Chapter 90, "Work Incentive Demonstration Program (WIN/CMS)," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this rule May 21, 1986. Notice of Intended Action regarding this rule was published in the Iowa Administrative Bulletin on April 9, 1986, as **ARC 6463**.

This amendment adds Poweshiek and Tama counties to the list of WIN/CMS program counties as CMS model volunteer counties. These two counties will become part of the Marshalltown CMS model.

Poweshiek and Tama counties currently do not receive WIN/CMS services. They do receive services from the statewide Individual Education and Training Plan (IETP) program. A half-time Department position currently provides IETP services to these two counties.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

Because of the current freeze on hiring and the need to best utilize existing staff positions, these two counties are being included as part of WIN/CMS.

Federal regulations allow WIN/CMS funded staff to provide IETP services in WIN/CMS counties only.

Inclusion of these two counties as volunteer WIN/CMS counties will enable existing WIN/CMS funded staff to provide IETP services, thus allowing the reassignment of the current IETP half-time position to other needed service areas. This will increase the existing workload of current WIN/CMS staff but they agree that they can handle the additional work which will be approximately thirty additional IETP plans per year.

Inclusion of Poweshiek and Tama counties as part of the WIN/CMS program will not result in an increase in WIN/CMS program costs. This is of critical concern in light of the current federal WIN/CMS budget reductions. Although inclusion of these two counties as part of the WIN/CMS program will allow recipients in Poweshiek and Tama counties to volunteer for other WIN/CMS services which include job club and work experience, current experience in other voluntary WIN/CMS counties indicates that clients tend to volunteer only for IETP. This has been confirmed by a survey of projects which currently serve volunteer counties. In addition to the better utilization of existing staff by inclusion of these two counties as part of WIN/CMS, clients in Poweshiek and Tama counties will receive improved IETP services. WIN/CMS staff devote all of their work time to "job market related" activities. In addition to providing IETP services, they also provide job club and work experience services. This additional knowledge will enable them to assist clients in making better vocational choices and help clients enter the labor market once vocational training is completed.

The Department of Human Services finds that this rule confers a benefit on the public by allowing recipients in Poweshiek and Tama counties to volunteer for WIN/CMS services and by increasing the quality of the IETP services delivered in those two counties. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

This rule is identical to that filed under Notice of Intended Action.

This rule is intended to implement Iowa Code section 249C.3.

This rule became effective June 1, 1986.

Amend rule 498—90.1(249C) by adding the following new subrule:

90.1(4) The following CMS model counties are volunteer counties. Participation is not required but a client may volunteer for services.

Poweshiek
Tama

[Filed emergency after Notice 5/28/86, effective 6/1/86]
[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6618

HUMAN SERVICES
DEPARTMENT[498]

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services hereby adopts Chapter 162, "Gamblers Assistance Program."

The Council on Human Services adopted these rules on May 21, 1986. Notice of Intended Action regarding these rules was published in the Iowa Administrative Bulletin on March 26, 1986, as ARC 6431.

1985 Iowa Code Supplement section 99E.10 places one-half of one percent of the gross lottery revenue in a gamblers assistance fund to be administered by the Commissioner of the Department of Human Services. The moneys in the fund are to be used to provide assistance and counseling to individuals and families experiencing difficulty as a result of gambling losses and to promote awareness of gamblers anonymous and similar assistance programs. This amendment provides guidelines for administration of the fund as recommended to the Commissioner by the Advisory Committee on Compulsive Gambling. The Advisory Committee and the Department completed a survey of literature, a survey of other states providing services to compulsive gamblers, and also convened a state conference to hear from national experts and state practitioners.

After considering information on the nature of compulsive gambling and the effect on the family members, the Advisory Committee recommended that the Department: (1) Adopt the definition of compulsive gambler used by the Diagnostic and Statistical Manual, 3rd Edition, and (2) define families broadly to reflect interpersonal relationships likely to be significant to the successful treatment of the compulsive gambler. The Committee further felt that a critical component of the program was a vigorous public education program to inform the public of the problem and to direct the public to service.

Because the treatment of compulsive gambling is relatively new, the Advisory Committee recommended that the service provider be able to demonstrate that training in the provision of service to compulsive gamblers has been received as a condition of a contract with the state. The Committee further recommended that the Department make the required training available to interested providers at no cost before the grant process is completed.

The Advisory Committee considered several options for the method of selection of service providers and payment for services. Services are to be outpatient services for the compulsive gambler and concerned persons. Current literature indicates that the compulsive gambler who seeks treatment often has a dual addiction, substance abuse and gambling. Therefore, it is likely that providers interested in providing services will be either community-based mental health agencies or substance abuse facilities. Although the estimated population at risk is 22,600, the number of persons who will seek service is unknown. National figures on the length of service vary.

The Advisory Committee also considered methods of payment for outpatient services.

A purchase of service methodology was not recommended given the high cost of administration, development of unit costs and the lack of an adequate data base

HUMAN SERVICES DEPARTMENT[498] (cont'd)

to project costs (population seeking service, length of service). The Committee, therefore, considered as options either a statewide grant program or two demonstration grants for the provision of service. This amendment would provide for either option.

Another area of discussion was the allocation of funds. Because the funding available for the provision of service and public information is subject to fluctuations in lottery revenues, and because the public should have an opportunity to comment on the allocation of funds, the Department will present the proposed allocation of funds to the Council on Human Services for approval. Adjustments will be made in the same manner if projected revenue varies from actual revenue.

The Advisory Committee will be reviewing applications for grants and will be making recommendations to the Commissioner.

The Department of Human Services finds that these rules confer a benefit on the public by establishing procedures to fund programs to inform the public about the problem of compulsive gambling and to fund treatment services for compulsive gamblers and concerned persons. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The definition of "mental health professional" was revised by replacing the word "undergraduate" with "bachelor's" to clarify the intent. The word "provider" was substituted for the word "recipient" in the definition of "recipient" and wherever else the word "recipient" appeared in the rules to be more consistent with other departmental terminology. The word "applicant" was substituted for the word "provider" whenever the previous use of the word "provider" did not meet with the revised definition of "recipient." In paragraph "a" of this definition, the word "and" following the word "nursing," was changed to "or".

These rules are intended to implement 1985 Iowa Code Supplement section 99E.10.

These rules became effective June 1, 1986.

CHAPTER 162 GAMBLERS ASSISTANCE PROGRAM Preamble

These rules define and structure the department of human services' gamblers assistance program. This grant program is designed to make services available to persons who are experiencing difficulty as a result of gambling losses and to concerned persons who may also be affected, whether directly or indirectly. The program is also designed to promote awareness of gamblers anonymous and similar assistance programs.

Included within this grant program are therapy services on an outpatient basis to compulsive gamblers and concerned person(s) and dissemination of information to the public on compulsive gambling, gamblers anonymous and the gamblers assistance toll-free hotline.

These rules also document eligibility criteria, application procedures, time limits, and provisions for the termination of services to providers.

498—162.1(99E) Definitions.

"Allocation of funds" means the selection of the types of projects or services to be funded and the amount of anticipated funding to be available for those services or projects for the fiscal year. Apportioned objects of expenditure shall initially be public information, outpatient service, administration, and special projects.

"Applicant" means an incorporated agency or a unit of local government agency who makes application for a grant.

"Chemical substance" means alcohol, wine, spirits, and beer as defined in Iowa Code section 123.3 and drugs as defined in Iowa Code section 203A.2, subsection 3, which when improperly used could result in chemical dependency.

"Commissioner" means the commissioner of the department of human services or successor agency.

"Compulsive gambler" is a person who meets the following criteria:

a. The person is chronically and progressively unable to resist impulses to gamble.

b. Gambling compromises, disrupts, or damages family, personal, and vocational pursuits, as indicated by at least three of the following:

(1) Arrest for forgery, fraud, embezzlement, or tax evasion due to attempts to obtain money for gambling.

(2) Default on debts or other financial responsibilities.

(3) Disrupted family or spouse relationship due to gambling.

(4) Borrowing of money from illegal sources (loan sharks).

(5) Inability to account for loss of money or to produce evidence of winning money, if this is claimed.

(6) Loss of work due to absenteeism in order to pursue gambling activity.

(7) Necessity for another person to provide money to relieve a desperate financial situation.

c. The gambling is not due to antisocial personality disorder.

"Concerned persons" means persons who are in need of services as a result of a compulsive gambler having an effect on their lives or who are willing to involve themselves in the treatment of a compulsive gambler. The concerned person may be either a relative or nonrelative of the compulsive gambler.

"Department" means the Iowa department of human services.

"Mental health professional" means a person who meets all of the following conditions:

a. Holds at least a bachelor's degree in a mental health field, including, but not limited to, psychology, counseling and guidance, nursing, or social work; or, is a doctor of medicine (M.D.) or doctor of osteopathic medicine and surgery (D.O.).

b. Holds a current Iowa license when required by the Iowa licensure law.

c. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental health problems and needs of individuals and in providing appropriate mental health services for those individuals.

"Peer counselor" is a person who is a reformed or recovered compulsive gambler who provides treatment services in an agency setting.

"Provider" means an applicant who has received a grant.

"Public information" means the dissemination of information to citizens on compulsive gambling through print, electronic, and other means. Also included is the gamblers assistance hotline.

A "resident" of Iowa means a person who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

"Substance abuse professional" means an individual who, by virtue of education, training or experience, provides treatment to a person to allow an opportunity for the person to explore problems related directly or indirectly to substance abuse or dependence. The substance abuse professional must be capable of assessing the psychosocial history of a substance abuser to determine the treatment plan most appropriate for the client.

"Substance abuser" means a person who habitually lacks self control as to the use of chemical substances or uses chemical substances to the extent that the person's health is substantially impaired or endangered or that the person's social or economic function is substantially disrupted.

498—162.2(99E) Availability of grants or demonstration funds. In any year in which funds are available for gamblers assistance service, the commissioner shall award grants to eligible applicants for projects to promote public awareness or for selected outpatient services to compulsive gamblers and concerned persons who are residents of Iowa. The amount of the money granted shall be contingent upon the funds available. The allocation of funds shall be in compliance with legislation and approved by the council on human services. Moneys may be targeted to certain geographical areas.

498—162.3(99E) Eligible Applicants.

162.3(1) All applicants must be an incorporated agency or a unit of local government.

162.3(2) All applicants shall have staff who have attended training on the treatment of compulsive gamblers offered by the department or by the Taylor Manor Gambling Treatment program in Ellicott City, Maryland.

162.3(3) All applicants that provide outpatient services must have one of the following professionals on staff to provide the services:

- a. Mental health professional.
- b. Substance abuse professional.
- c. Peer counselor if supervised by mental health or substance abuse professional.

498—162.4(99E) Request for applications for grants or demonstration funds.

162.4(1) Grant cycle. The commissioner will announce through public notice the opening of an application period. Applicants for grants shall submit first a letter of intent and then a grant proposal by the deadlines specified in the announcement.

162.4(2) Letter of intent. Letters of intent should be no longer than three typed pages and must:

- a. Identify the population to be served.
- b. State the need, problem, or issue the project would address.
- c. Identify the service(s) to be provided.
- d. Identify the objectives to be accomplished.
- e. Estimate the project budget.
- f. Identify the geographical area to be served.

Only letters of intent received by the deadline specified in the public notice will be considered. Applicants will be given a written acknowledgment of the letter of intent which includes comments on the project outlined in the letter.

162.4(3) Grant proposal. Applicants shall submit the proposal to the director on Form 470-2127, Application for Gamblers Assistance Program. If a proposal does

not contain the information specified in the application package or if it is late it will be disapproved. Proposals shall contain the following information:

- a. General agency information.
- b. Specific project information.
- c. A summary of the project.
- d. An introductory section outlining agency background information.
- e. A problem statement outlining the need or problem to be addressed.
- f. Project goals and objectives.
- g. Project methodology.
- h. An evaluation plan.
- i. A plan for future project funding.
- j. A line item budget.
- k. Assurances.
- l. Letters of support.

498—162.5(99E) Selection of applications. All applications received meeting the minimum criteria above will be evaluated by the commissioner to determine who will receive the grants. Those applicants who have demonstrated both a need and the ability to effectively operate the program will be given first consideration for funds. Notification will be sent to all applicants.

162.5(1) The following factors will be considered in selecting applications:

- a. The demonstrated need for the service in the program area serviced.
- b. The community support demonstrated and the relationship to existing agencies.
- c. The efforts of the program to secure other funding.
- d. The general program structure including, but not limited to, how well goals can be met, how realistic the objectives are, the administration of funds, stability of the organization, the overall quality in comparison to other proposals, and services offered.
- e. The plan for using the funds. The funds may be used only for salaries, fringe benefits, contract services, job-related in-state travel, and operational expenses. Funds may not be used for construction, capital improvement or purchase of real estate.

498—162.6(99E) Contracts. The funds for approved applications will be awarded through a contract entered into by the commissioner and the applicant. The contract period shall not exceed twelve months and may be less than twelve months for contracts signed during the fiscal year. Expenditures shall be reimbursed monthly pursuant to regular reimbursement procedures of the state of Iowa.

498—162.7(99E) Records. Providers shall keep client and specific fiscal records of services provided and any other records as required by the department and specified in the contract.

498—162.8(99E) Evaluation. The department shall evaluate the provider at least once per year prior to the end of the contract year to determine how well the purposes and goals are being met. Funds are to be spent to meet program goals as provided in the contract. The provider will receive a written report of the evaluation.

498—162.9(99E) Termination of contract. The contract may be terminated by either party at any time during the contract period by giving thirty days' notice to the other party.

162.9(1) The department may terminate a contract upon ten days' notice when the provider or any of its

HUMAN SERVICES DEPARTMENT[498] (cont'd)

subcontractors fails to comply with the grant award stipulations, standards, or conditions.

162.9(2) Within forty-five days of the termination, the provider shall supply the department with a financial statement detailing all costs up to the effective date of the termination.

162.9(3) The department shall administer the funds for this program contingent upon their availability. If the department lacks the funds necessary to fulfill its fiscal responsibility under this program, the contracts shall be terminated or renegotiated. The department may terminate any agreement to distribute gamblers assistance funds by giving the provider thirty days' notice of its intent to terminate.

498—162.10(99E) Appeals. Applicants dissatisfied with the commissioner's decision on an application for funds may request a fair hearing under the provisions of 498—chapter 7.

No disbursements will be made to any applicant for a period of ten calendar days. If an appeal is filed within the ten days, all disbursements will be held pending a final decision on the appeal. All applicants involved will be notified if an appeal is filed and given the opportunity to be included as a party in the appeal.

These rules are intended to implement 1985 Iowa Code Supplement section 99E.10.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6619**REGENTS, BOARD OF[720]**

Pursuant to the authority of Iowa Code sections 262.9(7), 262.9(11), 262.44, 262.57, 262A.5, and 263A.3, the state Board of Regents adopts an emergency rule amending Chapter 8, "Purchasing," Iowa Administrative Code, to provide procedures and criteria for the selection of advisors and agents utilized in the issuance of bonds or notes.

In compliance with Iowa Code section 17A.4(2), the Board of Regents finds that public notice and participation is impractical and further finds that, pursuant to Iowa Code section 17A.5(2)"b"(2), the normal effective date of this amendment thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on May 28, 1986.

This rule is necessary for the implementation of an amendment to Iowa Code section 262.9, adopted by the 1986 Iowa Acts, Senate File 2175, section 844. Immediate implementation is essential in order that the Board of Regents may maintain the schedule of bonding activities developed in light of market activity and needs to minimize tuition replacement costs.

This rule was adopted by the Board of Regents on May 21, 1986, and became effective upon filing on May 28, 1986.

This rule implements 1986 Iowa Acts, Senate File 2175, section 844, concerning the selection of advisors and agents necessary for the issuance of bonds or notes.

This rule is also being filed as a Notice of Intended Action published herein as **ARC 6620**.

Chapter 8 is amended by the addition of a new rule.

720—8.8(262) Selection of financial advisors.

8.8(1) Selection of employees and agents utilized in the issuance of bonds or notes (general).

a. Competitive selection procedures shall be used and shall be supervised by the executive secretary.

b. The board may waive the requirements for a competitive selection procedure upon adoption of a resolution stating why the waiver is in the public interest.

c. Results of a competitive selection process shall be referred to the board for action if the aggregate annual compensation is expected to exceed \$25,000.

d. The executive secretary may act for the board on competitive selections where the aggregate annual compensation is not expected to exceed \$25,000. A request for board ratification of the executive secretary's action shall be docketed at the next regularly scheduled board meeting.

e. Agreements with firms selected as financial advisor, bond counsel or for other functions necessary for the issuance of bonds or notes shall provide for annual renewals during a period not to exceed five years.

8.8(2) Criteria for selection of financial advisor.

a. Familiarity with Iowa laws, the governing statutes and court decisions relating to regent bonding authority.

b. Familiarity with federal law and tax laws applicable or potentially applicable to financings by the state board of regents.

c. Familiarity with the state of Iowa, the board, the universities and outstanding regent bond issues.

d. Experience with state and municipal financings in Iowa.

e. Experience with university financings and public competitive bidding.

f. Cost of service as identified in fees and any separate out-of-pocket expenses.

g. Demonstrated relationship of co-operation and trust with bond rating agencies.

h. Familiarity with the "Iowa market" and retail bond brokers within the state of Iowa.

i. Knowledge of regional and national bond underwriters and any syndicates that traditionally bid on regent bonds and other critical financing participants.

j. Professional qualifications and experience of principal employees who will work with regents.

k. Demonstrated capability to quantitatively evaluate financial variables and their impact on proposed financings.

l. Familiarity and experience with innovative borrowing mechanisms which could offer increased financial advantage or flexibility.

m. Ability to undertake the assignment immediately and perform in a satisfactory manner to provide services identified under "Scope of Services" in the Request for Proposals.

n. Experience and demonstrated success as indicated in a listing of current major clients.

o. Independence from municipal bond underwriting, trading, or other activities or events which could result in a conflict of interest (this is an absolute requirement for any firm selected as the regents' financial advisor).

p. Reputation for integrity and compliance with law.

q. Commitment to fair and equitable employment practices.

8.8(3) Criteria for selection of bond counsel.

a. Familiarity with Iowa laws, the governing statutes and court decisions relating to existing regent bond

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financing authority and familiarity with outstanding regent bond issues.

b. Familiarity with federal law and tax laws applicable or potentially applicable to financings by the state board of regents.

c. Experience with state and municipal financings in Iowa and expertise with tax aspects of state and municipal financings.

d. Experience of attorneys that would be assigned to board of regents with university tax exempt financings.

e. Cost of service as identified in fees and any separate out-of-pocket expenses.

f. Reputation for integrity and compliance with state and federal law.

g. Familiarity with financial advisors, underwriters, and bond rating agencies.

h. Professional qualifications and experience of principal employees who will work with regents.

i. Demonstrated relationship of co-operation and trust with bond rating agencies, underwriters, and other critical financing participants.

j. Familiarity and experience with master leases, variable rate demand bonds and other innovative borrowing mechanisms which could offer the board advantage or flexibility.

k. Demonstrated ability to provide written opinions on bonding matters recognized and accepted by underwriters, brokers and investors in the national market.

l. Ability to undertake the assignment immediately and perform in a satisfactory manner to provide services identified under "Scope of Services" in the Request for Proposals.

m. Experience and demonstrated success as indicated in a listing of current major clients.

n. Independence from financial functions such as municipal bond underwriting or trading or other activities and the absence of other clients which could result in a conflict of interest.

o. Reputation for integrity and compliance with law and commitment to fair and equitable employment practices.

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[Published 6/18/86]

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ARC 6610**TREASURER OF STATE[830]**

Pursuant to 1986 Iowa Acts, House File 2313, the Treasurer of State emergency adopts rules creating a new Chapter 4, "Invest in Iowa Agriculture Diversification Program" to establish an administrative system to the linking of state deposits to loans by Iowa depositories in efforts to diversify Iowa's agricultural economy.

In compliance with Iowa Code section 17A.4(2), the Treasurer finds that public notice and participation in advance of the adoption of these rules is impractical in that the 1986 Iowa Acts, House File 2313, deliberately included a publication clause with the intention that this program as contained in 1986 Iowa Acts, House File 2313,

become operative, especially in light of the limited planting season for such horticultural crops in Iowa.

In compliance with Iowa Code section 17A.5(2)"b"(1) the State Treasurer finds that the normal effective date of thirty-five days after publication be waived and the rules become effective immediately upon filing with the Administrative Rules Coordinator because they are mandated by statute, and the benefits of such legislation in diversifying Iowa agriculture will be severely limited if the program does not become effective before the planting season.

These rules are also being filed as a Notice of Intended Action, **ARC 6611**. These rules implement 1986 Iowa Acts, House File 2313.

Add the following new chapter:

CHAPTER 4**INVEST IN IOWA****AGRICULTURE DIVERSIFICATION PROGRAM**

830—4.1(71GA, HF2313) Scope. These rules are intended to implement 1986 Iowa Acts, House File 2313.

830—4.2(71GA, HF2313) Definitions.

"Current market rates" means the same rate as for a U.S. Treasury Bill with a maturity date the same as the certificate of deposit as determined by the weekly auction and reported on the Telerate (system).

"Eligible borrower" as defined in 1986 Iowa Acts, House File 2313, includes a person, corporation, cooperative, partnership and municipality.

"Eligible lending institution" as defined in 1986 Iowa Acts, House File 2313, section 2, includes banks, savings and loans, converted savings banks and credit unions which are located in Iowa and have sufficient securities pledged as collateral to the treasurer of state pursuant to Iowa Code chapter 453.

"Horticultural and nontraditional crops" are those crops which are not traditionally major crops in Iowa, including but not limited to: fruits, vegetables, cut flowers, nursery stock, turf, nuts, Christmas trees, crambe, edible fungi, aquafarming stock and honey. It does not include corn, soybeans, popcorn, rye, oats, alfalfa or wheat.

"Linked deposit" as defined in 1986 Iowa Acts, House File 2313, section 2.

"Linked Deposit Loan Package" means a completed Linked Deposit Application (Form No. 510-0142), Borrower(s) Application (Form No. 510-0145), Agreement for Time Deposit (Form No. 510-0144) and a copy of the lenders loan application form.

830—4.3(71GA, HF2313) Forms. The following forms are available from the treasurer of state to be used in this program.

4.3(1) Invest in Iowa Agriculture Diversification Linked Deposit Application (Form No. 510-0142).

4.3(2) Invest in Iowa Agriculture Diversification Agreement for Time Deposit (Form No. 510-1044).

4.3(3) Invest in Iowa Agriculture Diversification Application to be Designated as Participating Lender (Form No. 510-0142).

4.3(4) Invest in Iowa Agriculture Diversification Borrower(s) Application (Form No. 510-0145).

830—4.4(71GA, HF2313) Application and approved procedure.

4.4(1) Any lender who intends to participate in this program must be designated as an "approved deposi-

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tory." This is done by simply filling out a Petition to be Designated Approved Depository for Receipt of Public Funds (Form No. 510-0121) and submitting it to the treasurer of state's office.

When accepted, the treasurer of state's office will mail a letter notifying the depository that the lender has been so designated.

The treasurer of state will maintain a comprehensive list of approved depositories which will be available to interested borrowers and the public upon request.

4.4(2) A participating lender will apply for a linked deposit by submitting a Linked Deposit Loan Package.

830—4.5(71GA, HF2313) Qualifications on the Certificate of Deposit.

4.5(1) Upon accepting the Linked Deposit Loan Package the treasurer will mail an "Invest In Iowa Agriculture Diversification Certificate of Deposit." This must be signed by the lender and the originals returned to the treasurer.

4.5(2) Interest earned will be paid to the treasurer upon maturity of the Certificate of Deposit. Any principal amount on the loan which is prepaid or not drawn down will accrue at the Treasury Bill rate. Prepaid principal must be remitted March 31, June 30, September 30, and December 31. The reduced rate will only apply to funds which are actually loaned.

4.5(3) Pledging is required pursuant to Iowa Code chapter 453.

4.5(4) The maturity schedule on the certificate should be designed and proposed by the lender on the Linked Deposit Application form. The repayment schedule should generally conform to the principal repayment schedule on the loan.

If any principal amount will be repaid prior to the final maturity date of the certificate, then the lender must remit an equal payment to the treasurer at the end of that calendar quarter. Quarters will end on the last business day of March, June, September, and December.

Interest earned on the certificate and the balance of any principal amount are due on the final maturity date.

4.5(5) Funds will be transferred via wire. Depository must give treasurer instructions whether to credit an account at a Des Moines correspondent or directly to the depository. Payments to the treasurer should be wired to Northwest Bank, Des Moines, Treasurer of State, Account No. 400004.

4.5(6) A certificate may be renewed at the option of all parties. To renew, a depository should contact the treasurer not less than ten days prior to the final maturity. The rate on a renewal will be recalculated at the time of renewal.

830—4.6(71GA, HF2313) Qualifications on the loan.

4.6(1) The lender must make the initial determination that the loan qualifies for this program pursuant to 1986 Iowa Acts, House File 2313, and these rules.

4.6(2) The rate of the loan must be fixed at least for the term of the certificate and may not exceed four percent above the rate on the linked certificate. The amount, other terms and conditions on the claim will be determined by the lender and the borrower.

4.6(3) Lender is required to use usual lending standards to determine creditworthiness.

4.6(4) Maximum size production loan is \$100,000; processing and marketing facilities and equipment \$250,000.

4.6(5) Treasurer of state is not liable for any payment of principal or interest nor any late payments.

4.6(6) The following projects may be financed: purchase of land, machinery, equipment, seed, fertilizer, direct marketing facilities, and new or expanding processing facilities.

4.6(7) May not be used to refinance a loan initiated prior to 1986.

830—4.7(71GA, HF2313) Termination of the program.
The authority for this program expires on July 1, 1989.

[Filed emergency 5/22/86, effective 5/22/86]
[Published 6/18/86]

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ARC 6629**AGING, COMMISSION ON THE [20]**

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Commission on the Aging hereby adopts amendments to 20—9.4(249B), "Priority service requirement," Iowa Administrative Code. The amendments are a response to the Older Americans Act Amendments of 1984, and were adopted by the Commission at their regular meeting on May 21, 1986, after consideration of comments submitted by area agencies on aging.

Notice of Intended Action was published in the Iowa Administrative Bulletin, Volume VIII, Number 19, on March 12, 1986, as **ARC 6400**.

Changes from the noticed rules include the deletion of the word "all" in rule 9.4(2), paragraphs "a" and "f," and grammatical changes in rule 9.4(2), paragraphs "b" and "e."

These rules are intended to implement Iowa Code chapter 249B.

These amendments are effective July 23, 1986.

The following amendments are adopted:

ITEM 1. Subrule 9.4(1) is amended to read as follows:

9.4(1) General rule. An area agency must spend an adequate proportion of its supportive services allotment as identified in 6.7(5) ~~excluding amounts used for administration under rule 9.10(249B)~~ for the following categories of service, with ~~at least some~~ *an adequate proportion of funds spent* in each of the following categories:

a. Services associated with access to other services. These services are transportation, outreach, and information and referral;

b. In-home services. These services are homemaker and home health aide, visiting and telephone reassurance, ~~and~~ *chore maintenance, and supportive services for the families of victims of Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type;* and

c. ~~Legal services assistance.~~

ITEM 2. Subrule 9.4(2) is rescinded in its entirety, and the following inserted in lieu thereof:

9.4(2) Waivers.

a. An area agency must request a waiver from the requirements of subrule 9.4(1) if the need for the service is not being met and the agency does not propose sufficient funding to allow older individuals to have reasonably convenient access to the service.

b. The commissioners, in approving the area plan or a plan amendment, shall, upon recommendation of the executive director, waive the requirement of subrule 9.4(1) for any category of service for which the area agency demonstrates to the commissioners that the services being furnished for the category meet the needs of older persons in the planning and service area for that category of service following requirements in these rules, or the area agency documents that it has made every reasonable effort to meet the need.

c. Before submitting a request for a waiver from the requirement to subrule 9.4(1) the area agency shall conduct a timely public hearing on the proposed waiver, including the following factors:

1. Notify all interested parties in the area of the public hearing;

2. Furnish interested parties with an opportunity to testify; and,

3. Prepare a record of the public hearing.

d. The public hearing on the proposed waiver request may be held in conjunction with the public hearing required for the annual application for award, rule 6.11(249B), if the following provisions are made:

1. Hearing notices specify the category of the priority service waiver being requested;

2. Hearing notices are provided to interested parties prior to the hearing concerning the waiver request;

3. The priority service waiver is a distinct agenda item providing the public with the opportunity to comment during that portion of the hearing.

e. When submitting the request for a waiver of the provision of priority services to the state agency, area agencies shall submit, in addition to the public hearing record, an exhibit to show that the category of priority service is furnished sufficient to meet the need in the area. The exhibit shall be included in the annual application for award format and instructions issued annually by the executive director.

f. Need for the service will be determined to be met if older individuals within the planning and service area have reasonably convenient access to the service.

[Filed 5/30/86, effective 7/23/86]

[Published 6/18/86]

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ARC 6632**HEALTH DEPARTMENT[470]****MEDICAL EXAMINERS, BOARD OF**

Pursuant to the authority of Iowa Code section 147A.4, the Iowa Board of Medical Examiners hereby adopts amendments to Chapter 132, "Advanced Emergency Medical Care," Iowa Administrative Code.

These changes incorporate rules relative to the Advanced EMT-Defibrillation Temporary Pilot Study Program into the regular Advanced Emergency Medical Care rules. Also included are rules that clarify lapsed certificates and training program applications.

Notice of Intended Action was published in Iowa Administrative Bulletin, Volume VIII, Number 20, on March 26, 1986, as **ARC 6445**.

A minor grammatical change was made in Item 4, subrule 132.4(7), paragraph "b," subparagraph (1), as recommended by the Legislative Rules Review Committee. The words "by the board" were deleted and the following inserted in lieu thereof "in subrule 132.4(9), paragraph "b".

These amendments will become effective on July 23, 1986, and are intended to implement Iowa Code chapter 147A.

The following amendments are adopted:

ITEM 1. Rule **470—132.1(147A)** is amended as follows:

"Advanced emergency medical care personnel" means any *advanced EMT-D*, advanced EMT-I, advanced EMT-II, or paramedic currently certified by the board.

Rule **470—132.1(147A)** is further amended by adding the following new definitions in alphabetical order:

HEALTH DEPARTMENT[470] (cont'd)

"Advanced EMT-D" means an individual currently certified as a basic EMT-A or advanced EMT-I who has been trained to perform ventricular defibrillation and who has been issued an advanced EMT-D certificate by the board.

"Automatic defibrillator" means any device that internally recognizes the presence or absence of ventricular fibrillation and determines, without intervention, whether defibrillation is required. Automatic defibrillators must meet or exceed design and performance standards stipulated by the Association for the Advancement of Medical Instrumentation (AAMI) for automatic external defibrillators, published in February 1986.

"Continuing education" means education obtained by a certified advanced EMT or paramedic in order to maintain, improve, or expand relevant skills and knowledge obtained prior to initial certification or to develop new and relevant skills and knowledge as approved by the board. Continuing education consists of three major categories including formal classroom experience (lecture and laboratory), ambulance run critique, and in-hospital clinical experience under direct supervision.

ITEM 2. Subrule 132.3(1) and paragraphs "c" and "d" are amended as follows:

132.3(1) No person shall be enrolled in a training program for *advanced EMT-D*, advanced EMT-I, advanced EMT-II, or paramedic training unless the following minimum requirements are met:

c. Applicant shall be physically able to perform the functions of an *advanced EMT-D*, advanced EMT-I, advanced EMT-II or paramedic as appropriate.

d. Applicant shall complete a satisfactory personal interview with either the training program medical director or designee regarding qualifications including educational attainments, as well as aptitude to become an *advanced EMT-D*, advanced EMT-I, advanced EMT-II, or paramedic.

ITEM 3. Rule 470—132.4(147A) is amended as follows:

470—132.4(147A) *Advanced EMT certification*. Advanced emergency medical care personnel—certification, renewal standards and procedures, and fees.

132.4(1) An *advanced EMT-D*, advanced EMT-I, advanced EMT-II, or paramedic certificate shall be valid for two years from date of issuance unless sooner suspended or revoked for cause by the board.

Subrule 132.4(3), paragraph "b," is amended as follows:

b. An applicant who fails to pass the initial examination may rewrite the examination twice to attain a passing score: *except candidates for advanced EMT-D who shall be allowed one retest of the examination*. Candidates who fail the examination for the third time shall repeat the training program before being eligible to take the examination again: *except that candidates for advanced EMT-D shall repeat the training program prior to being eligible to take the examination for the third time*.

ITEM 4. Subrule 132.4(5), paragraph "b," is amended as follows:

b. The applicant submits adequate evidence of current certification in another state or *and* has other recognized certification with standards comparable to those in effect in Iowa as determined by the board.

Subrule 132.4(7) is amended as follows:

132.4(7) Renewal of certificates shall be required every two years by the board in order to continue providing advanced emergency medical care: *except renewal of advanced EMT-D may be modified to be concurrent with advanced EMT-I renewal and in certain instances where basic EMT-A certification is required for continued advanced EMT-D certification*.

Subrule 132.4(7) is further amended by adding the following new paragraphs:

a. Certificates not renewed within sixty days of the expiration date shall be considered lapsed and invalid for the purpose of providing advanced emergency medical care in Iowa.

b. Individuals seeking to reinstate a certificate that has been lapsed more than sixty days but less than one year may do so by:

(1) Filing a reinstatement application with the fee as required in subrule 132.4(9), paragraph "b";

(2) Providing documentation of having completed the continuing education requirements specified in these rules; and

(3) Passing the written and practical examinations as specified in subrule 132.4(4).

c. Individuals seeking to reinstate a certificate lapsed for a period in excess of one year will be required to repeat the entire course and pass the written and practical examinations.

Subrule 132.4(8) is amended as follows:

132.4(8) The *renewal* application form and instructions for renewal of certification shall be mailed to the certificate holder at least sixty days prior to the expiration date of the current certificate. In order to be eligible for renewal, the certificate holder shall have:

a. Completed and submitted all necessary forms and fees required by the board.

b. A current *advanced EMT-I, advanced EMT-II, or paramedic* certificate: *issued by the board*.

c. Completed a minimum of thirty hours of continuing education per year as outlined below.

(1) At least six hours of *approved* formal classroom experience;

(2) At least six hours ambulance run critique;

(3) At least six hours clinical experience in a hospital under direct supervision; and

(4) Twelve hours to be determined by the medical director.

Subrule 132.4(8), paragraph "c," is further amended by adding the following new subparagraph:

(5) All individuals certified as an advanced EMT-D shall comply with the following applicable provision:

Individuals certified to perform manual defibrillation shall be required to satisfactorily complete a monthly practice tape which shall be documented by the service program medical director.

Individuals certified to perform defibrillation using an automatic defibrillator shall be required to complete a quarterly practice tape which shall be documented by the service program medical director.

Subrule 132.4(9), paragraph "b," is amended as follows:

b. Examination and certification fees for individuals challenging advanced care testing or seeking endorsement from another state certification or for *reinstatement of a certificate* are:

1. For EMT-I, twenty dollars.

2. For EMT-II, thirty dollars.

3. For Paramedic, forty dollars.

HEALTH DEPARTMENT[470] (cont'd)

ITEM 5. Rule 470—132.5(147A) is amended by adding the following new subrules.

132.5(1) "Advanced EMT-D" means a certified EMT-A or EMT-I who has successfully completed an approved program that specifically addresses the recognition and manual or automatic defibrillation of ventricular fibrillation.

132.5(8) Advanced EMT-D training. Advanced care training programs approved by the board may conduct advanced EMT-D training provided:

a. A written agreement between the service program medical director, the training institution and the Emergency Medical Services Learning Resources Center (EMSLRC) exists to ensure responsibility for the review of actual run tapes and the maintenance of statistical information;

b. The service program medical director agrees in writing to be responsible for the review and documentation of practice tapes — monthly for individuals trained to use a manual defibrillator or quarterly for individuals trained to use an automatic defibrillator — completed by all individuals certified at the advanced EMT-D level who are associated with the service program.

c. When the above requirement is not met by the advanced EMT-D, the individual shall be suspended from participation as an advanced EMT-D by the service program medical director until such time as compliance is documented. However, an individual who has failed to comply with the practice tape requirement for a period of six months or more shall be required to repeat the appropriate EMT-D training course.

Renumber existing subrules accordingly.

ITEM 6. Subrule **132.6(2)**, paragraph "a," subparagraph (1), is amended as follows:

(1) Written application shall be submitted *on forms provided by the board* to the executive director one month prior to a regular board meeting for board action. The application shall include: Request for permission to establish or reopen a training program signed by appropriate officials of the applicant; evidence of availability of clinical resources; evidence of availability of physical facilities; *a needs assessment for the establishment or reopening of a training program*; and evidence of qualified faculty. *Applications shall be reviewed in accordance with the "Essentials and Guidelines of an Accredited Educational Program for the Emergency Medical Technician-Paramedic," published in 1979 by the American Medical Association.*

ITEM 7. Subrule **132.8(2)** is amended by adding the following new paragraphs:

a. In addition, advanced EMT-D service programs shall complete a patient care report, specifically designed for this program, for each ambulance run involving a patient in cardiac arrest.

b. Cassette tape recording shall be made on each ambulance run where cardiopulmonary resuscitation is performed. These recordings shall commence upon arrival of the advanced EMT-D at the patient's side and shall not be terminated until patient care is assumed by higher level personnel with appropriate equipment.

c. A copy of the patient care report and the cassette tape shall be sent to the EMSLRC, University of Iowa Hospitals and Clinics, Iowa City, Iowa 52242 within twenty-four hours of the cardiac arrest.

Subrule **132.8(4)** is amended by adding the following new paragraph:

c. In addition, primary response vehicles used in advanced EMT-D service programs shall have, as a minimum, one manual or automatic portable battery operated monitor/defibrillator equipped with a voice/ECG cassette recorder.

Existing paragraphs "c" to "j" are relettered accordingly.

ITEM 8. Rule **470—132.13(147A)** is hereby rescinded in its entirety.

These rules are intended to implement Iowa Code sections 17A.4, 17A.9 and chapter 261A.

[Filed 5/30/86, effective 7/23/86]

[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6633

HEALTH DEPARTMENT[470]

MEDICAL EXAMINERS, BOARD OF

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Medical Examiners hereby adopts an amendments to Chapter 135, "Medical Examiners." Iowa Administrative Code.

This change rescinds the equivalency portion of the rules relative to postgraduate training since the Board finds it impractical to attempt an evaluation of such training in lieu of site visits which would be cost prohibitive.

Notice of Intended Action was published in Iowa Administrative Bulletin, Volume VIII, Number 20, on March 26, 1986, as **ARC 6446**.

This amendment is identical to that published under Notice.

The amended rule becomes effective on July 23, 1986, and is intended to implement Iowa Code chapters 147, 148, 150 and 150A.

Subrule 135.101(2) is amended as follows.

135.101(2) Applicant shall present a photostatic copy of a certificate indicating the completion of one year of postgraduate training in a hospital approved by the board. The lists of hospitals approved for postgraduate training in the United States and Canada, accredited by the Accreditation Council for Graduate Medical Education, published by the American Medical Association, in March 1983, and those accredited by the Committee on Postdoctoral Training, published by the Committee on Hospitals of the American Osteopathic Association, in August 1983, and the Royal College of Physicians and Surgeons of Canada, published July 1983, are approved by the board.

The board may approve other hospitals for postgraduate training which satisfy the essentials for approval as set out by the Accreditation Council for Graduate Medical Education, published by the American Medical Association in March 1983 or the Committee on Postdoctoral Training, published by the American Osteopathic Association in August 1983.

This rule is intended to implement Iowa Code sections 147.19, 148.3, 150.11 and 150A.3.

[Filed 5/30/86, effective 7/23/86]

[Published 6/18/86]

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ARC 6617**HUMAN SERVICES
DEPARTMENT[498]**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services hereby amends Chapter 95, "Collections," and Chapter 96, "Nonassistance Child Support Recovery Program," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these rules on May 21, 1986. Notice of Intended Action regarding these rules was published in the Iowa Administrative Bulletin on March 26, 1986, as ARC 6430.

These amendments do the following:

1. Aid to Dependent Children clients are entitled to the first fifty dollars of child support received a month. Prior to October 1985, if a clerk of court delayed sending in a payment, resulting in two or more payments being received in any given month, the Department only allowed the client fifty dollars. Rules were changed effective October 1, 1985, which provided that when a delay by the clerk of court prevented the issuance of a payment, an additional payment would be issued. The forms that the clerks of court send in listing payments received were revised to include the dates the clerks received the payments.

This amendment clarifies that the month the clerk of court receives the payment will be used to determine when the fifty dollars is paid unless one of the following applies: The date the clerk of court received the support is not reported to the department, the support is received from an out-of-state jurisdiction, or the support is paid voluntarily and there is no court order.

2. Under current rules persons receiving nonassistance support services are required to submit a monthly report to provide information needed to establish and enforce the support obligation. Failure to do so causes the case to be suspended indefinitely. This amendment limits the time of the suspension to ninety days. If the information has not been received at the end of ninety days, a notice will be sent to the client terminating the case.

3. Absent parents who are entitled to a portion of their income tax refund and clients who are entitled to an amount from a tax setoff are required to sign a form agreeing to repay any amount which the Internal Revenue Service requires the Department to refund.

4. At the present time, nonassistance child support services are required to be provided to all canceled ADC recipients for five months following cancellation, without application or fee, unless the client requests services be terminated or a claim of good cause exists. No exception is made for cases in which no chance of collection and enforcing support exists.

Services are continued after the five months without application, but subject to all the same reasons for termination which apply to any nonassistance case.

A recent federal interpretation allows Iowa to apply the same reasons for denial or termination of services to these cases as are applied to other cases. This amendment implements that interpretation, thereby avoiding wasted time and effort on cases where there is no chance of collecting support.

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

These rules are intended to implement Iowa Code sections 252B.3, 252B.4, and 252B.11.

These rules shall become effective August 1, 1986.

ITEM 1. Amend rule 498—95.3(252B) as follows:
Amend the introductory paragraph as follows:

498—95.3(252B) Treatment of current and delinquent support. The amounts collected as support from the absent parent shall be considered as the required support obligation for the month ~~received in which it is received by the department.~~ Any excess shall be treated as delinquent payments and shall be applied to the immediately preceding month, and then to the next immediately preceding month until all excess has been applied.

Amend subrule 95.3(1) as follows:

95.3(1) The first fifty dollars of the assigned current monthly support obligation, received by the department ~~an Iowa clerk of court~~ in any given month, shall be paid to the caretaker and dependent ~~child~~ children who are recipients of aid to dependent children. ~~The month support is received by the department shall be used if any of the following apply:~~

a. ~~The date support is received by the clerk of court is not provided on Form 470-0162, Receipt and Adjustment Form.~~

b. ~~The support is received directly by the department from an out-of-state jurisdiction.~~

c. ~~Support is paid voluntarily in the absence of a support order.~~

Amend subrule 95.3(2) as follows:

95.3(2) Less than fifty dollars shall be paid to an aid to dependent children recipient if the amount of assigned support received by ~~an Iowa clerk of court or by the~~ department in a month is less than fifty dollars or if the amount of the monthly support obligation is less than fifty dollars.

ITEM 2. Amend subrule 95.7(8) as follows:

95.7(8) The department shall refund the incorrect portion of a federal income tax setoff within thirty days following verification of the setoff amount. Verification shall mean a listing from the federal office of child support enforcement containing the taxpayer's name and the amount of tax refund to which the taxpayer is entitled. The date the department receives the federal listing will be the beginning day of the thirty-day period in which to make a refund.

The department shall refund the amount incorrectly set off to the taxpayer unless the taxpayer agrees to apply the refund of the incorrect setoff to any other support obligation due. *Prior to the receipt of the refund the taxpayer shall sign Form 470-2082, Adjustment of Federal Tax Setoff Agreement, agreeing to repay any amount of the setoff the Internal Revenue Service later requires the department to return.*

ITEM 3. Amend subrule **96.3(1)** by adding the following new paragraph:

j. When support services have been suspended for a period exceeding ninety days.

ITEM 4. Amend rule 498—96.9(252B) by adding the following new subrule:

96.9(4) Repayment agreement. Prior to receipt of the amount to be distributed the individual shall sign Form 470-2084, Repayment Agreement for Federal Tax Refund Setoff, agreeing to repay any amount of the setoff the Internal Revenue Service later requires the department to return.

HUMAN SERVICES DEPARTMENT[498] (cont'd)

ITEM 5. Amend rule 498—96.10(252B) as follows:

Amend the introductory paragraphs as follows:

498—96.10(252B) Services available to canceled aid-to-dependent-children recipients. Support services shall automatically be provided for the five months immediately following cancellation, without application or fee, to individuals who were eligible to receive support services as recipients of aid to dependent children and who were canceled from aid to dependent children. Continued support services shall not be provided to an individual who has been canceled from aid to dependent children when a claim of good cause, as defined in subrule 41.2(8), was valid at the time benefits were canceled or when one of the reasons for denial of services, listed in rule 498—96.3(252B) applies to the case.

Support services shall continue to be provided to eligible individuals without application immediately following the five months of continued services subject to applicable fees.

Amend subrule 96.10(2) as follows:

96.10(2) Termination of services. ~~Individuals receiving five months of continued support services shall not have the services terminated by the department prior to the end of the five-month period unless the individual becomes eligible for aid to dependent children or the individual requests termination of services.~~ An individual may request the department to terminate support services during, or at any time after, the five months of continued services by the completion and return of the bottom portion of Form CS-1113, or in any other form of written communication, to the child support recovery unit.

Continued support services may be terminated at any time for any of the reasons listed in rule 498—96.3(252B).

Amend subrule 96.10(3) as follows:

96.10(3) Reapplication for services. ~~An individual who requests termination of support services whose services were denied or terminated during or at any time after the five months of continued services may again receive the reapply for services of the unit under this chapter by being eligible for aid to dependent children or by completion and submittal of the completing the application for nonassistance support services process as described in rule 498—96.4(252B), and the payment of any paying the application fees charged by the department described in rule 498—96.13(252B).~~

ITEM 6. Amend rule 498—96.11(252B) as follows:

498—96.11(252B) Responsibilities of recipients. The individual receiving nonassistance support services shall co-operate by giving complete and accurate information needed to establish and enforce a support obligation.

Form CS-1115, Report of Monthly Support Received, shall be forwarded to each individual receiving nonassistance support services at the end of each month with a postage-paid return envelope. The individual shall complete, sign, and return Form CS-1115 to the Child Support Recovery Unit, 5th Floor, Hoover Building, Des Moines, Iowa 50319-0114 by the tenth calendar day of each month to report whether support was received in the preceding month and the amount of support received.

Failure of the individual to return the completed form or to provide information needed to establish or enforce a support obligation, shall result in support services being suspended by the child support recovery unit for a period of ninety days or until the requested information is received, whichever occurs first. Cases suspended for a

period of ninety days shall be closed by the child support recovery unit after a notice of decision is provided to the client.

This rule is intended to implement Iowa Code section 252B.4.

[Filed 5/28/86, effective 8/1/86]

[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6636**REAL ESTATE COMMISSION[700]**

Pursuant to the authority of Iowa Code section 117.9, the Director of the Iowa Real Estate Commission, as designee of the Real Estate Commission, hereby amends Chapter 3, "Prelicense Education and Continuing Education," appearing in the Iowa Administrative Code.

The proposed rule defines the term "affirmative marketing" as used in subrule 700—3.3(2), published in the Iowa Administrative Bulletin, April 9, 1986, as **ARC 6475**.

The Commission finds that immediate promulgation is necessary so that licensees and continuing education providers can better understand the subject matter which is acceptable as continuing education. The Commission further finds that public participation is unnecessary because the proposed rule merely defines a term. Also the Administrative Rules Review Committee suggested that a definition was desirable and necessary to avoid confusion.

Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

The Real Estate Commission adopted this rule May 22, 1986.

This rule is intended to implement Iowa Code section 258A.2.

This rule will be effective July 23, 1986.

Rule 700—3.1(117) is amended by adding the following definition in correct alphabetical sequence.

"Affirmative marketing" means the entire scope of social laws and ethics which are concerned with civil rights as they especially apply to housing and to the activities of real estate licensees.

[Filed without Notice 5/30/86, effective 7/23/86]

[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6637**REVENUE DEPARTMENT[730]**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue hereby adopts amendments to Chapter 65, "Special Fuel," Iowa Administrative Code.

Notice of Intended Action was published in Iowa Administrative Bulletin Volume VIII, Number 22, on April 23, 1986, as **ARC 6508**.

These rule amendments are being made to allow the use of monthly exemption certificates for purchases of nonhighway fuel and to refer to unattended pumps as key/card-activated pumps.

REVENUE DEPARTMENT[730] (cont'd)

This rule is identical to that published under Notice of Intended Action. The amendments will become effective July 23, 1986, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

These rule amendments are intended to implement Iowa Code chapter 324.

The following amendments are adopted.

Amend rule 730—65.21(324) to read as follows:

730—65.21(324) Key/Card-activated pumps.

65.21(1) Special fuel may be dispensed tax free from key/card-activated pumps which dispense only nonhighway fuel providing the fuel is placed into storage tanks or in fuel supply tanks of vehicles which are used for nonhighway purposes. The dealer has the responsibility to ascertain how the fuel will be used by the key/cardholder and to monitor such its use. The key/cardholder must have a valid need for purchasing the fuel tax free and may submit a blanket exemption to the dealer for such purposes providing detailed records are maintained by the dealer which can be audited by the department. If detailed records are not maintained, individual exemption certificates will be required to support each tax-free sale. The pump must be designed in such a manner that the fuel is dispensed at a rate of at least twenty gallons per minute. If the department finds that a key/cardholder purchasing fuel tax free subsequently uses it for highway purposes, the department will notify the dealer that the key/cardholder is no longer eligible to purchase fuel tax free. If the dealer continues to make tax-free sales to such the a key/cardholder after notice, the department will initiate proceedings to cancel the dealer's special fuel license.

65.21(2) Special fuel may be dispensed tax free from key/card-activated pumps which dispense both highway and nonhighway fuel providing the dealer collects a certificate of exemption each time a purchase of nonhighway fuel is made; or the key/cardholder submits a monthly exemption certificate to the dealer to substantiate exempt purchases of nonhighway fuel. All sales of fuel made from pumps which dispense both highway and nonhighway fuel which are not supported by an exemption certificate shall be are deemed to be a tax-paid sale and the dealer will be is responsible for the tax on the sale.

This rule is intended to implement Iowa Code sections 324.34 and 324.68.

[Filed 5/30/86, effective 7/23/86]

[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6638**SUBSTANCE ABUSE,
IOWA DEPARTMENT OF[805]**

Pursuant to the authority of Iowa Code section 125.7, the Iowa Department of Substance Abuse hereby adopts amendments to Chapter 3, "Licensure Standards for Substance Abuse Treatment Programs," Iowa Administrative Code, which were adopted by the Iowa Commission on Substance Abuse on May 29, 1986.

These rules were published as Notice of Intended Action on March 12, 1986, Iowa Administrative Bulletin, as **ARC 6398** [and emergency adopted and implemented rules as **ARC 6397**].

Rule 805—3.1(125) is being amended to include a new definition for "concerned family member" and placed in alphabetical order. In addition, the definition of "intermediate treatment" is being deleted.

Rule 805—3.3(125) is being amended to reflect the current category of licenses issued by the Department.

Rule 805—3.9(125) is being amended to reflect the current category of licenses issued by the Department.

These rules are identical to those published as Notice of Intended Action.

These rules are intended to implement Iowa Code chapter 125.

These rules will become effective on July 23, 1986. [Rules adopted emergency and implemented as **ARC 6397** are rescinded effective July 23, 1986.]

ITEM 1. Amend rule 805—3.1(125) by adding the following new definition in alphabetical order and further amend rule by deleting the term "intermediate treatment" and accompanying definition.

"Concerned family member" means an individual who is involved with or interested in a substance abuser or client and is affected by the behavior of the substance abuser or client.

ITEM 2. Amend rule 805—3.3(125) to read as follows:

805—3.3(125) Type of licenses. Four Three types of licenses may be issued by the department. A standard renewal license may be issued for one or two years. when the commission has determined the applicant is substantially in compliance with the intent of all of these rules. Treatment programs applying for their first license may also be issued a license for two hundred seventy days. Licenses may be issued for one hundred eighty, two hundred seventy days, or one year (at the discretion of the commission) to an applicant who is determined by the commission to be temporarily unable to substantially comply with these rules. A license issued for one hundred eighty or two hundred seventy days shall not be renewed or extended. A one year license shall be issued no more than two consecutive times.

All standard licenses shall expire one or two calendar years from the date of issue, and a renewal of the license shall be issued only on application, as required herein. The renewal of a one-year license shall be contingent upon demonstration of substantial continued compliance with licensure standards. The renewal of a two-year license shall be contingent upon demonstration of substantial continued compliance with licensure standards. Failure to apply for and receive renewal of the license prior to the expiration date shall result in immediate termination of license and require reapplication.

ITEM 3. Amend rule 805—3.9(125) to read as follows:

805—3.9(125) Corrective action plan. Programs approved for a license for one hundred eighty days or two hundred seventy days by the commission will submit a corrective action plan to the director no later than thirty days following the licensure hearing. The corrective action plan shall include, but not be limited to:

1. Specific problem areas.
2. A delineation of corrective measures to be taken by the program.

SUBSTANCE ABUSE, IOWA DEPARTMENT OF[805] (cont'd)

3. A delineation of target dates for completion of corrective measures for each problem area.

These rules are intended to implement Iowa Code chapter 125.

[Filed 5/30/86, effective 7/23/86]

[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6641**WATER, AIR AND WASTE
MANAGEMENT[900]****WATER, AIR AND WASTE MANAGEMENT COMMISSION**

Pursuant to Iowa Code sections 455B.105 and 455B.173, the Water, Air and Waste Management Commission amends Chapter 64, "Wastewater Construction and Operation Permits," pertaining to design standards for wastewater construction permits.

Notice of Intended Action was published in the November 20, 1985, Iowa Administrative Bulletin, as **ARC 6137**, and this rule change was adopted on May 20, 1986. Several changes in the proposed standards, Chapter 18C, Wastewater Treatment Ponds (Lagoons) were made in response to comments from consulting engineers. These changes were minor corrections and clarifications. The commenters have been made aware of the Department's responses and a summary of the changes will be provided to the Code Editor. A copy may be obtained upon request to the Department.

This amendment will become effective on July 23, 1986.

Amend subrule **64.2(9)**, paragraph "b," "Chapter 18C," by striking the date "April 25, 1979" and inserting the date of final adoption, "May 20, 1986".

[Filed 5/30/86, effective 7/23/86]

[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6640**WATER, AIR AND WASTE
MANAGEMENT DEPARTMENT[900]****WATER, AIR AND WASTE MANAGEMENT COMMISSION**

Pursuant to the authority of Iowa Code sections 17A.3, 455B.105 and 455B.173, the Water, Air and Waste Management Commission amends Chapter 64, Iowa Administrative Code, relating to wastewater construction and operation permits for publicly and privately owned wastewater treatment facilities. These rules were adopted by the Water, Air and Waste Management Commission on May 20, 1986.

Notice of Intended Action was published in the March 12, 1986, Iowa Administrative Bulletin as **ARC 6395**. A public hearing was held on April 1, 1986. The only change from the proposed rules reflected in this adoption is that subrule 64.2(9), paragraph "f," is deleted. This paragraph was deleted in view of the public comment received by the agency that economics should be an important consideration. Substantially equivalent or improved effectiveness is the primary consideration in the review of variances. This and other criteria to be used for review are adequately covered without the inclusion of paragraph "f" and the consideration of economics is not ruled out.

These rules are intended to implement Iowa Code chapter 455B, division III, part 1.

These rules will become effective July 23, 1986.

ITEM 1. Subrule **64.2(9)**, paragraph "c," is amended by striking the existing paragraph and inserting in lieu thereof the following paragraphs:

c. Variances from the design standards and siting criteria which provide in the judgment of the department for substantially equivalent or improved effectiveness may be requested when there are unique circumstances not found in most projects. The executive director may issue variances when circumstances are appropriate. The denial of a variance may be appealed to the commission.

d. When reviewing the variance request, the executive director may consider the unique circumstances of the project, direct or indirect environmental impacts, the durability and reliability of the alternative, and the purpose and intent of the rule or standard in question.

e. Circumstances that would warrant consideration of a variance (which provides for substantially equivalent or improved effectiveness) may include the following:

(1) The utilization of new equipment or new process technology that is not explicitly covered by the current design standards.

(2) The application of established and acceptable technologies in an innovative manner not covered by current standards.

(3) It is reasonably clear that the conditions and circumstances which were considered in the adoption of the rule or standard are not applicable for the project in question and therefore the effective purpose of the rule will not be compromised if a variance is granted.

ITEM 2. Rescind subrule **64.3(6)**.

ITEM 3. Amend subrule **64.5(4)**, paragraph "d," as follows:

d. The department shall mail the public notice and fact sheet, if any, for any proposed NPDES permit within the *geographical area jurisdiction of the Chariton Valley Regional Services Agency or the Central Iowa Regional Association of Local Governments a designated and approved management agency under section 208 of the Act (33 U.S.C. 1288)*.

ITEM 4. Amend subrule **64.6(5)** by adding the following new paragraph "j."

j. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the terms of this permit.

ITEM 5. Amend rule 64.9(455B) as follows:

900—64.9(455B) Silvicultural activities. The following is adopted by reference: 40 CFR § 124.85 as promulgated

WATER, AIR AND WASTE MANAGEMENT[900] (cont'd)

June 18, 1976 (41 FR 24711); 122.27 as promulgated April 1, 1983 (48 FR 14153).

ITEM 6. Rescind rule 64.10(455B).

ITEM 7. Amend rule 64.12(455B) to read as follows:

900—64.12(455B) Separate storm sewers. The following is adopted by reference: 40 CFR § 124.83 as promulgated March 18, 1976 (41 FR 11458) 122.26 as promulgated September 26, 1984 (49 FR 38050).

[Filed 5/30/86, effective 7/23/86]

[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6642**WATER, AIR AND WASTE MANAGEMENT[900]****WATER, AIR AND WASTE MANAGEMENT COMMISSION**

Pursuant to Iowa Code section 455B.304, the Water, Air and Waste Management Commission adopts amendments to Chapter 100 and adopts a new Chapter 109. These rules may impact small businesses.

This new Chapter 109, Item 2, pertains to the assessment and collection of fees for each ton or equivalent volume of solid waste received and disposed of at a sanitary disposal project. This chapter implements 1985 Iowa Code Supplement section 455B.309 which creates a groundwater fund within the state treasury. The fund shall consist of moneys received from the tonnage fee and from other sources designated for purposes related to groundwater monitoring and groundwater quality standards. This fund is to be used by the Department for administering a groundwater monitoring program, development of groundwater quality standards, research in alternative methods of solid waste disposal and abatement and cleanup of threats to the public safety and environment resulting from sanitary landfills.

Pursuant to 1985 Iowa Code Supplement section 455B.310, a fee of twenty-five cents per ton or equivalent volume of solid waste is to be assessed. The fees are to be paid on an annual basis and are due on April 15 for fees due for the previous year. Forms, which must be completed and submitted with the fees, are available from the Department.

Chapter 100, specifically Item 1, rule 900—100.1(455B) is amended to describe the contents of Chapter 109.

A public hearing was held on the Notice of Intended Action on March 4, 1986. Based upon the numerous comments received, the Commission has made a number of changes to the proposed rules.

Rule 900—109.2(455B), "Definitions," is modified to coincide with the categorization of commercially generated solid wastes with residential wastes. Commercial wastes were previously categorized with industrial wastes. Upon reconsideration, it appears that commercial wastes are of a type and weight more similar to residential wastes. The definition for industrial waste is eliminated because, as a result of the other changes, the definition is superfluous.

Rule 900—109.3(455B), "Exclusions," is modified to clarify one exemption from the rules. Wastes salvaged at a landfill in accordance with the landfill's permit and not disposed of in the landfill are not subject to these rules.

Many comments were received regarding the manner of assessment of the fees specified in Iowa Code section 455B.309. In response to those comments, the adopted rule, 900—109.4(455B), provides landfills which do not utilize scales with various methods of assessing fees. The first method, subparagraph 109.4(2)"c"(1), allows landfills to convert the volumes of the various categories of wastes disposed of during a reporting period to equivalent weights. A conversion table is specified in the subparagraph. The second method, subparagraph 109.4(2)"c"(2), allows landfills to determine the weight of residential and commercial wastes on a per capita basis. If special conditions exist at any landfill, the landfill is also given an opportunity to propose an alternative to the two methods specified in this rule pursuant to paragraph 109.4(2)"d." The proposal is subject to the approval of the Department.

Finally, the Commission has modified the recordkeeping requirements set forth in rule 900—109.6(455B) to allow landfills to only maintain those records which it needs to determine and document the weight of waste disposed of at the landfill.

The Notice of Intended Action of these amendments was published in the February 12, 1986, Iowa Administrative Bulletin as ARC 6345. A public hearing on these amendments was held on March 4, 1986. These rules were adopted on May 20, 1986.

These rules are intended to implement Iowa Code sections 455B.304 and 455B.310 and will become effective on July 23, 1986.

The following amendments are adopted.

ITEM 1. Amend the third unnumbered paragraph of rule 900—100.1(455B) to read as follows:

Chapter 101 contains the general requirements relating to solid waste disposal. Chapter 102 pertains to the permits which must be obtained in order to construct and operate a sanitary disposal project. Chapter 103 details the plan and operating requirements for all sanitary disposal landfills. Chapter 104 details the requirements for sanitary disposal projects with processing facilities. Chapter 105 sets forth the requirements for the planning and operation of all composting facilities. Chapter 106 pertains to design and operating requirements for recycling operations. Chapter 107 sets forth the rules and regulations pertaining to beverage container deposits and approval of redemption centers. Chapter 108 pertains to the reuse of solid waste. Chapter 109 contains the procedure for the assessment and collection of fees for the disposal of solid waste at sanitary landfills.

ITEM 2. Adopt a new Chapter 109 as follows:

CHAPTER 109**FEEES FOR DISPOSAL OF SOLID WASTE AT SANITARY LANDFILLS**

900—109.1(455B) Authority, purpose and applicability.

109.1(1) Authority. Pursuant to Iowa Code sections 455B.309 and 455B.310, the department has authority to collect fees for the disposal of solid waste at sanitary

WATER, AIR AND WASTE MANAGEMENT[900] (cont'd)

landfills. Moneys collected or received by the department shall be deposited in the state treasury to the credit of the groundwater fund.

109.1(2) Purpose. The purpose of these rules is to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill. These rules clarify the applicability of the fees and set forth a fee schedule, means of filing, and recordkeeping requirements.

109.1(3) Applicability. Except as provided in rule 109.3(455B), operators of all sanitary landfills located within Iowa and subject to the permitting requirements of the department shall pay a fee for each ton of solid waste disposed of in the landfill.

900—109.2(455) Definitions. In addition to the definitions in Iowa Code section 455B.301 and in rule 100.2(455B), the following terms have the meaning indicated in this chapter.

“Residential and commercial solid waste” means solid waste, excluding sewage sludge and liquid wastes, which are primarily generated by residential and commercial activities but may include minor amounts of industrial wastes that are in the total waste stream and are not hazardous. For the purposes of these rules, trees and brush are considered to be part of the residential and commercial solid waste category.

900—109.3(455) Exclusions. The fees specified in rule 109.4(455B) shall not apply to solid waste meeting any of the following criteria:

1. The waste consists only of construction and demolition waste and disposal occurs in a sanitary landfill which receives and disposes of only construction and demolition waste.

2. The waste consists only of construction and demolition waste and disposal occurs in an area of a sanitary landfill which has been designated exclusively for the disposal of construction and demolition waste on plans and specifications approved by the department.

3. The waste consists only of materials which have been approved by the department for lining or capping or for the construction of berms or roads in a sanitary landfill and the wastes are used for these purposes at the sanitary landfill.

4. The waste consists of materials which are salvaged from the waste stream at the sanitary landfill in accordance with a salvaging plan described in the landfill's permit application and are not disposed of in the landfill.

900—109.4(455B) Fee schedule.

109.4(1) Effective date. On and after April 1, 1986, fees shall begin to accrue for the disposal of solid waste in sanitary landfills within Iowa.

109.4(2) Fee.

a. For solid waste disposed of in sanitary landfills located within the state of Iowa, the landfill operator shall be responsible for a fee of 25 cents for each ton.

b. For purposes of assessing this fee, sanitary landfills which utilize scales shall base the assessment on the net scale weight of solid wastes disposed of at the landfill during the reporting period. During periods when scales are not in operation, the landfill shall estimate the weight of solid waste received. In lieu of weighing cars, vans, pickups, and similar small vehicles, the weight of waste delivered to the landfill in such vehicles may be estimated. All weight estimates shall be made by

determining the waste volume received and converting to an equivalent weight basis, using the conversion factors listed in subparagraph 109.4(2)“c”(1) of these rules.

c. Sanitary landfills which do not utilize scales shall assess this fee by one of the following methods:

(1) The landfill may determine the volume of each type of solid waste disposed of at the landfill during the reporting period and convert this volume to an equivalent weight basis, using the following conversion factors:

Type of Waste	Volume/Weight Conversion
Residential and Commercial Solid Waste	
As delivered-compacted	1 cubic yard = 500 pounds
As delivered-loose	1 cubic yard = 200 pounds
Industrial Solid Waste	
As delivered-compacted	1 cubic yard = 500 pounds
As delivered-loose	1 cubic yard = 200 pounds
Sludge and Liquid Waste	1 cubic yard = 1,700 pounds
Construction & Demolition Waste	1 cubic yard = 1,250 pounds
Other	1 cubic yard = 500 pounds

(2) The landfill may determine the weight of waste received from residential and commercial sources located in its service area by using a waste generation rate of 1,400 pounds per person per year. The landfill shall add to this waste tonnage value the weight of any industrial solid waste, sludge and liquid waste, and construction and demolition waste which is delivered to the landfill separately from the residential and commercial waste. The weight of these wastes shall be determined by determining the waste volume received and converting to an equivalent weight basis, using the conversion factors listed in subparagraph 109.4(2)“c”(1) of these rules.

d. If special conditions existing at a sanitary landfill make it impractical to use any of the methods listed in paragraphs 109.4(2)“b” or 109.4(2)“c” to determine waste tonnages, the landfill may propose for department review and approval an alternate method for determining the weight of solid waste disposed of.

900—109.5(455B) Form, manner, time and place of filing.

109.5(1) Form. Any person to whom this chapter applies shall file a completed WAWM Form 98 as specified in subrule 109.5(2).

109.5(2) Manner, time and place. Fees and forms are due on April 15 for the previous calendar year. The person shall present or mail the completed form with the appropriate fees to: Accounting, Department of Water, Air and Waste Management, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319.

900—109.6(455B) Reporting and recordkeeping.

109.6(1) Operating records. Those sanitary landfill operators who are subject to the fee assessment requirements of these rules shall maintain adequate records to determine and document the weight of solid waste received at and disposed of in the sanitary landfill during the calendar year.

109.6(2) All records used in determining the solid waste fee assessment must be kept for a period of at least three years from the end of the calendar year which the records represent.

109.6(3) All records required under this chapter must be furnished upon request, and made available at all

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reasonable times for inspection to any officer, employee, or representative of the department who is duly designated by the executive director.

900—109.7(455B) Failure to pay fees. If it is found that a person has failed to pay the fees assessed by this chapter, the executive director will enforce the collection of the delinquent fees. A person required to pay fees as required by Iowa Code section 455B.310 who fails or refuses to pay the fees shall be assessed a penalty of fifteen percent of the fee due.

These rules are intended to implement Iowa Code sections 455B.309 and 455B.310.

[Filed 5/30/86, effective 7/23/86]
[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

ARC 6643**WATER, AIR AND WASTE
MANAGEMENT[900]****WATER, AIR AND WASTE MANAGEMENT COMMISSION**

Pursuant to Iowa Code section 455B.412(2), the Water, Air and Waste Management Commission amends Chapter 141, "Hazardous Waste," which pertains to the identification and management of hazardous wastes generated, treated, stored, or disposed of in Iowa.

Iowa Code section 455B.412(2) authorizes the Water, Air and Waste Management Commission to adopt rules establishing criteria for identifying those wastes which are to be regulated as "hazardous wastes" as defined in Iowa Code section 455B.411(3). Pursuant to this authority, the Commission has adopted, by reference, 900—141.2 (455B), those wastes identified by EPA as regulated wastes.

Individual waste streams, however, may vary, depending on raw materials, industrial processes, and other factors. Therefore, while a waste that is described in these regulations generally is hazardous, a specific waste meeting the listing description from an individual facility may not be. For this reason the Commission has adopted, by reference, federal rules which provide an

exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

The Maytag Company, on October 15, 1985, submitted a petition to exclude from regulation a sludge generated at its Waste and Water Treatment Plant. This waste, previously listed as F006 has been demonstrated by the Maytag Company not to meet any of the criteria for which it was listed originally. This same determination was previously made by the Environmental Protection Agency in 1981. Therefore, the waste sludge described in the Maytag petition is excluded from regulation as a hazardous waste.

There is one modification of the rule originally filed. The Commission previously identified the Maytag waste as EPA I.D. Number F006 and K063. The EPA no longer identifies wastes as K063 and, therefore, that description has been eliminated here.

The Notice of Intended Action of this amendment was published in the March 12, 1986, Iowa Administrative Bulletin as ARC 6405. A public hearing on this amendment was held on April 1, 1986. No written or oral comments were received. This rule was adopted on May 20, 1986.

This rule is intended to implement Iowa Code section 455B.412 and will become effective July 23, 1986.

The following amendment is adopted:

Rescind rule 900—141.2(455B) and insert in lieu thereof the following:

900—141.2(455B) Identification, listing, and exclusions of hazardous waste.

141.2(1) The following is adopted by reference: 40 C.F.R. Part 261 as amended through October 23, 1985.

Provided that any general reference to 40 C.F.R. Part 124 shall mean 141.13(455B) of these rules.

141.2(2) Exclusions:

a. The Maytag Company, Newton, Iowa. Wastewater treatment sludge (EPA Hazardous Waste No. F006) generated by Maytag Waste and Water Treatment Plant.

b. Reserved.

[Filed 5/30/86, effective 7/23/86]
[Published 6/18/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/18/86.

SUMMARY OF OPINIONS OF THE ATTORNEY GENERAL

THOMAS J. MILLER

May 1986

COUNTIES AND COUNTY OFFICERS

Board of Review. Iowa Code §§ 175.2(5); 441.31, 441.35(1) and (2), 455B.104(I), 455B.419(2) (1985); 11 U.S.C. § 101(17); Treas. Reg. § 1.61-4(d). A retired farmer may qualify as a farmer under § 441.31, and consequently may serve on the county board of review. (Benton to Martens, Iowa County Attorney, 5-20-86) #86-5-4(L)

County Attorney; Objection to Change in Status Resolution. Iowa Code section 331.752 (1985). The county attorney-elect, and not the outgoing county attorney, may object under section 331.752 to a change in status resolution adopted after the general election but before the county attorney-elect assumes office. (Weeg to Short, Lee County Attorney, 5-28-86) #86-5-6(L)

COURTS

Small Claims; Cost of Court Reporters in Small Claims Actions. Iowa Code §§ 625.8(2); 631.1; 631.11(3); 631.13(3), (4) (1985); Iowa R. Civ. P. 178.1. A party in small claims litigation is not entitled to the services of a court reporter simply by paying the \$15.00 taxable fee under Iowa R. Civ. P. 178.1 and Iowa Code § 625.8(2) but must instead bear the full expense to obtain the services of a certified court reporter under Iowa Code § 631.11(3). (Osenbaugh to Davis, Scott County Attorney, 5-12-86) #86-5-3(L)

HIGHWAYS

Conflict of Interest; Public Officers and Employees; Counties; Board of Supervisors. Iowa Code section 341.2 (1985). The fact that a person is a member of a county board of supervisors does not per se invalidate all contracts entered into by that person's employer for highway construction with governmental bodies other than that county. (Weeg to Tekippe, Chickasaw County Attorney, 5-29-86) #86-5-7(L)

STATE OFFICERS AND DEPARTMENTS

Administrative Rules; Board of Nursing; Authority of Nursing Board to Increase Statutory Educational Requirements. Iowa Code §§ 152.1(1)-152.1(3); 152.5-152.7 (1985). The Board of Nursing may not by rule change the statutory provisions governing titles of, or minimum educational requirements for, licensure of registered nurses and licensed practical nurses in Iowa. (Weeg to Connolly, State Representative, 5-6-86) #86-5-1(L)

TAXATION

Real Estate Transfer Tax Concerning Conveyance from Partner to Partnership. Iowa Code § 428A.1 (1985). The real estate transfer tax imposed on a real estate conveyance from a partner to the partnership is based on the partnership's entire consideration for the real estate conveyance and not on a portion of it. The partnership's entire consideration for the real estate conveyance must be reported on the declaration of value form. (Kuehn to Richards, Story County Attorney, 5-12-86) #86-5-2(L)

Real Estate Transfers; Transfers in Lieu of Forfeiture or Foreclosure; Transfers Pursuant to Alternative, Nonjudicial, Voluntary Foreclosure. Iowa Code §§ 428A.1-.3, 654.18 (1985 & Supp. 1985). A deed transferring real property pursuant to the alternative, nonjudicial, voluntary foreclosure procedure in Iowa Code § 654.18 is a deed issued in lieu of forfeiture or foreclosure within the meaning of the tax exemption in § 428A.2(18). (Barnett to Doyle, State Senator, 5-27-86) #86-5-5

STATUTES CONSTRUED1985 CODEOPINION

152.1(1)	86-5-1(L)
152.1(2)	86-5-1(L)
152.1(3)	86-5-1(L)
152.5	86-5-1(L)
152.6	86-5-1(L)
152.7	86-5-1(L)
175.2(5)	86-5-4(L)
331.752	86-5-6(L)
341.2	86-5-7(L)
428A.1	86-5-2(L)
428A.1	86-5-5
428A.2	86-5-5
428A.3	86-5-5
441.31	86-5-4(L)
441.35(1) & (2)	86-5-4(L)
455B.104(1)	86-5-4(L)
455B.419(2)	86-5-4(L)
625.8(2)	86-5-3(L)
631.1	86-5-3(L)
631.11(3)	86-5-3(L)
631.13(3)(4)	86-5-3(L)
654.18	86-5-5

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