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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>
14	Friday, December 12, 1986	December 31, 1986
15	Monday, December 29, 1986	January 14, 1987
16	Friday, January 9, 1987	January 28, 1987

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, 1986, to June 30, 1987	\$133.00 plus \$5.32 sales tax
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Fourth quarter	April 1, 1987, to June 30, 1987	\$ 33.50 plus \$1.34 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:

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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.

UNIFORM RULES OF STATE AGENCY PROCEDURE

Governor Terry E. Branstad appointed a nine-member Task Force in the summer of 1985 to draft uniform rules of agency procedure.

On December 16, 1985, the Task Force presented a report to the Governor. The Governor has accepted the Task Force recommendations on petitions for rule making and petitions for declaratory rulings which have been printed at the front of the Iowa Administrative Code for adoption by state agencies. [Green Tab — Uniform Rules]

The Administrative Rules Review Committee will hold a special meeting Tuesday, January 6, 1987, 10 a.m. and Wednesday, January 7, 1987, 9 a.m. in Committee Room 24, State Capitol. The following rules will be reviewed:

A supplemental agenda will appear in the Iowa Administrative Bulletin December 31, 1986.

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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Intoxication notice, 4.39 IAB 12/3/86 ARC 7178 (See also ARC 7177)	Conference Room Central Office 1918 S.E. Hulsizer Ave. Ankeny, Iowa	December 29, 1986 1 p.m.
CONSERVATION COMMISSION[290] Motor regulations, 40.4(2) IAB 12/3/86 ARC 7205	Conference Room Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	January 6, 1987 10 a.m.
ENVIRONMENTAL PROTECTION COMMISSION[567] Controlling pollution, amendments to ch 22; Emission standards for contaminants, 23.1 IAB 12/3/86 ARC 7188	Conference Room Fifth Floor Wallace State Office Bldg. Des Moines, Iowa	December 23, 1986 1 p.m.
Animal feeding operations, amendments to ch 65 IAB 12/3/86 ARC 7189	Conference Room Room 109 Geological Survey Bureau 123 N. Capitol St. Iowa City, Iowa	December 30, 1986 11 a.m.
Animal feeding operations, amendments to ch 65 IAB 12/3/86 ARC 7189	Community Hall Room Council Bluffs Parks and Recreation Office 205 South Main St. Council Bluffs, Iowa	January 6, 1987 11 a.m.
Animal feeding operations, amendments to ch 65 IAB 12/3/86 ARC 7189	Conference Room Fifth Floor Wallace State Office Bldg. Des Moines, Iowa	December 23, 1986 10 a.m.
Animal feeding operations, amendments to ch 65 IAB 12/3/86 ARC 7189	Conference Room Room 109 Geological Survey Bureau 123 N. Capitol St. Iowa City, Iowa	December 30, 1986 1 p.m.
Animal feeding operations, amendments to ch 65 IAB 12/3/86 ARC 7189	Farm Credit Bldg. 1705 N. Lake Ave. Storm Lake, Iowa	January 5, 1987 1 p.m.
HUMAN SERVICES DEPARTMENT[498] Food stamp program, amendments to ch 65 IAB 12/3/86 ARC 7180	Cedar Rapids District Office Conference Room Sixth Floor 221 4th Avenue, S.E. Cedar Rapids, Iowa	December 29, 1986 10 a.m.
Food stamp program, amendments to ch 65 IAB 12/3/86 ARC 7180	Council Bluffs District Office Lower Level 417 E. Kanesville Boulevard Council Bluffs, Iowa	December 30, 1986 10 a.m.
Food stamp program, amendments to ch 65 IAB 12/3/86 ARC 7180	Davenport District Office Conference Room Fifth Floor 428 Western Avenue Davenport, Iowa	December 29, 1986 10:30 a.m.

	Des Moines District Office Conference Room 100 City View Plaza 1200 University Des Moines, Iowa	December 29, 1986 1 p.m.
	Mason City District Office Mohawk Square 22 North Georgia Avenue Mason City, Iowa	December 29, 1986 10 a.m.
	Ottumwa District Office Conference Room Fourth Floor 226 West Main Ottumwa, Iowa	December 29, 1986 10 a.m.
	Sioux City District Office Conference Room Second Floor 808-5th Street Sioux City, Iowa	December 29, 1986 7 p.m.
	Waterloo District Office Black Hawk County Conference Room Second Floor KWWL Building 500 East 4th Waterloo, Iowa	December 30, 1986 10 a.m.
INDUSTRIAL SERVICES DIVISION[343]		
Petition for declaratory rulings, ch 5; petition for rule making, ch 7 IAB 12/17/86 ARC 7239 (See ARC 7218, herein)	Hearing Room Third Floor 507 10th St. Des Moines, Iowa	January 6, 1987 9 a.m.
NATURAL RESOURCE COMMISSION[571]		
(Conservation Commission[290]) Recreation/tourism grants to county conservation boards, ch 71 IAB 12/17/86 ARC 7240	Conference Room Fifth Floor Wallace State Office Bldg. Des Moines, Iowa	January 6, 1987 10 a.m.
PUBLIC HEALTH DEPARTMENT[470]		
Mass gatherings, requirements, amendments to ch 19 IAB 11/19/86 ARC 7137	Conference Room No. 2 Third Floor Lucas State Office Bldg. Des Moines, Iowa	December 9, 1986 10 a.m.
Financial assistance for renal disease patients, amendments to ch 111 IAB 12/3/86 ARC 7175	Conference Room Fourth Floor Lucas State Office Bldg. Des Moines, Iowa	December 23, 1986 1 p.m.
RACING AND GAMING DIVISION[195]		
Greyhound and mutual rules, amendments to chs 7 and 8 IAB 12/3/86 ARC 7192	Conference Room A 2015 S.E. Hulsizer Ave. Ankeny, Iowa	December 23, 1986 9 a.m.
REVENUE AND FINANCE DEPARTMENT[705]		
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Operation of the lottery, ch 4; LOTTO, ch 10 IAB 12/17/86 ARC 7225 (See ARC 7224, herein)	Lottery Office 2015 Grand Ave. Des Moines, Iowa	January 6, 1987 1 p.m.

TRANSPORTATION, DEPARTMENT OF[820]

Motor vehicle dealers, manufacturers and distributors exhibition permits, [07,D] 10.10(8) IAB 11/19/86 ARC 7123 (See also ARC 7122)	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	January 6, 1987
Designated highway system, amendments to [07,A] ch 1 IAB 12/3/86 ARC 7161	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	January 20, 1987
Procurement, amendments to [01,B] ch 2 IAB 12/17/86 ARC 7221	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	February 3, 1987
Signing manual, [06,K] 2.1(2) IAB 12/17/86 ARC 7219	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	February 3, 1987
Safety and hazardous materials — motor carriers [07,F] 8.1(1) IAB 12/17/86 ARC 7213 (See ARC 7212, herein)	Department of Transportation Complex 800 Lincoln Way Ames, Iowa	February 3, 1987

UTILITIES, DIVISION OF[199]

Inter LATA telecommunications IAB 11/19/86 ARC 7143	Board Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	January 6, 1987 10 a.m.
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ARC 7216

**AGRICULTURE AND LAND
STEWARDSHIP, DEPARTMENT
OF[21]**

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 section 17A.3, the Grain Indemnity Fund Board (the Board) proposes the adoption of rules creating, within the rules of the Department of Agriculture and Land Stewardship (the Department), a new Chapter 63, "Grain Indemnity Fund Board: Organization and Operations," Iowa Administrative Code, to provide for the regulation of the Board's affairs and the conduct of its business.

This chapter is limited to describing the operations of the Board and includes its location, its composition, its authority, guidelines for Board meetings, treatment of Board decisions, and treatment of records.

Due to the interrelationship of the Board and the Department, the Board and the Department agree that rules relating to the Board should be tangent to the rules of the Department regarding the Grain Depositors and Sellers Indemnity Fund.

Interested persons may submit written comments on these rules to the Secretary of Agriculture as Chairperson of the Grain Indemnity Fund Board, c/o Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319 on or before January 6, 1987.

These rules are intended to implement 1986 Iowa Acts, chapter 1152, section 34.

Add new 21—Chapter 63 as follows:

CHAPTER 63

**GRAIN INDEMNITY FUND BOARD —
ORGANIZATION AND OPERATIONS**

21—63.1(71GA,ch1152) Location. The office of the board is located in the Wallace State Office Building, Des Moines, Iowa; telephone 515/281-5321; mailing address, Grain Depositors and Sellers Indemnity Fund Board, c/o Grain Warehouse Division, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

21—63.2(71GA,ch1152) The board. The grain depositors and sellers indemnity fund board consists of five (5) members: the secretary of agriculture or the secretary's designee who shall serve as chairperson, the director of the department of insurance or the director's designee who shall serve as secretary, the state treasurer or the state treasurer's designee who shall serve as treasurer, and two (2) representatives of the grain trade appointed by the governor.

21—63.3(71GA,ch1152) Authority of the board. The board has authority to determine the amount and validity of claims made against the fund to review and adjust the per-bushel fee and the dealer-warehouse fee, and to approve costs of administering the fund. In addition, the

board has the authority to act as an advisor to the secretary of agriculture on administrative matters affecting the fund, and as a result the board will make only policy recommendations in regard to the areas of administration delegated to the department in 1986 Iowa Acts, chapter 1152.

21—63.4(71GA,ch1152) Meetings. Board meetings will generally be held in the second floor conference room in the Wallace State Office Building. The establishment and public notice of meeting dates and locations are the responsibility of the chairperson, unless the majority of the members of the board eligible to vote request a meeting. In addition, the board will schedule meetings when circumstance requires the board to address claims made against the fund and, again, establishment and public notice of meeting dates and locations are the responsibility of the chairperson.

63.4(1) Agenda. The tentative agenda is prepared by the chairperson in advance of the board meeting and will be mailed to board members in advance of the meeting date. A copy of the agenda will be mailed to those members of the public who request it and will be prominently posted at the indemnity fund board's office twenty-four (24) hours before the meeting. Members of the public wishing to be scheduled on the board's agenda should notify the chairperson ten (10) days in advance of the meeting and provide written materials explaining their reasons for wishing to address the board. In the case of a board meeting held to deal with claims against the fund, the filing of a written appeal under rule 21—64.7(71GA,ch1152) will satisfy the requirements of the preceding sentence. The chairperson shall have the authority to make all final decisions on the content and length of agenda items.

63.4(2) General conduct of meetings. The chairperson, or secretary in the absence of the chairperson, presides at all board meetings. Only individuals recognized by the presiding officer may address the board; in general, Robert's Rules of Order will govern the meeting unless otherwise stated in this chapter or by special action of the board.

In all discussions before the board, members of the public shall address any questions for the board to the presiding officer. Individual questioning of board members will not be allowed without the explicit consent of the presiding officer and the board members in question.

63.4(3) Voting. The board consists of five (5) members who are all eligible to vote on issues. A majority of board members shall constitute a quorum. A majority of the board members present is sufficient to carry an action.

63.4(4) Public participation. All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21, except that portions of a meeting may be closed in accordance with the open meetings law. In the chairperson's discretion, a fifteen (15)-minute public forum may be scheduled on each agenda of regularly scheduled meetings to allow the public, if necessary, an opportunity to address the board on any issue that may have arisen after the agenda was posted.

21—63.5(71GA,ch1152) Minutes. The minutes of all board meetings are recorded and kept by the secretary in the board's office.

21—63.6(71GA,ch1152) Board decisions. The actions of the board will be authoritatively recorded in the minutes of the board meeting in which the actions were

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

taken. The board may adopt, amend, or repeal rules subject to Iowa Code chapter 17A to govern the operations of the board, to adjust or waive the per-bushel fee and the annual dealer-warehouse fee, and to govern the process of making claims against the fund, which rules shall be published by the department in the Iowa Administrative Code. The board may also recommend the adoption of other rules relating to the grain depositors and sellers indemnity fund by the department. The content of any rules will be authoritatively established when they are published by the department in the Iowa Administrative Code.

21—63.7(71GA,ch1152) Records. The records of all the business transacted and other information with respect to the activities of the grain indemnity fund board are public records and are on file in the board's office. All records including board minutes are available for inspection during regular business hours. Copies may be obtained at a cost of ten cents (10¢) per page.

These rules are intended to implement 1986 Iowa Acts, chapter 1152, section 34.

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:

Table with 2 columns: Date Range and Interest Rate. Rows include periods from September 1, 1985 to December 1, 1986, with rates ranging from 11.20% to 14.70%.

ARC 7233

DENTAL EXAMINERS, BOARD OF[320] 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)"6".

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 147.76, the Iowa Board of Dental Examiners gives Notice of

Intended Action to adopt a new Chapter 16, "Prescribing, Administering, and Dispensing Drugs," Iowa Administrative Code.

This chapter will consolidate existing rules and statutes pertaining to prescribing, administering, and dispensing drugs by licensed dentists.

Iowa Code sections 153.20, 153.33(5), 258A.3, 258A.4 and 258A.5 refer to powers of the Board with respect to the prescribing and administering of drugs by dental licensees and licensee discipline.

Any interested person may make written suggestions or comments on these proposed rules prior to January 6, 1987. Such written materials should be directed to the Executive Director, Iowa Board of Dental Examiners, Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code sections 153.20, 153.33(5), 258A.3, 258A.4 and 258A.5.

Adopt a new Chapter 16 as follows:

CHAPTER 16 PRESCRIBING, ADMINISTERING, AND DISPENSING DRUGS

320—16.1(153) Definitions.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of division II, of Iowa Code chapter 204.

"Prescription drug" means (a) any drug or medicine the level of which is required by federal law to bear the statement: "Caution: federal law prohibits dispensing without a prescription", (b) any drug or medicine which, because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to prescribe, administer, or dispense such drug or medicine, or (c) a new drug or medicine which is limited under state law to use under the professional supervision of a practitioner licensed by law to prescribe, administer, or dispense such drug or medicine as defined in Iowa Code section 155.3(10).

320—16.2(153) Scope of authority.

16.2(1) A license issued by this board permits the licensee to prescribe, administer, or dispense prescription drugs if such use is directly related to the practice of dentistry within the scope of the dentist-patient relationship. Registration with the Federal Drug Enforcement Administration and the Iowa board of pharmacy examiners further extends this privilege to controlled substances.

16.2(2) A dental examination must be conducted and a medical history taken before a dentist initially prescribes, administers, or dispenses medication to a patient. The examination must focus on the patient's dental problems, and the resulting diagnosis must relate to the patient's specific complaint. The patient's dental record must contain written evidence of the examination and medical history.

16.2(3) On each occasion when a medication is prescribed, administered, or dispensed to a patient an entry must be made in the patient's dental record containing the following information: the name, quantity, and strength of the medication; the directions for its use; the date of issuance; and the condition for which the medication was used.

16.2(4) A patient's dental record that contains an entry pertaining to the issuance of medications must be

DENTAL EXAMINERS, BOARD OF[320] (cont'd)

retained by the dentist for a minimum of five (5) years following the date of the last entry.

320—16.3(153) Purchasing, administering and dispensing of controlled substances.

16.3(1) When controlled substances are purchased, records must be maintained showing the date of receipt, the name and address of the supplier, the name and quantity of drugs received.

16.3(2) When controlled substances are administered or dispensed, records separate and apart from the patient records must be maintained showing date of dispensing, name and address of person to whom the drugs were administered or dispensed, and the name and quantity of drugs administered or dispensed.

16.3(3) All records must be retained for a period of two (2) years from the date of the last entry. All records must be readily available for inspection by state or federal agents.

16.3(4) Every two (2) years the dentist is required to perform a complete inventory of all controlled substances in stock.

16.3(5) Security of controlled substances must be maintained by storage in a securely locked, substantially constructed cabinet.

16.3(6) The dentist shall notify state controlled substance authorities of the loss or theft of controlled substances upon the discovery of such loss or theft.

320—16.4(153) Dispensing — requirements for containers and labeling.

16.4(1) Containers. A prescription drug shall be dispensed in a container which meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471-1476 (1976) which relates to childproof closure, unless otherwise required by the patient. Such containers must also meet the requirements of Section 502G of the Federal Food Drug and Cosmetic Act, 21 U.S.C. ss. 301 et seq. (1976) which pertains to light resistance and moisture resistance needs of the drug being dispensed.

16.4(2) Labeling. A label shall be affixed to the container in which a prescription drug is dispensed bearing the following information:

1. Name and address of the dentist.
2. Name of the patient.
3. Date dispensed.
4. Directions for use.
5. Name and strength of medication.
6. If it is Schedule II, III, or IV controlled substance, the federal transfer warning statement must appear on the label as follows: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."
7. Cautionary statements, if any.

16.4(3) Prescription sample drugs dispensed in the original container or package and provided without charge shall be deemed to conform to labeling and packaging requirements.

320—16.5(153) Identifying information on prescriptions.

16.5(1) Prescriptions for Schedule II, III, IV, and V controlled substances must include the name and address of the prescribing dentist and the dentist's federal DEA number. The name and address of the prescribing dentist may be preprinted. Proper security shall be maintained if prescription forms are preprinted.

16.5(2) The dentist's signature on a prescription must be original, not a copy or facsimile.

16.5(3) Emergency prescriptions. If an emergency requires the issuance of a prescription, an appropriate prescription may be telephoned to a pharmacist. An emergency prescription for a Schedule II controlled substance must be covered by a written prescription within seventy-two (72) hours. A dentist may not order a renewal or a refill of an emergency prescription unless the order is in writing and the dentist has given the patient a dental examination and has taken a medical history.

16.5(4) For the purpose of authorizing an oral prescription of a controlled substance listed in Schedule II of the uniform controlled substances Act, Iowa Code chapter 204, the term "emergency situation" means those situations in which the prescribing dentist determines:

a. That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user;

b. That no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under Schedule II of Iowa Code chapter 204;

c. That it is not reasonably possible for the prescribing dentist to provide a written prescription to be presented to the person dispensing the substance prior to dispensing.

ARC 7234**DENTAL EXAMINERS,
BOARD OF[320]****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 section 147.76, the Iowa Board of Dental Examiners gives Notice of Intended Action to amend Chapter 29, "General Anesthesia, Parenteral Sedation and Nitrous Oxide Inhalation Analgesia," Iowa Administrative Code.

Iowa Code sections 153.33 and 153.34 refer to powers of the Board and grounds for suspension or revocation of a license. The Board has with this amendment clarified the rule with respect to requiring auxiliary personnel in a dental office to be trained and capable of administering basic life support.

Any interested person may make written suggestions or comments on this proposed amendment prior to January 6, 1987. Such written materials should be directed to the Executive Director, Iowa Board of Dental Examiners, Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa 50319.

The proposed amendment is intended to implement Iowa Code sections 153.33 and 153.34.

Amend subrule 29.6(2) as follows:

29.6(2) A dentist utilizing nitrous oxide inhalation analgesia and auxiliary personnel who monitor its use shall be trained and capable of administering basic life support.

ARC 7235**DENTAL EXAMINERS,
BOARD OF[320]****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 section 147.76, the Iowa Board of Dental Examiners gives Notice of Intended Action to amend Chapter 30, "Discipline," Iowa Administrative Code.

Iowa Code section 258A.3(2)"e" provides for the imposition of civil penalties by rule if the rule specifies which offenses or acts are subject to civil penalties. This amendment will allow for imposition by the Board of disciplinary sanctions, including the imposition of civil penalties.

Any interested person may make written suggestions or comments on this proposed amendment prior to January 6, 1987. Such written materials should be directed to the Executive Director, Iowa Board of Dental Examiners, Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa 50319.

The proposed amendment is intended to implement Iowa Code section 258A.3(2)"e."

Amend the introductory paragraph of rule 320—30.4(153) as follows:

320—30.4(153) Grounds for discipline. The following shall constitute grounds for discipline by the board: *the imposition by the board of one or more of the disciplinary sanctions set forth in rule 320—30.2(153) specifically including the imposition of civil penalties not to exceed one thousand dollars (\$1,000).*

ARC 7227**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.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 217.6 and 239.18, the Department of Human Services proposes to amend Chapter 56, "Burial Benefits," appearing in the Iowa Administrative Code.

This amendment updates the rules on burial benefits to include payment for burial of refugee children. The Refugee Act of 1980 does allow states to pay for the burial of refugees otherwise eligible for the state's burial program. The Department has been providing burial assistance to refugees, but there has been no reference in the rules.

The rules providing burial payment for children receiving care under the Aid to Dependent Children—Foster Care (ADC-FC) program are deleted since the ADC-FC program no longer exists. The rules are reorganized for clarity and brevity.

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 January 7, 1987.

These rules are intended to implement Iowa Code sections 239.9 and 249.9.

Rescind 498—Chapter 56 and insert in lieu thereof the following:

CHAPTER 56**BURIAL BENEFITS****Preamble**

This chapter establishes the application process, eligibility criteria, and the procedures for obtaining payment for burial benefits for certain categorically eligible recipients.

498—56.1(239,249) Application. An application for burial benefits shall be filed at the local office of the department by the person responsible for making funeral arrangements for the deceased. The procedure listed below shall be followed.

56.1(1) Application shall be made on Form PA-5301-0, Application for Burial Benefits.

56.1(2) Application shall be made prior to the interment of the deceased, except when interment takes place on a day when the local office of the department is not open for business. In that instance, an application for burial benefits shall be filed within three (3) working days of the date of interment.

56.1(3) The decision to approve or deny the application shall be made and the notice mailed or given to the applicant and the funeral director within one (1) working day of the date the application is filed.

This rule is intended to implement Iowa Code sections 239.9 and 249.9.

498—56.2(239,249) Categorical eligibility. The following categories of people may be eligible for burial benefits:

56.2(1) Recipients of state supplementary assistance during the month of death.

56.2(2) Recipients of old age assistance, aid to the blind, and aid to the disabled prior to January 1, 1974.

56.2(3) Children who are eligible for aid to dependent children or refugee cash assistance in the form of a money payment. This includes:

a. A child receiving aid to dependent children or refugee assistance during the month of death.

b. A child for whom an aid to dependent children assistance grant or refugee cash assistance grant has been approved, but on whose behalf an assistance check has not yet been issued.

c. A newborn or stillborn child who would have otherwise been found eligible for an aid to dependent children grant or refugee cash assistance grant except there has not been sufficient time to add the child to the eligible group of an active aid to dependent children or refugee cash assistance case.

d. A child born to an eligible child in an active aid to dependent children case who would have been eligible

HUMAN SERVICES DEPARTMENT[498] (cont'd)

for aid to dependent children as the child of an underage payee, except there has not been sufficient time to approve the case.

This rule is intended to implement Iowa Code sections 239.9 and 249.9.

498—56.3(239,249) Determination of benefit amount. The department shall pay up to four hundred dollars (\$400) toward the burial of categorically eligible persons according to the formula outlined below:

56.3(1) Resources other than the death benefits described in subrule 56.3(2) and prepaid burial contracts of the decedent or available to the decedent's estate or beneficiary shall first be applied to the cost of the burial. If funds from these sources are not sufficient to pay the full cost of the burial, the remaining unpaid balance shall be considered for payment through the department's burial benefit program up to a maximum of four hundred dollars (\$400).

56.3(2) The department's liability shall be reduced by applying against the four hundred dollar (\$400) maximum or remaining balance from subrule 56.3(1), whichever is less, any benefits due the decedent's estate or beneficiary as a result of the death of the decedent as outlined in Iowa Code sections 239.9(2) and 249.9(2).

This rule is intended to implement Iowa Code sections 239.9 and 249.9.

498—56.4(239,249) Claim for payment. A vendor's claim for payment for burial services shall be filed at the local office of the department as follows:

56.4(1) The claim shall be filed on Form AA-4149-0, Burial Claim, within ninety (90) days of the date of interment.

56.4(2) When more than one (1) person or firm has rendered service in caring for or burying the body of the deceased, the claim shall be submitted and signed by only one (1) person or firm. That person or firm shall be responsible for reimbursing the other parties involved.

This rule is intended to implement Iowa Code sections 239.9 and 249.9.

ARC 7228**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.8(6) at a regular or special meeting where the public or interested persons may be heard.

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

Current rules list conditions under which Medicaid will pay for the use of an emergency room. One of the conditions under which Medicaid will pay is if the patient is evaluated or treated for a medical emergency.

The Department agreed to clarify current policy on how the determination of whether a medical emergency

exists is made in a settlement agreement for the class action lawsuit, *Azbill vs. Reagen*.

This amendment provides that in determining if a medical emergency did in fact exist, that the evaluation will take into consideration not only the patient's present condition but also the patient's condition prior to presentation in the emergency room and pertinent symptoms and medical history.

For example, in determining whether a patient's symptoms justified a visit to the emergency room, a persistent pain in the chest or abdomen would be considered more of a justification for use of the emergency room if the patient had had a previous heart attack.

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 January 7, 1987.

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

Amend subrule 78.3(12), paragraph "a," as follows:

a. The patient is evaluated or treated for a medical emergency, accident, or injury. Medical emergency is defined as a sudden or unforeseen occurrence or combination of circumstances presenting a substantial risk to an individual's health unless immediate medical treatment is given.

The determination of whether a medical emergency exists will be based on the patient's medical condition prior to treatment or evaluation including presenting symptoms and medical history.

ARC 7239**INDUSTRIAL SERVICES,
DIVISION OF[343]
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 section 86.8 as amended by 1986 Iowa Acts, chapter 1245, section 911, the Industrial Commissioner hereby gives Notice of Intended Action to rescind Chapter 5, "Declaratory Rulings," and Chapter 7, "Rulemaking," Iowa-Administrative Code, and insert in lieu thereof language consistent with the proposed uniform rules.

These rules are being filed as emergency adopted and implemented, **ARC 7218**. The content of these rules is incorporated herein by reference.

Any interested person may make written comments or suggestions on these rules prior to January 6, 1987. Written materials should be directed to the Division of Industrial Services, 507 10th Street, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the Industrial Commissioner at 515/281-5934. There will be a public hearing on January 6, 1987, at 9 a.m. in the hearing room on the third floor at 507

INDUSTRIAL SERVICES, DIVISION OF[343] (cont'd)

10th Street, Des Moines, Iowa. 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 Industrial Commissioner at least one (1) day prior to the date of the public hearing.

These rules are intended to implement 1986 Iowa Acts, chapter 1245.

ARC 7225

IOWA LOTTERY AGENCY[526]

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 1985 Iowa Code supplement chapter 99E and Iowa Code section 17A.3, the Lottery Division of the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 4, "Operation of the Lottery," and Chapter 10, "LOTTO," Iowa Administrative Code.

Chapter 4 is amended by adding two new subrules regarding the payment of the cash value of an annuity amount and the rounding of a prize payment to facilitate the purchase of a funding mechanism.

Chapter 10 is amended by adding a new subrule regarding the rounding of a prize payment in LOTTO to facilitate the purchase of a funding mechanism.

These rules are also published herein as an emergency adopted and implemented rule, **ARC 7224**. The purpose of this Notice is to solicit public comment on the rules, which are incorporated herein by reference.

Any interested person may make written suggestions or comments on the rules prior to January 6, 1987. Written comments or suggestions on these rules should be directed to Nichola Schissel, Iowa Lottery, 2015 Grand Avenue, Des Moines, Iowa-50312. Persons who want to convey their views orally should contact Nichola Schissel at (515)281-7870 or at the address above. A public hearing will be held on January 6, 1987, at 1 p.m. at 2015 Grand Avenue, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

These rules implement 1985 Iowa Code supplement section 99E.9(3)"d."

ARC 7226

IOWA LOTTERY AGENCY[526]

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 1985 Iowa Code supplement chapter 99E, the Lottery Division of the Iowa Department of Revenue and Finance hereby gives Notice

of Intended Action to amend Chapter 4, "Operation of the Lottery," Iowa Administrative Code.

Chapter 4 is amended by adding a new rule regarding the types of permitted advertising and the dissemination of information about the benefits of lottery proceeds.

Any interested person may make written suggestions or comments on the proposed rule prior to January 6, 1987. Written comments or suggestions should be directed to Nichola Schissel, Iowa Lottery, 2015 Grand Avenue, Des Moines, Iowa 50312. Persons who want to convey their views orally should contact Nichola Schissel at (515) 281-7870 or at the address above. A public hearing will be held on January 6, 1987, at 1 p.m. at 2015 Grand Avenue, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

The following rule is proposed.

Amend 526—Chapter 4 by adding the following rule:

526—4.20(99E) Advertising.

4.20(1) Advertising for the lottery instant games and the lottery on-line games may include print advertisements, radio and television advertisements, billboards, and point of purchase display materials. Other promotional and advertising items may include brochures; posters; signs; buttons; hats; T-shirts; video and audio tapes; hot air balloons, large and small; umbrellas; canopies; awnings; slides; black and white and color pictures; food items; bags, paper or plastic; flyers; pins; coins; certificates; cups; fans; glasses; life-sized depictions of lottery equipment; pens; pencils; and any other materials deemed appropriate advertising, informational, and educational media by the lottery.

4.20(2) All game brochures shall contain a section addressing the use of lottery proceeds. The lottery shall also periodically produce and air television and radio ads highlighting the benefits of lottery proceeds.

This rule is intended to implement 1985 Iowa Code supplement section 99E.9(3)"m."

ARC 7240

NATURAL RESOURCE COMMISSION[571]

[At this time rules of the Natural Resource Commission appear under Conservation Commission(290)]

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 section 107.24 and 1986 Iowa Acts, chapter 1245, section 1805, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 71, "Recreation/Tourism Grants to County Conservation Boards," Iowa Administrative Code.

These rule amendments would change the terminology of State Conservation Commission to Department of Natural Resources, would provide for the use of cost analyses in addition to appraisals for land acquisitions,

NATURAL RESOURCE COMMISSION[571] (cont'd)

would eliminate the use of recreation/tourism grants for facilities that have already been developed for public use, would allow a board member or employee from a county with a project under consideration to remain on the review and selection committee, would more clearly identify necessary steps for an agency to request obligation of funds, would establish a more efficient method for allocating funds for projects that are prepared for activation, and would establish a limit based on the percentage of the project cost allowed for advance payments.

Any interested person may make written suggestions or comments on these proposed rules prior to January 16, 1987. Such written materials should be directed to the Chief, Planning Bureau, Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034.

Persons who wish to convey their views orally should contact the Chief, Planning Bureau, Iowa Department of Natural Resources, at 515/281-5814, or in the Planning Bureau Office on the fifth floor of the Wallace State Office Building. Also, a public hearing will be held at 10 a.m., January 6, 1987, in the fifth floor conference room of the Wallace State Office Building. Persons may present their views at this public hearing either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule.

These rule revisions are intended to implement 1985 Iowa Acts, chapter 33, section 301, subsection 3, paragraph "a," as amended by 1986 Iowa Acts, chapter 1207, section 3.

ITEM 1. Transfer 290—Chapter 71, "Recreation/Tourism Grants to County Conservation Boards," verbatim to 571—Chapter 71, except as otherwise provided in this notice.

ITEM 2. Strike the word "agency" and insert "department" wherever it appears in the following:

Subrule 71.5(4)

Subrule 71.6(1), introductory paragraph

Subrule 71.7(3), paragraph "f"

Subrule 71.15(1)

Subrule 71.15(6)

Subrule 71.20(1)

Subrule 71.20(2)—three places

Subrule 71.20(3)—three places

ITEM 3. Rule 71.1(71GA, HF225) is amended to read as follows:

290571—71.1(71GA, HF225ch33) Purpose. The purpose of this rule is to promulgate procedures for the distribution of those funds from the "jobs now account" authorized by the Iowa Lottery Act and designated for use in providing grants-in-aid to county conservation boards, hereinafter referred to as boards, for carrying out acquisition and development projects as provided in Iowa Code chapter 111A with the intent of providing economic development initiatives. The ~~state conservation commission~~ *department of natural resources*, hereinafter referred to as the *agency department*, acting through its director, will administer the distribution of said funds.

ITEM 4. Subrule 71.4(1) is amended to read as follows:

71.4(1) Acquisition projects. Assistance will be provided for the cost of real property not to exceed the appraised valuation based on an appraisal report prepared by a competent appraiser and approved by the

agency, department, or other property value analyses method approved by the director. Assistance will also be provided for incidental expenses including the cost of the appraisal, abstracting, deed tax stamps, recording fees, and any necessary surveys.

ITEM 5. Add a new subrule 71.4(3) as follows:

71.4(3) Existing facilities. *The primary purpose of this program is to acquire and develop additional new public recreational areas and facilities. The purchase of existing areas and facilities from the private sector when those areas and facilities are already available for public recreational use will not be eligible for funding. Only new public facilities, existing private facilities previously not available to the general public, or the significant expansion or enhancement of existing publicly owned facilities may be funded under this program.*

ITEM 6. Subrule 71.6(2) is amended to read as follows:

71.6(2) Application timing. Applications for grants will be reviewed and selected for funding on an annual basis in November during the life of the program ~~except that in 1985, the review and selection process will be held in December.~~ Applications must be received in acceptable form by the ~~State Conservation Commission~~ *Department of Natural Resources*, Wallace State Office Building, Des Moines, Iowa 50319, by the close of business on the fifteenth day of October or the closest work day thereto ~~except that in 1985, applications must be received by November 29.~~

ITEM 7. Subrule 71.7(1) is amended to read as follows:

71.7(1) Review and selection committee. The role of the review and selection committee, hereinafter referred to as the committee, will be to rank in priority order the grant applications that are submitted based on the information provided and make recommendations to the ~~agency~~ *director*. The committee will be composed of three ~~agency department~~ *department* staff persons appointed by the director, one board member appointed by the chairperson of the Iowa Association of County Conservation Boards, and one board employee appointed by the chairperson of the Iowa Association of County Conservation Board Employees. Board personnel will serve *staggered* two-year terms on a state fiscal year basis; ~~except that the first appointed board member will serve a one-year term expiring on June 30, 1986. A board member or board employee may serve on the committee only if their board has not submitted a project for review. If a conflict arises, the board member or board employee shall resign and the appropriate chairperson shall appoint another person to complete the term. If a project is submitted for review by the review and selection committee by a county conservation board, one of whose members or employees is on the review and selection committee, that individual shall not participate in discussion on and shall not vote on that particular project.~~

ITEM 8. Rule 71.8(71GA, HF225) is amended to read as follows:

290571—71.8(71GA, HF225ch33) Agency Department review. Grant applications as prioritized by the committee and recommended to the director will be presented to the *natural resource commission*, hereinafter referred to as the *commission*, at the ~~December meeting~~ for final approval. Approval by the commission will establish the budget for each approved project for each fiscal year. ~~Funds will be available to the anticipated budget level of \$750,000 each year contingent upon~~

NATURAL RESOURCE COMMISSION[571] (cont'd)

transfer of sufficient lottery revenues to the jobs now account. The commission may alter the rankings recommended by the committee. Approval at this point will not constitute approval of the obligation of funds for a project.

ITEM 9. Rule 71.9(71GA, HF225) is amended to read as follows:

290571—71.9(71GA, HF225ch33) Notification of grant application rankings. Immediately following approval of grant application rankings by the commission, all applicants will be notified of their ranking. The highest ranked applicants, up to the anticipated budget level of \$750,000 amount for county conservation board projects transferred to the jobs now account for that year, will be advised to notify the agency department as soon as they are ready to commence work on their projects.

ITEM 10. Rule 71.10(71GA, HF225) is amended to read as follows:

290571—71.10(71GA, HF225ch33) Obligation of funds. When a board is prepared to enter into a contract for land acquisition or development, it shall submit a request to the agency department for the obligation of funds. The following requirements must be met prior to a request for obligation of funds:

1. Approval by the commission as required under Iowa Code chapter 111A.
2. Approval of plans and specifications by the department.
3. Signed option to acquire at or below appraised price or value established by approved property value analysis, conditioned upon receipt of a recreation/tourism grant.
4. Statement of availability and commitment of local funds.
5. Appraisals or costs analyses approved by the department.

Funds will be obligated immediately or as soon as available in the jobs now account. However, no funds will be obligated until the agency department is satisfied that the board is prepared to approve a contract within forty-five (45) days.

ITEM 11. Rule 71.11(71GA, HF225) is amended to read as follows:

290571—71.11(71GA, HF225ch33) Order of funding. Approved projects which are ranked within the anticipated budget level of \$750,000 will be funded in the order in which requests for obligation of funds are submitted to the agency of their ranking. However, when it becomes necessary to delay obligation of funds due to a shortage in the jobs now account and, as a result, a backlog of requests occurs, projects will be funded in accordance with their numerical rankings. Funds will be allocated to projects in accord with their ranking until October 15. Any funds not obligated by October 15 will be made available to approved projects with a lower rank that are ready for obligation.

ITEM 12. Subrule 71.12(1) is amended to read as follows:

71.12(1) Commencement deadline. Boards which are notified that their projects are ranked within the anticipated budget level of \$750,000 scheduled for funding shall be prepared to commence their projects within nine (9) months following notification.

ITEM 13. Subrule 71.12(3) is amended to read as follows:

71.12(3) Replacement. If funds are available, grant applicants previously ranked outside of the anticipated budget level will but not approved by the commission may be given the grant opportunity to receive a grant in the order in which their grant applications were ranked. Projects must be in a position to request the obligation of funds prior to the end of the fiscal year.

ITEM 14. Subrule 71.15(4) is amended to read as follows:

71.15(4) Documentation. Grant recipients shall provide maintain documentation as required by the agency department to substantiate all costs incurred on a project.

ITEM 15. Subrule 71.15(5) is amended to read as follows:

71.15(5) Advance payments. Upon proper evidence of need, advance payments may be made to grant recipients for land acquisition payments and for payments to contractors on development work. Advance payments will be in amounts not less than \$5,000 and will not be paid out until such time as actually needed by the recipient. For land acquisition projects, advance payments may be one hundred percent (100%) of the state's share of the project for documented expenses and for development work, advance payments shall be ninety percent (90%) of the state's share of the project cost.

ITEM 16. Rule 71.16(71GA, HF225) is amended to read as follows:

290571—71.16(71GA, HF225ch33) Recordkeeping and retention. A grant recipient shall keep adequate records relating to its administration of a grant assisted project, particularly relating to all incurred costs. These records shall be available for audit by appropriate personnel of the agency representatives of the department and the state auditor's office.

ITEM 17. Subrule 71.17(1) is amended to read as follows:

71.17(1) Previously approved projects. Each board with an active project for which a grant was approved in a previous fiscal year shall submit a project status report including any revisions in economic impact estimates and cost estimates. Such This report shall be submitted by the close of business on by the fifteenth day of October or the closest work day thereto. At subsequent reviews, the commission department will approve budgets for new projects only after ensuring that adequate funds are budgeted for projects approved at previous project reviews, to the extent of available funding. However, expansion of the scope of a previously approved project will be treated as a new project.

ITEM 18. Rule 71.18(71GA, HF225) is amended to read as follows:

290571—71.18(71GA, HF225ch33) Interim reviews. The agency director may order an interim review process upon sixty (60)-day notice to all boards. Interim review may be ordered to compensate for major increases or decreases in costs or estimates relating to approved projects, significant changes in lottery funding availability, or unique project opportunities that could not be reasonably foreseen at the time of the preceding annual review and where time is of the essence.

These rules are intended to implement 1985 Iowa Acts, chapter 33, section 301, subsection 3, paragraph "a" as amended by 1986 Iowa Acts, chapter 1207, section 3.

ARC 7222

PUBLIC HEALTH,
DEPARTMENT OF[470]

MEDICAL EXAMINERS, BOARD OF

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 section 147.76, the Iowa Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 135, "Medical Examiners," Iowa Administrative Code.

The proposed rule would increase the fee to take the Federation Licensing Examination (FLEX) to coincide with and reflect the increase in cost incurred by the Board from the Federation of State Medical Boards beginning with the June 1987 administration of the exam. The rule would maintain the current percentage of administrative fee beyond the actual cost of the FLEX and Components I and II individually.

Any interested person may make written comments or suggestions on this proposed rule prior to January 6, 1987. Such written materials should be directed to William S. Vanderpool, Executive Director, Iowa Board of Medical Examiners, 1209 East Court Avenue, Des Moines, Iowa 50319. Persons desiring to convey their views orally should contact Mr. Vanderpool at 515/281-5171 or in the offices at 1209 East Court Avenue prior to January 6, 1987.

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

Amend subrule 135.108(1) as follows:

135.108(1) For a license to practice medicine and surgery or osteopathic medicine and surgery issued upon the basis of examination given by the medical examiners prior to January 1, ~~1985~~ 1987, ~~two three~~ hundred fifty dollars. For a license to practice medicine and surgery or osteopathic medicine and surgery issued upon the basis of examination given by the medical examiners subsequent to January 1, ~~1985~~ 1987, ~~three five~~ hundred fifty ~~twenty-five~~ dollars.

Fees for ~~sitting~~ taking Component I, Component II, or both Components are as follows:

1. For an application to ~~sit~~ take Component I, the fee shall be ~~two three~~ hundred ~~forty~~ ~~twenty-five~~ dollars.

2. For an application to ~~sit~~ take Component II, the fee shall be ~~two three~~ hundred ~~sixty-five~~ ~~eighty~~ dollars.

3. For an application to ~~sit~~ take both Components in one sitting the fee shall be ~~three five~~ hundred ~~twenty-five~~ ~~and fifty~~ dollars.

This rule is intended to implement Iowa Code sections 147.80, 148.3, and 150A.3.

ARC 7230

REVENUE AND FINANCE
DEPARTMENT[701]

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 421.14 and 422.68(1), the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest"; Chapter 15, "Determination of a Sale and Sale Price"; Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage"; and Chapter 26, "Sales and Use Tax on Services," Iowa Administrative Code.

Certain subsections of current rules set out explanations of sales or use tax law for periods so far in the past that tax owed or paid for these periods is no longer subject to assessment or refund because of the applicable statute of limitations. Explanations for periods of this sort are stricken.

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

The Department has determined that this proposed rule may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than January 6, 1987, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before January 16, 1987. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact Clair R. Cramer, Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, at 515/281-4250 or at Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 9, 1987.

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

The following amendments are proposed.

ITEM 1. Rule 701—12.10(422,423) Iowa Administrative Code is amended by rescinding subrules 12.10(1) and 12.10(2) and renumbering subsequent subrules accordingly.

ITEM 2. The catchwords of rule 701—15.3(422,423) Iowa Administrative Code is amended to read as follows: **701—15.3(422,423) Certificates of resale or processing prior to and subsequent to January 1, 1979.**

ITEM 3. Subrule 15.3(1) is rescinded in its entirety.

ITEM 4. Existing subrule 15.3(2) is amended to read as follows:

15.3(2)(1) On and after January 1, 1979. The gross receipts from the sale of tangible personal property for the purpose of resale or processing by the purchaser are not subject to tax as provided by the Iowa sales and use tax statutes. However, the following are requirements for the exemption:

a. The sales tax liability for all sales of tangible personal property is upon the seller (and on and after March 13, 1986, the purchaser as well) unless the seller takes in good faith from the purchaser a valid exemption certificate stating that the purchase is for resale or for processing. Where tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and must remit the taxes directly to the department.

When a processor or fabricator purchases tangible personal property exempt from the sales or use tax and subsequently withdraws the tangible personal property from inventory for their own use or consumption, the tax shall be reported in the period when such the tangible personal property was withdrawn from inventory.

b. The director is required to provide exemption certificates to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to buyers for purposes of resale or for processing. Since Iowa Code section 422.47 defines a "valid exemption certificate" as one supplied by the director, the director cannot for periods commencing on or after January 1, 1979, and ending on or before June 30, 1982, recognize an exemption certificate other than their own. This exemption certificate must be completed as to the information required on the form in order to be valid.

15.3(2) On and after July 1, 1982. For periods commencing after June 30, 1982, retailers may provide their own exemption certificates. The exemption certificates must contain information required by the department, including, but not limited to: the seller's name, the buyer's name and address, the buyer's nature of business (wholesaler, retailer, manufacturer, lessor, other), the reason for purchasing tax exempt (resale or processing), the general description of the products purchased, and state sales tax or I.D. registration number. The certificate must be signed and dated by the buyer.

a. An exemption certificate or blanket exemption certificate as referred to in paragraph "e" "b" cannot be used to make a tax free purchase of any tangible personal property or service not covered by the certificate. For example, the certificate used to purchase

a chemical consumed in processing cannot be used to purchase a generator which is going to become an integral part of other tangible personal property which will be ultimately sold at retail.

e. b. Any person repeatedly selling the same type of property or service to the same purchaser for resale or for processing may accept a blanket certificate covering more than one transaction. A seller who accepts a blanket certificate is required periodically to inquire of the purchaser to determine if the information on the blanket certificate is accurate and complete. Such an inquiry by the seller shall be deemed evidence of good faith on the part of the seller.

d. c. When due to extraordinary circumstances in the nature of fire, flood, or other cases of destruction beyond the taxpayer's control, a seller does not have an exemption certificate on file, they may show by other evidence, such as a signed affidavit by the purchaser, that the property or services was purchased for resale or for processing.

e. d. The liability for the tax does not shift from the seller to the purchaser if the seller has not accepted a valid exemption certificate in good faith. If the seller has actual knowledge of information or circumstances indicating that it is unlikely that the property or services will be resold or used in processing, then in order to act in good faith the seller must make further inquiry to determine the facts supporting the valid exemption certificate. In addition, if the nature of the business of the purchaser, as shown by the valid exemption certificate, indicates that it is unlikely that the property or services will be resold or used in processing, then in order to act in good faith the seller must make further inquiry to determine the facts supporting the valid exemption certificate.

EXAMPLE 1. A seller is expected to inquire to discover the facts supporting the claimed exemption if the seller knows that the property or services will not be, or it is unlikely that the property or services will be, resold or used in processing by that purchaser. This further inquiry is expected even when there is nothing in the nature of the business as shown on the valid exemption certificate to cause the seller to make further inquiry.

EXAMPLE 2. A seller is expected to inquire to discover the facts supporting the claimed exemption of the sale of sawdust or a tool chest purchased by a gas station since such items are rarely resold by a gas station.

EXAMPLE 3. A seller is not expected to make further inquiry, in the absence of actual knowledge, to determine which light bulbs bought by a hardware store are for use in the store or those purchased for resale.

If the seller has met the requirements set forth above in accepting a valid exemption certificate, the seller shall be deemed to have acted in good faith and the liability for the tax shifts to the purchaser who becomes solely liable for the taxes.

f. e. A seller is relieved from liability for sales tax if (1) a purchaser deletes the tax reimbursement from the payment to the seller or if the purchaser makes a notation on an invoice such as "not subject to tax" or "resale" and (2) if the seller can produce written evidence to show that an attempt was made to obtain an exemption certificate to show that the transaction was exempt from tax but was unable to obtain said certificate from the purchaser.

g. f. The failure of a permit holder to act in good faith while giving or receiving exemption certificates may

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

result in the revocation of the sales tax permit. Such Revocation is authorized under the provisions of Iowa Code section 422.53(5).

h. g. The purchase of tangible personal property or services which are specifically exempt from tax under the Iowa Code need not be evidenced by an exemption certificate. However, if certificates are given to support these transactions, they do not relieve the seller of the responsibility for tax if at some later time the transaction is determined to be taxable.

h. h. A person who is selling tangible personal property or services, but who is not making taxable sales at retail, shall not be required to hold a permit. When this person purchases tangible personal property or services for resale, they shall furnish a certificate in accordance with these rules to the supplier stating that the property or service was purchased for the purpose of resale.

h. i. For information regarding the use of exemption certificates for contractors, see chapter 19 of the rules.

This rule is intended to implement Iowa Code sections 422.42(3), 422.42(13), 422.42(16), 422.47, as amended by 1986 Iowa Acts, chapter 1007 and Iowa Code sections 422.53 and 423.1(1).

ITEM 5. Subrule 18.5(3) is rescinded in its entirety and the subsequent subrule renumbered accordingly.

ITEM 6. Subrule 18.25(3) is rescinded in its entirety and existing subrules 18.25(4), 18.25(5), and 18.25(6) are renumbered accordingly.

ITEM 7. Subrule 26.42(1) is rescinded in its entirety and subsequent subrules renumbered accordingly.

ITEM 8. Rule 701—26.49(422) Iowa Administrative Code is rescinded in its entirety and the number of the rule reserved.

ARC 7231

REVENUE AND FINANCE
DEPARTMENT[701]
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 98.25(2), 324.59, 421.14, and 422.68(1), the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 13, "Permits"; Chapter 30, "Filing Returns, Payment of Tax, Penalty and Interest"; Chapter 63, "Administration"; and Chapter 81, "Administration," Iowa Administrative Code.

As a result of recent legislation, a permit or license which allows a person to collect cigarette, motor fuel, sales or use tax may be revoked if that person is substantially delinquent in the payment of any tax administered by the Department or in the payment of interest or penalty on any such tax. If the permit holder or licensee is a corporation, the permit or license may

be revoked if any corporate officer, having a substantial legal or equitable interest in the corporation, owes any delinquent tax, interest or penalty of the applicant corporation.

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

The Department has determined that this proposed rule may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than January 6, 1987, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before January 16, 1987. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact Clair R. Cramer, Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, at 515/281-4250 or at Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 9, 1987.

The amendment is intended to implement Iowa Code subsections 98.22(1), 324.68(1), 422.53(5), and section 423.22 as amended by 1986 Iowa Acts, chapter 1007.

The following amendments are proposed.

ITEM 1. Amend rule 730—13.7(422), the first unnumbered paragraph, to read as follows:

701—13.7(422) Reinstatement of revoked permit. A revoked permit shall be reinstated only on such terms and conditions as the case may warrant. Terms and conditions do include payment of any tax liability which may be due to the department. See rule 13.17(422) for a description of the circumstances under which nonpayment of taxes may lead to revocation of a permit.

ITEM 2. Rule 701—13.7(422), the last unnumbered paragraph is amended to read as follows:

This rule is intended to implement Iowa Code sections 422.53, as amended by 1986 Iowa Acts, House File 764, and 422.58(2).

ITEM 3. Amend 701, Chapter 13, by adding the following new rule:

701—13.17(422) Substantially delinquent tax—revocation of permit. The department may revoke a permit if the permit holder has become substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the person holding a permit is a corporation, the

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

department may revoke the permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the permit-holding corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. If the permit holder is a partnership, a permit cannot be revoked for a partner's failure to pay a tax which is not a liability of the partnership. This is in contrast to the situation regarding an application for a permit. See rule 13.16(422). Also, see rule 13.16(422) for characterizations of the terms "tax administered by the department" and "substantially delinquent" and for a description of some of the factors which the department will use in determining whether substantial delinquency will or will not result in the revocation of a permit. This rule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

This rule is intended to implement Iowa Code subsection 422.53(5), as amended by 1986 Iowa Acts, chapter 1007.

ITEM 4. Amend the title of rule 701—30.1(423) Iowa Administrative Code to read as follows:

701—30.1(423) Liability for use tax and denial and revocation of permits.

ITEM 5. Amend rule 701—30.1(423) Iowa Administrative Code by adding the following new subrule:

30.1(4) The department may revoke the permit of any permit holder who becomes substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the permit holder is a corporation, the department may revoke the permit if any corporate officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the permit-holding corporation must, initially, owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax. A permit may not be revoked if the permit holder is a partnership and a partner is substantially delinquent in paying tax, penalty, or interest which is not a liability of the partnership. This is in contrast the situation regarding an application for a permit. See the proceeding subrule. Also, see rule 13.16(422) for characterizations of the terms "tax administered by the department" and "substantially delinquent" in paying a tax. This subrule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

ITEM 6. Amend rule 701—63.26(324) Iowa Administrative Code by adding the following new subrule:

63.26(4) Revocation of a license. The department may revoke the license of any licensee who becomes substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If a licensee is a corporation, the department may revoke the license if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. If the licensee is a partnership, the license may not be revoked for a

partner's substantial delinquency in paying any tax, penalty, or interest which is not a liability of the partnership. See rule 13.16(422) for characterizations of the terms "tax administered by the department" and "substantially delinquent" in paying a tax. This subrule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

ITEM 7. Rule 701—81.13(98) Iowa Administrative Code is amended by adding the following new subrule as 81.13(3) and renumbering the existing subrule as 81.13(4):

81.13(3) Revocation of a permit. The department may revoke the permit of any permit holder who becomes substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the permit holder is a corporation, the department may revoke a permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. If the permit holder is a partnership, a permit cannot be revoked for a partner's substantial delinquency in paying any tax, penalty, or interest which is not a liability of the partnership. See rule 13.6(422) for characterizations of the terms "tax administered by the department" and "substantially delinquent" in paying a tax. This subrule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

ARC 7220

**TRANSPORTATION,
DEPARTMENT OF[820]**

**01 DEPARTMENT GENERAL
TERMINATION OF NOTICE**

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Department of Transportation hereby terminates ARC 6452, published April 9, 1986, and ARC 6563, published May 21, 1986. ARC 6452 proposed an amendment to 820—[01,B] Chapter 2, "Procurement of Equipment, Materials, Supplies and Services" concerning purchase set-asides for female and minority small businesses. ARC 6563 postponed consideration of the amendment to allow for further study.

The proposed amendment implemented 1985 Iowa Code supplement sections 18.175 to 18.177 and 18.179, which have been repealed by 1986 Iowa Acts, Senate File 2175, section 852.

ARC 7221**TRANSPORTATION,
DEPARTMENT OF[820]**

01 DEPARTMENT GENERAL

NOTICE OF INTENDED ACTION

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

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2 as amended by 1986 Iowa Acts, Senate File 2175, sections 1909 and 1926, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[01,B] Chapter 2, "Procurement of Equipment, Materials, Supplies and Services," Iowa Administrative Code.

The procurement rules are being amended to comply with two Acts of the Seventy-first General Assembly.

One subrule amends the procurement policy to set aside up to ten percent of procurement awards for targeted small businesses.

The paragraph concerning the list of prospective bidders is being expanded to include targeted small businesses that have been certified by the Department of Economic Development.

An additional paragraph specifies the required method of determining life cycle costs for motor vehicle procurement.

These amendments are intended to implement 1986 Iowa Acts, Senate File 2049, section 1, and Senate File 2175, sections 831 to 837.

On February 3, 1987, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Transportation Commission shall consider these proposed administrative rules.

Any person or agency may submit written comments concerning these proposed rules or may submit a written request to make an oral presentation at the Commission meeting. The comments or request shall:

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

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

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

4. Be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010.

5. Be delivered to this office or postmarked no later than January 16, 1987.

The Department shall notify a person or agency properly requesting an oral presentation of the time of day scheduled for the presentation.

The proposed rules may have an impact on small business. The Department has considered the factors listed in Iowa Code subsection 17A.31(4), paragraphs "a" to "l." The administrative rules review committee, the governor, a political subdivision, at least twenty-five persons who qualify as a small business under Iowa Code section 17A.31, or an organization of small businesses representing at least twenty-five persons which is registered with the Department under section 17A.31

may request the issuance of a regulatory flexibility analysis. The request must:

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

2. Be submitted in writing to the Office of Financial/Operational Analysis at the address listed in this Notice.

3. Be delivered to this office or postmarked no later than twenty days after publication of this Notice in the Iowa Administrative Bulletin.

Proposed rule-making actions:

ITEM 1. Amend rule 820—[01,B]2.3(307) by adding subrule 2.3(4) as follows:

2.3(4) Targeted small business procurement. Each fiscal year the department shall set aside between two percent (2%) and ten percent (10%) of the value of anticipated total purchases of goods and services, excluding utilities, for award to certified targeted small businesses.

ITEM 2. Amend subrule 2.4(1), paragraph "a," as follows:

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

ITEM 3. Amend subrule 2.4(8) by adding paragraph "c" as follows:

c. Procurement of motor vehicles shall include the calculation and reduction of life cycle costs as specified in 1986 Iowa Acts, Senate File 2049, section 1.

ITEM 4. Add an implementation clause at the end of the rule as shown:

These rules are intended to implement Iowa Code sections 307.10 and 307.21, and 1986 Iowa Acts, Senate File 2049, section 1, and Senate File 2175, sections 831 to 837.

ARC 7219**TRANSPORTATION,
DEPARTMENT OF[820]**

06 HIGHWAYS

NOTICE OF INTENDED ACTION

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

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2 as amended by 1986 Iowa Acts, Senate File 2175, sections 1909 and 1926, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[06,K] Chapter 2, "Signing Manual," Iowa Administrative Code.

Effective October 10, 1979, the Transportation Commission adopted the federal "Manual on Uniform Traffic Control Devices for Streets and Highways" as the Iowa manual pursuant to requirements of Iowa Code section 321.252. Subsequently, the Federal Highway Administration published three revisions to the manual

TRANSPORTATION, DEPARTMENT OF[820] (cont'd)

which have been adopted by the Commission. Revision 4 was published in March 1986. Modifications contained in Revision 4 include seven changes in the use and application of regulatory, warning, and guide signs, one change in the use of markings, three changes in the use of traffic signals, six changes in specifications for construction-maintenance work zone devices and one miscellaneous change. A copy of Revision 4 is being submitted to the Administrative Rules Coordinator with this amendment. Additional copies are available from the Department.

This amendment is intended to implement Iowa Code section 321.252.

On February 3, 1987, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Transportation Commission shall consider this proposed administrative rule.

Any person or agency may submit written comments concerning this proposed rule or may submit a written request to make an oral presentation at the Commission meeting. The comments or request shall:

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

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

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

4. Be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010.

5. Be delivered to this office or postmarked no later than January 16, 1987.

The Department shall notify a person or agency properly requesting an oral presentation of the time of day scheduled for the presentation.

Proposed rule-making action:

Subrule 2.1(2) is amended as follows:

2.1(2) The following revisions to the "Manual on Uniform Traffic Control Devices for Streets and Highways" are adopted by reference:

Revision No. 1 published December 1979

Revision No. 2 published December 1983

Revision No. 3 published September 1984

Revision No. 4 published March 1986

ARC 7213**TRANSPORTATION,
DEPARTMENT OF[820]**

07 MOTOR VEHICLES

NOTICE OF INTENDED ACTION

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

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2 as amended by 1986 Iowa Acts, Senate File

2175, sections 1909 and 1926, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[07,F] Chapter 8, entitled "Regulations Applicable to Carriers," Iowa Administrative Code.

This rule is being updated to reference the latest editions of the Code of Federal Regulations which contain the safety and hazardous materials regulations applicable to motor carriers. The amendments and the description of significant changes in the regulations are given in ARC 7212 in this Bulletin and are incorporated herein by reference.

On February 3, 1987, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Transportation Commission shall consider these proposed administrative rules.

Any person or agency may submit written comments concerning these proposed rules or may submit a written request to make an oral presentation at the Commission meeting. The comments or request shall:

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

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

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

4. Be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010.

5. Be delivered to this office or postmarked no later than January 5, 1987.

The Department shall notify a person or agency properly requesting an oral presentation of the time of day scheduled for the presentation.

The proposed rules may have an impact on small business. The Department has considered the factors listed in Iowa Code subsection 17A.31(4), paragraphs "a" to "l." The administrative rules review committee, the governor, a political subdivision, at least twenty-five persons who qualify as a small business under Iowa Code section 17A.31, or an organization of small businesses representing at least twenty-five persons which is registered with the Department under section 17A.31 may request the issuance of a regulatory flexibility analysis. The request must:

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

2. Be submitted in writing to the Office of Financial/Operational Analysis at the address listed in this Notice.

3. Be delivered to this office or postmarked no later than twenty days after publication of this Notice in the Iowa Administrative Bulletin.

These rule amendments are intended to implement Iowa Code chapters 325, 327, 327A, and 327B.

ARC 7232

ENERGY AND
GEOLOGICAL RESOURCES[565]

Pursuant to the authority of 1986 Iowa Acts, chapter 1167, section 1, the Department of Natural Resources emergency implements a new Chapter 6, "Energy Management Program for School Districts and Merged Area Schools," Iowa Administrative Code.

This chapter deals with an energy management program for public school districts and merged area schools administered by the Energy and Geological Resources Division of the Iowa Department of Natural Resources [see 1986 Iowa Acts, chapter 1245, section 1807, subsection 1, paragraph "d"]. The objective is to conduct energy audits every five years on school buildings, establish energy accounting procedures, implement operation and maintenance procedures, and conduct engineering analyses to identify energy conservation measures. This program will establish an energy bank and an energy loan program and will fund energy conservation measures.

This new Chapter 6 was previously submitted under Energy Policy Council[380] as a Notice of Intended Action, ARC 7071, published in the Iowa Administrative Bulletin October 22, 1986. After a public hearing on November 12, 1986, and a period for comment, there are no changes in the rules except for minor technical editorial changes.

Under Iowa Code section 17A.5(2)"b," the Department finds that these rules should become effective upon filing with the Administrative Rules Coordinator on November 26, 1986, because they ensure and confer a substantial benefit upon the intended beneficiaries of the program. Delaying implementation of the rules would have the effect of withholding a benefit to the school districts and merged area schools of the state of Iowa and would delay the implementation of this program without conferring any substantial benefit on the citizens of the state of Iowa.

These rules are intended to implement 1986 Iowa Acts, chapter 1167, sections 2 and 3, and 10 CFR 420(1976).

These rules were adopted by the Director pursuant to 1986 Iowa Acts, chapter 1245, section 1804, subsection 1, paragraph "i," on November 26, 1986, as necessary for the reorganization of the Department and pursuant to Iowa Code section 93.7 as amended by 1986 Iowa Acts, chapter 1245, sections 1820 to 1822.

Adopt 565—Chapter 6 as follows:

CHAPTER 6
ENERGY MANAGEMENT PROGRAM
FOR SCHOOL DISTRICTS AND
MERGED AREA SCHOOLS

565—6.1(93) General. The school energy program is established for school districts and merged area school buildings to reduce consumption and energy costs. This program is established under 1986 Iowa Acts, chapter 1167, and follows the guidelines of 10 CFR 420(1976). The program will be administered by the energy and geological resources division of the Iowa department of natural resources. The objective is to be accomplished by:

1. Conducting energy audits every five (5) years beginning between July 1, 1986, and June 30, 1991, on buildings owned or leased by the school;

2. Establishing energy accounting procedures;

3. Implementing operation and maintenance procedures;

4. Conducting engineering analyses to identify energy conservation measures;

5. Establishing an energy bank and energy loan program; and

6. Funding cost-effective energy conservation measures.

6.1(1) Purpose and scope. This chapter establishes requirements for eligibility, procedures for conducting an energy audit and conducting an engineering analysis, establishing an energy bank and funding energy conservation measures.

6.1(2) Definitions. For the purpose of these rules:
"Average simple payback period" means the total estimated costs of all energy conservation measures divided by the total estimated annual cost savings.

"BTU" means unit of heat measurement.

"Building" means any structure that is heated or cooled.

"Department" means Iowa Department of Natural Resources.

"Director" means director of the department.

"Energy accounting system" means a computerized or manual mechanism that allows schools to track at a minimum monthly energy consumption by unit and cost, determine dollar cost per square foot and BTUs per square foot per degree day.

"Energy audit" means an energy survey of a building that establishes an energy accounting system and that is conducted in accordance with the requirements of rule 6.3(93).

"Energy conservation measures" means construction, rehabilitation, acquisition, or modification of an installation in a building which is intended to reduce energy consumption or energy costs, or both, or allow the use of an alternative energy source which may contain integral control and measurement devices.

"Energy management technicians" means paraprofessionals trained and qualified in auditing and conservation measures and approved by the department.

"Engineering analysis" means a comprehensive examination of a building conducted to identify conservation opportunities with estimated costs of the measures, including design, materials and installation, estimated annual cost savings by fuel type, and simple payback period.

"School" means public school district, area education agency or merged area school (public community colleges and vocational-technical schools) which is defined by department of public instruction [670] in subrule 4.1(1).

"Simple payback period" means the estimated total cost of the measure including design, materials, and installation divided by the estimated annual savings for the measure. For renewable and coal conversions, savings are based on the fuel replaced.

"Square feet" means the total gross conditioned floor area of a building.

565—6.2(93) Eligibility for assistance. To be eligible to receive assistance, the building must be owned or leased by a public school district or merged area school.

6.2(1) Assistance for energy audit. For energy audit assistance, the building must be part of a public school district or merged area school and meet the criteria identified in rule 6.3(93).

ENERGY AND GEOLOGICAL RESOURCES[565] (cont'd)

6.2(2) Assistance for engineering analysis. For engineering analysis assistance, the school must provide assurance that:

- a. Operation and maintenance items identified in the energy audit have been completed or submit a schedule for implementation;
- b. An energy accounting system has been established; and
- c. Energy records have been provided to the department.

6.2(3) Assistance for energy bank. For energy bank assistance:

- a. The school must provide an approved engineering analysis, implementation of existing and new operation and maintenance procedures, or a schedule for implementation and a signed commitment to repay the loan funds;
- b. Projects must be approved by the department and have an aggregate average simple payback period (ASPP) of six (6) years or less;
- c. The school must have no plan to close or otherwise dispose of the building within the average simple payback period for which funding is requested.

565—6.3(93) Energy audits.

6.3(1) Objectives and procedures. The objective of the energy audit program is to establish an energy audit procedure beginning July 1986, and repeated on a staggered basis every five (5) years thereafter. The purpose is to identify operation and maintenance procedures, to establish an implementation schedule, and to establish an ongoing energy accounting system which is submitted to the department. Energy audits will be conducted by qualified energy auditors at no cost to the school, providing funds are available. The board of directors of each school will file the results of the energy audit with the department. The department will identify the number and location of targeted schools each year. Arrangements will be made by the department to have the energy audit conducted.

6.3(2) Contents of an energy audit. The energy audit will be completed on forms prescribed by the department, and will include but not be limited to the following information:

- a. Executive summary;
- b. Most recently completed fiscal year's energy consumption data on a monthly basis by units and costs;
- c. Occupancy schedule by numbers, days, weeks;
- d. Building features/conditions/identification;
- e. Heating and cooling systems;
- f. Air/hydronic distribution systems;
- g. Domestic hot water systems;
- h. Control systems;
- i. Lighting systems;
- j. Electrical systems;
- k. Other systems;
- l. Operation and maintenance procedures and schedule; and
- m. Energy conservation opportunities.

6.3(3) Exemption. The required energy audit may be waived by the department for the initial and subsequent energy audits if:

- a. Records are on file at the department that indicate an audit on the building was conducted after July 1, 1983, for the current fiscal year. An energy audit older than three (3) years must be reviewed to determine if it meets the criterion of subrule 6.3(3), paragraph "b." If it does not, a new energy audit must be conducted.

- b. The school falls below the statewide average of energy use, as adjusted for weather, occupancy, and cost. The department will revise the statewide average on an annual basis. For the first year (July 1, 1986, to June 30, 1987), the average will be based on data from the secretary's annual report filed by all school districts with the department of education. Subsequent years' exemption criteria may be changed as additional data becomes available.

- c. To request an exemption, the school administrator must submit a written request to the department. A response will be made within thirty (30) days.

565—6.4(93) Engineering analysis.

6.4(1) General. Upon completion of the energy audit, a school may request in writing that an engineering analysis be conducted. After review of the energy audit and based on the findings of the energy audit, the department staff may recommend that an engineering analysis be conducted. The objective of the engineering analysis is to identify opportunities for energy conservation and additional operation and maintenance procedures. Engineering analyses will be conducted by qualified firms or individuals at no cost to the school, providing funds are available. A copy of the engineering analysis will be filed with the department.

6.4(2) Contents of an engineering analysis. The engineering analysis will include the items identified in rule 380—8.2(93).

Additional items to be considered are those that save money as a direct result of an energy modification.

565—6.5(93) Energy bank. The energy bank is established to provide:

1. Funds from the petroleum violation escrow fund for conducting energy audits pursuant to these rules;
2. Loans, leases, and other methods of alternate financing from the energy loan program for schools to implement energy conservation measures;
3. Technical support for energy conservation management;
4. Assistance for obtaining insurance on the energy savings to be realized from the implementation of energy conservation measures.

6.5(1) Energy loan program. The energy loan program is established in the office of the treasurer of state to be administered by the energy and geological resources division, department of natural resources, for the purpose of making loans to schools to implement energy conservation measures. Funding for this program may come from gifts, federal funds, state appropriations, and other sources.

6.5(2) Loan availability. Loans will be available for:

- a. Energy conservation measures with less than or equal to an average simple payback period of six (6) years;
- b. The cost of engineering analysis, plans, and specifications;
- c. The cost of the surety bond securing the operation of the energy conservation measures.

6.5(3) Application for assistance. Schools may obtain an application from the department which should be completed and returned with a copy of the energy audit and engineering analysis, if these reports are not already on file with the department. Applications will be approved if the form is completed, the reports are on file, and funds are available.

6.5(4) Appeal procedures. If a school wishes to appeal a decision, the administrator should write to the director

ENERGY AND GEOLOGICAL RESOURCES[565] (cont'd)

explaining why the appeal is being made. The director will respond within fifteen (15) days of receiving the appeal. Rules of Iowa Administrative Code, 561—Chapter 7, "Contested Case Proceeding," shall govern appeals to the department of natural resources.

[Filed emergency after Notice 11/26/86, effective 11/26/86]
[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7218**INDUSTRIAL SERVICES,
DIVISION OF[343]**

Pursuant to the authority of Iowa Code section 86.8, the Industrial Commissioner for the Division of Industrial Services emergency adopts amendments to Chapter 5, "Declaratory Rulings," and Chapter 7, "Rulemaking," Iowa Administrative Code.

Chapters 5 and 7 are amended to comply with the proposed uniform rules.

In compliance with Iowa Code section 17A.4(2), the Division finds that public notice and participation are impracticable because the following rules implement 1986 Iowa Acts, Senate File 2175, sections 901 to 942, effective July 1, 1986.

The Division further finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of the amendments, thirty-five days after publication, should be waived and the rules made effective immediately upon filing with the Administrative Rules Coordinator.

The rules were adopted by the Division of Industrial Services on November 24, 1986, and became effective immediately upon filing.

These rules are also published herein as a Notice of Intended Action, as **ARC 7239**, to solicit public comment.

ITEM 1. Rescind Chapter 5 and insert in lieu thereof the petition for declaratory rulings segments of the Uniform Administrative Rules which are printed in the front of Volume I of the Iowa Administrative Code, with the following amendments.

CHAPTER 5**PETITION FOR DECLARATORY RULINGS**

343—5.1(17A) Petition for declaratory rulings. In lieu of the words "AGENCY NAME", the heading on the petition form should read:

**BEFORE THE DIVISION OF INDUSTRIAL
SERVICES**

343—5.3(17A) Inquiries. Inquiries concerning the status of a petition for a declaratory ruling may be made to the Division of Industrial Services, 507 10th Street, Des Moines, Iowa 50319.

ITEM 2. Rescind Chapter 7 and insert in lieu thereof the petition for rule-making segments of the Uniform Administrative Rules which are printed in the front of Volume I of the Iowa Administrative Code, with the following amendments.

CHAPTER 7**PETITION FOR RULE MAKING**

343—7.1(17A) Petition for rule making. In lieu of the words "AGENCY NAME", the heading on the petition form should read:

**BEFORE THE DIVISION OF INDUSTRIAL
SERVICES**

343—7.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Division of Industrial Services, 507 10th Street, Des Moines, Iowa 50319.

[Filed emergency 11/24/86, effective 11/24/86]
[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7224**IOWA LOTTERY AGENCY[526]**

Pursuant to the authority of 1985 Iowa Code supplement chapter 99E and Iowa Code section 17A.3, the Lottery Division of the Iowa Department of Revenue and Finance adopts and implements, by emergency filing, amendments to Chapter 4, "Operation of the Lottery," and Chapter 10, "LOTTO," Iowa Administrative Code.

Chapter 4 is amended by adding two new subrules regarding the payment of the cash value of an annuity amount and the rounding of a prize payment to facilitate the purchase of a funding mechanism.

Chapter 10 is amended by adding a new subrule regarding the rounding of a prize payment in LOTTO to facilitate the purchase of a funding mechanism.

In accordance with Iowa Code section 17A.4(2), the agency finds that public notice and participation is unnecessary, impracticable, and contrary to the public interest in that subrule 4.9(12) will reduce agency expenses without diminishing benefits to the public and subrules 4.9(13) and 10.4(4) permit the agency to make use of funding mechanisms which could increase or maintain prize levels, which is likely to increase or maintain revenue levels.

In accordance with Iowa Code section 17A.5(2)"b"(2), the agency also finds that the usual effective date of these rules, thirty-five days after publication, should be waived and the rules made effective on November 26, 1986, as it confers a benefit upon the public to ensure effective compliance with the agency's legislative mandate.

The Iowa Lottery Board adopted these rules on November 18, 1986.

These rules implement 1985 Code supplement section 99E.9(3)"d."

These rules are also being published herein as a Notice of Intended Action, **ARC 7225**, to solicit public comment.

ITEM 1. Amend rule 4.9(99E) by adding the following new subrules and by renumbering the remaining subrules:

4.9(12) Whenever a prize or share of a prize which has been advertised at an annuitized amount has a cash value of \$100,000 or less, the prize payment may, at the discretion of the commissioner, be paid by making a single payment equal to the cash value of the prize or share of the prize.

IOWA LOTTERY AGENCY[526] (cont'd)

4.9(13) Whenever a prize or share of a prize which has been advertised at an annuitized amount is won, the commissioner may round the actual amount of the prize or share of the prize to facilitate the purchase of an appropriate funding mechanism.

ITEM 2. Amend rule 10.4(99E) by adding the following new subrule:

10.4(4) The commissioner may round the actual amount of the Jackpot Prize Pool as determined by rule 10.4(99E) to facilitate the purchase of a funding mechanism.

[Filed emergency 11/26/86, effective 11/26/86]

[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7238**REVENUE AND FINANCE
DEPARTMENT [701]**

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Department of Revenue and Finance emergency adopts and implements rules to correct nonsubstantive name of agency, head of agency changes, and addresses where the public can contact the agency from the Iowa Department of Revenue to Iowa Department of Revenue and Finance and Director of Revenue to Director of Revenue and Finance, wherever they appear in the Iowa Administrative Code Chapters 1 to 5, 7 to 90, and 97 to 125. The name changes result from 1986 Iowa Acts, chapter 1245, section 419.

Also, nonsubstantive name of agency and head of agency changes from Iowa Department of Revenue to Department of Commerce and Director of Revenue to Director of Commerce, respectively, wherever they appear in the Iowa Administrative Code 730—Chapters 91 to 96 and the rules are being transferred to 195—Chapters 20 to 25.

Strike "Iowa Department of Revenue" and insert "Racing and Gaming Division, Department of Commerce" and strike "Director of Revenue" and insert "Administrator of the Racing and Gaming Division, Department of Commerce" wherever applicable in 730—Chapters 91 to 96. Renumber and transfer these rules to the Department of Commerce and reserve Chapters 91 to 96 for future use. The transfer of rules to the appropriate agency and corrections to conform to name changes result from 1986 Iowa Acts, chapter 1245, sections 705, 711, and 712.

Nonsubstantive change of name of agency from Comptroller to Department of Revenue and Finance in 270—Chapters 1, 3, and 6. In addition, these rules are being transferred from 270—Chapters 1, 3, and 6 to 701—Chapters 201, 203, and 206.

Strike "Comptroller" and insert "Department of Revenue and Finance" wherever applicable in 270—Chapters 1, 3, and 6. Renumber and transfer these rules to the Department of Revenue and Finance. The transfer of rules to the appropriate agency and corrections to conform to name changes result from 1986 Iowa Acts, chapter 1245, sections 422, 429, 431 to 437, 442, 444 to 447, and 451; and chapter 1244, sections 1, 2, 3, 26, 43 to 48, 50, 52, 54, 55, and 56.

In compliance with Iowa Code section 17A.4(2), the agency finds that public notice and participation is unnecessary, impracticable and contrary to the public interest because these amendments simply transfer the rules to the appropriate agency and correct them to conform to name changes resulting from 1986 Iowa Acts, chapter 1245, effective July 1, 1986. Notice procedures would not be beneficial as the changes are nondiscretionary and delay could result in unnecessary confusion to the public.

The agency further finds pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of these amendments, thirty-five days after publication, should be waived and the rules made effective immediately upon filing with the Administrative Rules Coordinator [November 14, 1986]. These amendments confer a benefit on the public by eliminating unnecessary confusion regarding names and responsibilities of the agencies. 1986 Iowa Acts, chapter 1245 made these changes effective July 1, 1986, and the amendments simply change agency names and administration of the rules to the agency designated in the Act.

ITEM 1. Transfer 730—Chapters 1 to 5, 7 to 89, 97 to 125 to Revenue and Finance Department[701].

Strike "Department of Revenue" or "revenue department" and insert "Department of Revenue and Finance" in rules 701—Chapters 1, 2, 7, 8, 9, 10, 11, 12, 13, 17, 18, 19, 34, 38, 39, 43, 46, 47, 51, 63, 65, 71, 73, 74, 75, 79, 80, 81, 86, 87, 88, 89, 103, and 107.

ITEM 2. Strike "Director of Revenue" and insert "Director of Revenue and Finance" in rules 701—Chapters 1, 2, 7, 8, 9, 10, 11, 12, 13, 17, 18, 34, 38, 43, 46, 47, 51, 63, 65, 71, 73, 74, 75, 78, 79, 80, 81, 86, 87, 88, 89, 103, and 107.

ITEM 3. Strike "Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Taxpayer Services Section, Iowa Department of Revenue and Finance, P.O. Box 10457, Des Moines, Iowa 50306" in rule 8.1(17A).

ITEM 4. Strike "the word 'division' is the 'Excise Tax Division, Iowa Department of Revenue,'" in rule 11.1(422,423).

ITEM 5. Strike "Excise Tax" and insert "Audit and Compliance" in subrule 11.6(1)"b."

ITEM 6. Strike "Iowa State Excise Tax Division, Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Sales/Use Tax Processing, P.O. Box 10412, Des Moines, Iowa 50306" in 12.1(422), last paragraph.

ITEM 7. Strike "excise tax division" and insert "Taxpayer Services Section" in subrule 17.1(4).

ITEM 8. Strike "Excise Tax Division of the Iowa Department of Revenue" and insert "Audit and Compliance Division of the department" in rule 20.10(422,423).

ITEM 9. Strike "Excise Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Sales/Use Tax Processing, P.O. Box 10412, Des Moines, Iowa 50306" in rule 30.4(423).

ITEM 10. Strike "excise tax division" and insert "Taxpayer Services Section" in subrule 30.4(3).

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

ITEM 11. Strike "Audit Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Audit and Compliance Division, P.O. Box 10456, Des Moines, Iowa 50306" in subrule 38.2(1)"f."

Strike "audit division" and insert "audit and compliance division" wherever these words appear in rule 38.8(422).

ITEM 12. Strike "Iowa Department of Revenue, Withholding Tax Unit, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Taxpayer Services Section, Iowa Department of Revenue and Finance, P.O. Box 10457, Des Moines, Iowa 50306" in subrule 46.3(3)"e"(5).

ITEM 13. Strike "Audit Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Business Unit, Iowa Department of Revenue and Finance, P.O. Box 10456, Des Moines, Iowa 50306" in subrule 51.2(1)"f."

ITEM 14. Strike "Iowa Department of Revenue, Taxpayer Services Section, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Taxpayer Services Section, Iowa Department of Revenue and Finance, P.O. Box 10457, Des Moines, Iowa 50306" in subrule 55.3(3).

ITEM 15. Strike "Iowa Department of Revenue, Declaration Section, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Corporate Estimate Processing, P.O. Box 10468, Des Moines, Iowa 50306" in subrule 56.2(1)"a."

ITEM 16. Strike "Audit Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Business Unit, Iowa Department of Revenue and Finance, P.O. Box 10456, Des Moines, Iowa 50306" in subrule 57.2(1)"f."

ITEM 17. Strike "Iowa Department of Revenue, Taxpayer Services Section, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Taxpayer Services Section, Iowa Department of Revenue and Finance, P.O. Box 10457, Des Moines, Iowa 50306" in subrule 60.3(3).

ITEM 18. Strike "Iowa Department of Revenue, Declaration Section, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Franchise Estimate Processing, P.O. Box 10413, Des Moines, Iowa 50306" in subrule 61.2(1)"a."

ITEM 19. Strike "Estates and Trusts Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319" and insert "Fiduciary and Inheritance Tax Processing, P.O. Box 10467, Des Moines, Iowa 50306" in subrules 86.8(8), 87.3(9), 88.3(14), and 89.6(3).

ITEM 20. Strike "estate and trusts" and insert "audit and compliance" in the following: 86.1, 86.1(2), 87.1(1), 88.1(1)"c" and "d," 88.1(2), 89.1(1)"c" and "d," and 89.1(2).

ITEM 21. Transfer 730—Chapters 91 to 96 to 195—Chapters 20 to 25.

Strike "Iowa Department of Revenue" and insert "Racing and Gaming Division, Department of Commerce" and strike "Director of Revenue" and insert "Administrator of the Racing and Gaming Division, Department of Commerce" wherever applicable.

ITEM 22. Transfer 270—Chapters 1, 3, and 6 to 701—Chapters 201, 203, and 206.

Amend ARC 6792, Iowa Administrative Bulletin, July 30, 1986, Department of Management[541], second paragraph, by striking "Chapters 1 to 6" and inserting "Chapters 2 and 5".

Strike "Comptroller" and insert "Department of Revenue and Finance" wherever applicable in 270—Chapters 1, 3, and 6.

ITEM 23. Amend rules of Revenue and Finance Department for gender and minor grammatical changes.

[Filed emergency 11/14/86, effective 11/14/86]

[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7212

TRANSPORTATION,
DEPARTMENT OF[820]

07 MOTOR VEHICLES

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2 as amended by 1986 Iowa Acts, Senate File 2175, sections 1909 and 1926, the Department of Transportation, on November 18, 1986, emergency adopted amendments to 820—[07,F] Chapter 8 entitled "Regulations Applicable to Carriers," Iowa Administrative Code.

This rule is being updated to reference the latest editions of the Code of Federal Regulations which contain the safety and hazardous materials regulations applicable to motor carriers.

Significant changes from the 1984 edition of the Federal Motor Carrier Safety Regulations (49 CFR 390-399) are as follows:

To the driver qualifications rules and the driving rules, added prohibitions against the transportation, possession, and use of drugs and other substances listed in Schedule I of the Drug Enforcement Administration's Schedules of Controlled Substances. This addition enables the motor carrier industry to reduce the risk

TRANSPORTATION, DEPARTMENT OF [820] (cont'd)

of driver intoxication or deviant behavior caused by Schedule I drugs and other substances, such as heroin, LSD, marijuana, mescaline, and peyote.

In the rules on driver's record of duty status, reinstated the twelve-hour limitation in the 100-mile-radius exemption from the record requirement and reinstated seven items previously deleted from recordkeeping, in compliance with an opinion of the U. S. Court of Appeals.

Significant changes from the 1984 edition of the hazardous materials regulations (49 CFR 107, 171-173, 177, and 178) are as follows:

Reclassified detonating cord to another explosive hazard class and permitted use of containers for packaging detonating cord.

Extended packaging and shipping alternatives, previously available only by exemption, to the general public.

Changed placarding and shipping paper requirements for "empty" tank cars containing residues of hazardous materials.

Permitted temporary operation of tank cars without required couplers.

Granted an exception for continued transportation of certain quantities of radioactive material in passenger-carrying aircraft.

Required special marking, labeling, packaging, placarding, and shipping for certain poisonous liquids with potentially severe inhalation hazards.

Clarified specification of personnel capabilities and external radiation limitations for exclusive-use shipments of radioactive materials.

Excepted certain low-level radioactive material from most hazardous materials requirements.

Adopted procedure for designating package-testing agencies.

The regulations referenced in this chapter of rules are published each year in three separate volumes of the Code of Federal Regulations — Parts 100-177 on November 1, Parts 178-199 on November 1, and Parts 200-399 on October 1 — and include all regulations that have become effective during the year. However, the volumes are not actually distributed and available for general use until four or five months after the publication date. Normal rule making would delay enforcement of these regulations until at least nine months after the regulations became effective.

Under Iowa Code subsection 17A.4(2), the Department finds that notice and public participation are contrary to the public interest because a delay in the adoption and enforcement of motor carrier safety and hazardous materials regulations would seriously endanger the safety of the general public. Notice is unnecessary and

redundant because all regulations and amendments have been subjected to notice and public participation before being adopted into the Code of Federal Regulations.

Under Iowa Code subparagraph 17A.5(2)"b"(2), the Department finds that adoption of these rule amendments confers a benefit on the public by permitting enforcement of the motor carrier safety and hazardous materials regulations that will significantly reduce the potential peril to the public safety.

Accordingly, these amendments became effective upon filing with the administrative rules coordinator on November 21, 1986. The identical amendments are also being submitted under normal rule-making procedures as **ARC 7213** to solicit public comment.

These rule amendments are intended to implement Iowa Code chapters 325, 327, 327A, and 327B.

The proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code subsection 17A.31(4), paragraphs "a" to "l." The administrative rules review committee, the governor, a political subdivision, at least twenty-five persons who qualify as a small business under Iowa Code section 17A.31, or an organization of small businesses representing at least twenty-five persons which is registered with the Department under section 17A.31 may request the issuance of a regulatory flexibility analysis. The request must:

1. Include the name, address, and telephone number of the person authoring the request.
2. Be submitted in writing to the Office of Financial/Operational Analysis at the address listed in this Notice.
3. Be delivered to this office or postmarked no later than twenty days after publication of this Notice in the Iowa Administrative Bulletin.

Proposed rule-making actions:

Amend subrule 8.1(1), paragraphs "a" and "b," as follows:

- a. Motor carrier safety regulations. The Iowa Department of Transportation adopts the Federal Motor Carrier Safety Regulations, 49 C.F.R. parts 390-399 (October 1, 1984/1985).
- b. Hazardous materials regulations. The Iowa Department of Transportation adopts the Federal Hazardous Materials Regulations, 49 C.F.R. parts 107, 171-173, 177, and 178 (November 1, 1984/1985).

[Filed emergency 11/20/86, effective 11/21/86]
[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7236**INSURANCE DIVISION[191]**

Pursuant to the authority of Iowa Code sections 505.8 and 514D.3, the Commissioner of Insurance adopts amendments to Chapter 36, "Individual Accident and Health - Minimum Standards," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 22, 1986, as **ARC 7039**.

There are no changes from the Notice of Intended Action.

This rule is intended to implement Iowa Code section 514D.3.

This rule will become effective January 21, 1987.

Subrule **191—36.4(2)**, paragraph "b," subparagraph (4) is amended as follows:

(4) Any military or veterans' hospital or soldiers' home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual. for such services:

[Filed 12/1/86, effective 1/21/87]

[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7217**PUBLIC HEALTH
DEPARTMENT[470]**

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby amends rules 470—Chapters 38, 39, 40, 41, and 42, Iowa Administrative Code, relating to radiation emitting equipment.

These rules were published as Notice of Intended Action, in the October 8, 1986, Iowa Administrative Bulletin, as **ARC 6997** and were adopted by the Board of Health on November 12, 1986.

These amendments do the following:

1. Establish a specific effective date for Chapters 38, 39, 40, and 41. These chapters were adopted in 1985 with an effective date based on a date established as a result of the Governor and the U.S. Nuclear Regulatory Commission's signing an agreement whereby Iowa would have the authority to regulate the use of radioactive materials used in the state. The agreement was consummated December 13, 1985.

2. Change the title of the radiation rules for purposes of clarity.

3. Add a new subrule to outline fees supporting changes set forth in Iowa Code chapter 136C as amended by 1986 Iowa Acts, chapter 1217.

4. Revise Chapter 42 to address continuing education, administration of examination, and disciplinary action for individuals other than licensed practitioners of the healing arts, physicians' assistants as defined in Iowa Code section 148C.1, subsection 6, and dental assistants certified by the Iowa Board of Dental Examiners, who

operate radiation machines or use radioactive material. Also, provisions are set forth regarding the establishment of a Technical Advisory Committee. These changes were necessary to address Iowa Code section 136C.3(2) as amended by 1986 Iowa Acts, chapter 1217. Also, the revision will include the removal of 470—42.1(4)"b"(4), which by clause in the rule subpart was rescinded two years after the rule effective date of January 13, 1983, and section 470—42.1(4)"d," which addressed "grandfathering."

The rules remain essentially the same as published in the Department's "Notice of Intended Action" except that 42.1(10) will be added to the last paragraph of Item 4. This change is with regard to the effective date of subrule 42.1(10) which was inadvertently omitted from the "Notice of Intended Action." Also, grammatical changes were made at the recommendation of Representative Clark.

These rules implement Iowa Code section 136C.3.

These rules shall become effective January 21, 1987, except for subrules 42.1(10) and 42.1(11) which will become effective July 1, 1987.

ITEM 1. Amend the title of the radiation rules, Title IV, as follows:

RADIATION EMITTING EQUIPMENT to RADIATION MACHINES AND RADIOACTIVE MATERIALS.

ITEM 2. Amend rules **38.18(136C)**, **39.94(136C)**, **40.24(136C)**, and **41.7(136C)** by inserting at the end of each rule the following sentence:

The agreement was effective January 1, 1986.

ITEM 3. Amend rule 38.13(136C), by adding the following new subrule:

38.13(5) Diagnostic radiographers. General and limited diagnostic radiographers, other than licensed practitioners of the healing arts, are required to pay fees sufficient to defray the cost of administering rule 42.1(136C). Fees are as follows:

a. Annual fee: Each individual must submit a thirty dollar (\$30) initial fee for the first year and twenty dollars (\$20) annually in the form of a money order or check made payable to the Iowa department of public health.

b. Examination fee:

(1) Each individual making application to take an examination given by the department as a general radiographer or a limited radiographer under 42.1(4)"b"(3), must pay a nonrefundable fee of fifteen dollars (\$15) each time that individual takes the examination required by this chapter.

(2) Each individual making application to take an examination given by the department as a limited radiographer under 42.1(4)"b"(1) or 42.1(4)"b"(2) must pay a nonrefundable fee of twenty-five dollars (\$25) each time that the individual takes the examination required by this chapter.

c. The effective date for subrule 38.13(5) is January 21, 1987.

ITEM 4. Rescind chapter 42 and insert in lieu thereof the following:

CHAPTER 42**OPERATING PROCEDURES AND STANDARDS
FOR USE OF RADIATION EMITTING EQUIPMENT**

PUBLIC HEALTH DEPARTMENT[470] (cont'd)

470—42.1(136C) Minimum training standards for diagnostic radiographers.**42.1(1) Definitions.**

"Approved course of study" means a curriculum and associated training and testing materials which the agency has determined are adequate to train students to meet the requirements of 42.1(136C).

"Clinical education" means the direct participation of the student in completion of diagnostic studies.

"Contrast media" means material intentionally administered to the human body to define a part(s) which is not normally visualized radiographically.

"Diagnostic radiography" means the science and art of applying X-radiation to human beings for diagnostic purposes other than in dental radiography. It shall include adjustment or manipulation of X-ray equipment and appurtenances including image receptors, positioning of patients and processing of films so as to materially affect the radiation exposure of patients.

"Licensed practitioner" means a person licensed or otherwise authorized by law to practice medicine, osteopathy, chiropractic, podiatry, dentistry, or dental hygiene, or certification as a physician's assistant as defined in Iowa Code section 148C.1, subsection 6.

"Student" means a person enrolled in and participating in an approved course of study.

"Supervision" means responsibility for and control of quality, radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"X-radiation" means penetrating electromagnetic radiation with energy greater than 0.1 kV produced by bombarding a metallic target with fast electrons in a high vacuum.

42.1(2) Types of operators.

a. "General diagnostic radiographer" means a person, other than a licensed practitioner, who applies X-radiation to any part of the human body for diagnostic purposes while under the supervision of a licensed practitioner.

b. "Limited diagnostic radiographer" means a person, other than a licensed practitioner or dental radiographer, who applies X-radiation to one specific body part while under the supervision of a licensed practitioner. The exceptions to the one-body-part restriction are:

(1) The limited diagnostic radiographer may perform both chest and extremity radiographic examinations if that individual has received appropriate clinical experience during the didactic training required under 42.1(4)"b" and 42.1(5)"b," and

(2) When an individual gains the status of a limited diagnostic radiographer as outlined in 42.1(4)"b"(2), (3), or (4), that individual may perform the permitted radiographic procedures.

c. "Conditional diagnostic radiographer (hardship)" means a diagnostic X-ray machine operator who has minimal clinical competency but does not fully meet the appropriate requirements of 42.1(3) and 42.1(4) or is not otherwise covered under 42.1(5), 42.1(6), or 42.1(8), but in which case there is substantial evidence that the people in the locality of the state in which this exemption is sought, would be denied adequate health care because of the unavailability of appropriately qualified persons under 42.1(136C). A conditional exemption shall be granted for limited periods of time to be prescribed by the agency at the agency's discretion and in accordance with the purposes of 42.1(136C). A conditional diagnostic

radiographer shall be limited by the agency to those rights specified in the exemption notice and be under the direct supervision of a licensed practitioner.

42.1(3) Minimum eligibility requirements.

a. Graduation from high school or its equivalent.

b. Attainment of eighteen (18) years of age.

c. Ability to adequately perform necessary duties without constituting a hazard to the health or safety of patients or operators.

42.1(4) Training requirements.

a. General diagnostic radiographer. Successful completion of a Committee on Allied Health Education and Accreditation approved course of study or equivalent to prepare the student to demonstrate competency in the following areas:

(1) Radiation protection of patients and workers, including monitoring, shielding, units of measurement and permissible levels, biological effects of radiation, and technical consideration in reducing radiation exposure and frequency of retakes;

(2) Technique and quality control to achieve diagnostic objectives with minimum patient exposure, including X-ray examinations, X-ray production, films, screens, holders and grids, technique conversions, film processing, artifacts, image quality, film systems, and control of secondary radiation for the specified category;

(3) Patient care, including but not limited to, aseptic techniques, emergency procedures and first aid, and contrast media;

(4) Positioning, including normal and abnormal anatomy and projections;

(5) Radiographic equipment and operator maintenance to include X-ray tubes, grids, standardization of equipment, generators, preventive maintenance, basic electricity, film processors and maintenance, collimators, X-ray control consoles, tilt tables, ancillary equipment, fluoroscopes, and electrical and mechanical safety;

(6) Special techniques, including stereo, body section radiography, pelvimetry, image intensification, photo timing, and mobile units; and

(7) Clinical experience sufficient to demonstrate competency in the application of the above as specified in the revised 1978 edition of the "Essentials and Guidelines of an Accredited Education Program for the Radiographer" of the American Medical Association's Committee on Allied Health Education and Accreditation.

b. Limited diagnostic radiographer.

(1) Completion of an approved course of study to prepare the student to demonstrate competency in the following areas:

1. Radiation protection of patients and workers including monitoring, shielding, units of measurement and permissible levels, biological effects of radiation, and technical considerations in reducing radiation exposure and frequency of retakes;

2. Technique and quality control to achieve diagnostic objectives with minimum patient exposure to include X-ray examination, X-ray production, films, screens, holders and grids, technique conversions, film processing, artifacts, image quality, film systems, and control of secondary radiation for the specified category;

3. Patient care, including but not limited to, aseptic techniques, emergency procedures, and first aid;

4. Positioning, including normal and abnormal anatomy and projections for the specific category;

PUBLIC HEALTH DEPARTMENT[470] (cont'd)

5. Radiographic equipment and operator maintenance to include X-ray tubes, grids, standardization of equipment, generators, preventive maintenance, basic electricity, film processors and maintenance, collimators, X-ray control consoles, tilt tables, ancillary equipment, fluoroscopes, and electrical and mechanical safety;

6. Special techniques limited to those required by the specific category; and

7. Clinical experience sufficient to demonstrate competency in the application of the above as specified in the revised 1978 edition of the "Essentials and Guidelines of an Accredited Educational Program for the Radiographer" of the American Medical Association's Committee on Allied Health Education and Accreditation.

(2) An individual may apply X-radiation to more than one specific part of the human body for diagnostic purposes if the individual meets the requirements of 42.1(4)"b"(1) and 42.1(5)"b" and receives a course of clinical training approved by the department from a radiologist who then certifies the individual's competency to perform certain specific radiographic procedures. The individual may only perform those diagnostic radiographic procedures certified by the radiologist. The following information and statements will need to be provided to the department:

1. The diagnostic radiographic procedures which the individual may perform;

2. The name and qualifications of the certifying radiologist and a list of the body part(s) and projection(s) they have-certified the individual to perform;

3. If the individual has not successfully completed a training program which meets the requirements set forth in 42.1(4)"b" and 42.1(5)"b," a letter from the institution providing didactic training which indicates the employee's enrollment status and course dates; and

4. Permission for a representative of the Iowa department of public health to comprehensively evaluate whether the individual meets the training standard.

(3) An individual employed in a diagnostic radiography facility which has a work load of less than five thousand (5,000) examinations per year and which provides twenty-four (24)-hour service in a hospital will be permitted to apply X-radiation to any part of the human body at that facility if the individual completes a training program recognized by the department, as outlined in 42.1(4)"b"(1) and 42.1(5)"b" and has received clinical training from a radiologist who then certifies in writing the specific procedures the individual is competent to perform. The training program must cover the areas outlined in 42.1(4)"b," the anatomy and physiology of the entire body, positioning and techniques relative to the procedures to be performed, and appropriate clinical training which includes all parts of the human body. The certifying radiologist must be directly responsible for the individual's clinical training.

c. Certification by the American Registry of Radiologic Technologists or the American Registry of Clinical Radiography Technologists meets the minimum requirements of 42.1(136C).

42.1(5) School accreditation.

a. Graduates of schools accredited by the Committee on Allied Health Education and Accreditation who have successfully completed an appropriate course of study in diagnostic radiography will be considered to meet the requirements of 42.1(2)"a."

b. Graduates of programs recognized by the Iowa department of public health in consultation with the professional societies and boards of examiners for appropriate course of study in diagnostic radiography will be considered to meet the requirements of 42.1(2)"b."

42.1(6) Exemptions.

a. Students enrolled in and participating in an approved program or approved course of study for diagnostic radiography or an approved school of medicine, osteopathy, podiatry, and chiropractic, who as a part of their course of study, apply ionizing radiation to a human being while under the supervision of a licensed practitioner. The projected completion date of the program or course of study shall be within a time period equal to or less than twice that required for a full-time student.

b. Licensed practitioners as defined in 42.1(1).

c. Conditional diagnostic radiographer as defined under 42.1(2)"c."

42.1(7) Enforcement.

a. Any individual, except a licensed practitioner defined in subrule 42.1(1), who operates X-ray equipment in the practice of diagnostic radiography shall meet the requirements of 42.1(136C).

b. Any person including a licensed practitioner defined in 42.1(1)"e" who employs an individual in the practice of diagnostic radiography may do so only if that individual meets the requirements of 42.1(136C).

42.1(8) Reciprocity. Any person who is the holder of a current certificate in diagnostic radiography issued by another state, jurisdiction, agency, or recognized professional registry may be considered by the agency to meet the requirements of 42.1(136C), provided that the agency finds that the standards and procedures for certification in the state, jurisdiction, agency, or recognized professional registry which issued the certificate, afford protection to the public equivalent to that afforded by 42.1(136C).

42.1(9) Technical advisory committee.

a. The department shall establish a technical advisory committee made up of two (2) radiologic technologists, two (2) physicians, including one (1) radiologist and one (1) private practitioner, and a representative of the department.

b. The advisory committee shall assist the department in developing and establishing criteria for continuing education and examinations.

42.1(10) Examinations.

a. All individuals, except licensed practitioners, seeking to perform diagnostic radiography must in addition to 42.1(4), take and satisfactorily pass a written examination including the following subject matter for each category of radiographer:

(1) General radiographer and limited radiographer under provisions of 42.1(4)"b"(3)—radiation protection, radiation physics, radiographic and fluoroscopic techniques, special procedures, patient care, positioning, equipment maintenance, anatomy, contrast media, physiology, quality control, radiographic processing, and clinical experience.

(2) Limited radiographer under the provisions of 42.1(4)"b"(1) or 42.1(4)"b"(2)—radiation protection, radiation physics, radiographic techniques, patient care, positioning, equipment maintenance, anatomy, physiology, quality control, and radiographic processing and clinical experience for the specific permit to practice requested.

PUBLIC HEALTH DEPARTMENT[470] (cont'd)

(3) Contents of the examinations will be established and periodically revised by the department in consultation with the technical advisory committee.

b. Examinations will be given by the department at least annually, or as necessary, at course of study location or other location determined by the department.

c. The department may accept, in lieu of its own examination, evidence of satisfactory performance in an examination given by an appropriate organization or testing service provided that the department finds the organization or service to be competent to examine applicants in the discipline of radiography. For purposes of this subrule, persons who are registered with the American Registry of Radiologic Technologists or American Registry of Clinical Radiography Technologists meet the testing requirements of 42.1(10).

42.1(11) Continuing education.

a. Each individual, other than a licensed practitioner, who operates diagnostic X-ray equipment shall, during a two (2)-year period, obtain continuing education credit as follows:

(1) General diagnostic radiographer—twenty-four (24)-clock hours.

(2) Limited diagnostic radiographer under the provisions of 42.1(4)"b"(3)—twenty-four (24)-clock hours.

(3) Limited diagnostic radiographer under the provisions of 42.1(4)"b"(1) or 42.1(4)"b"(2)—twelve (12)-clock hours.

b. Continuing education course approval.

(1) Thirty (30) days prior to conducting a continuing education course, the sponsoring person must submit the following:

1. The course objectives.

2. An outline of the course which sets forth the subject to be given, the course content, and the length of the course in clock hours.

3. The instructor's name and resume.

(2) Following its review, the department may, in consultation with or under predetermined guidance of the technical advisory committee, approve, disapprove, or request additional information on the proposed course.

(3) The department may, from time to time, audit the continuing education course to verify the adequacy of program content and delivery.

(4) The department will recognize continuing education courses approved for credit by the American Society of Radiologic Technologists or the American Registry of Clinical Radiography Technologists.

c. Continuing education credit will be awarded under provisions of 42.1(11)"b" by the department to individuals:

(1) Who have successfully completed a continuing education course which has been approved by the department.

(2) Who present a continuing education course to diagnostic radiographers which has been approved by the department. Credit granted shall be at a rate of two (2) times the amount of time it takes to present the course.

(3) Only once during a two (2) -year period for the same continuing education course.

d. All continuing education must be directly related to diagnostic radiography.

e. It is required that proof of receiving continuing education be retained at each individual's place of employment for review by representatives of this department. Proof of continuing education must be maintained for at least three (3) years.

These rules shall be effective January 21, 1987, except for subrules 42.1(10) and 42.1(11) which shall be effective July 1, 1987.

[Filed 11/24/86, effective 1/21/87]

[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7223

REGENTS, BOARD OF[720]

Pursuant to the authority of Iowa Code section 262.9, subsections 3 and 7, the Board of Regents hereby amends Chapter 8, "Purchasing," Iowa Administrative Code.

The rule provides for the divestiture of instruments of ownership currently held by regent institutions, the disposition of such securities if subsequently received, and the prohibition of deposits in financial institutions doing business in or with the Republic of South Africa as defined under 1985 Iowa Code supplement chapter 12A.

This rule was submitted as a Notice of Intended Action on September 5, 1986, and was published in the Iowa Administrative Bulletin on September 24, 1986, as ARC 6947.

No comments were received at the public hearing held on October 17, 1986, and no revisions have been made.

The rule was adopted on November 20, 1986, and will become effective on January 21, 1987.

This rule implements 1985 Iowa Code supplement chapter 12A.

Amend rule 720—8.2(262) by adding the following new subrule:

8.2(5) South Africa divestiture. The treasurers of the institutions under the control of the state board of regents shall not purchase instruments of ownership in companies doing "business with or in" the Republic of South Africa, as defined in Iowa Code supplement chapter 12A. In the event such instruments are received by the institutions, they shall be disposed of in accordance with Iowa Code supplement chapter 12A. The treasurers of the institutions shall not deposit funds in a financial institution doing business "with or in South Africa," as defined in Iowa Code supplement chapter 12A.

[Filed 11/26/86, effective 1/21/87]

[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7229

REVENUE AND FINANCE DEPARTMENT[701]

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue and Finance hereby adopts amendments to Chapter 10, "Interest, Penalty, and Exceptions to Penalty," Iowa Administrative Code.

Notice of Intended Action was published in Iowa Administrative Bulletin, Volume IX, Number 9, on October 22, 1986, as ARC 7057.

This amendment is proposed in order to implement Iowa Code section 421.7 as amended by 1986 Iowa Acts,

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

chapter 1007, section 16. This Code section requires the Director of Revenue and Finance to determine the interest rate for each calendar year. The Director has determined that the rate of interest on interest bearing taxes arising under Iowa Code Title XVI shall be nine percent (9%) for the calendar year 1987. The interest rate is the average prime rate charged by banks on short term business loans as published in the Federal Reserve Bulletin for the twelve (12)-month period ending September 30, 1986. For the past twelve (12) months, the average prime rate was nine percent (9%).

The nine percent (9%) annual rate is equivalent to an interest rate of 0.8 percent per month on all outstanding taxes. The rate will be applied to all taxes owing or becoming payable on or after January 1, 1987. Under Iowa law, each fraction of a month is considered a whole month when interest is computed. When required to pay interest on taxpayers' refunds, the Department will also pay interest at the nine percent (9%) rate on refunds owing or becoming payable on or after January 1, 1987.

These rules are identical to those published under Notice of Intended Action. The amendments will become effective January 21, 1987, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The amendment is intended to implement Iowa Code chapter 421, as amended by 1986 Iowa Acts, House File 764.

The following is adopted.

ITEM 1. Amend rule 701—10.2(421) by adding new subrule 10.2(6):

10.2(6) Calendar year 1987. The interest upon all unpaid taxes which are due as of January 1, 1987, will be nine percent (9%) per annum (eight-tenths percent (0.8%) per month). This interest rate will accrue on taxes which are due and unpaid as of, or after January 1, 1987. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless whether the tax to be refunded is due before, on, or after January 1, 1987. This interest rate of nine percent (9%) per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1987.

ITEM 2. Amend the implementation clause of rule 701—10.2(421) to read as follows:

This rule is intended to implement Iowa Code section 421.7 as amended by 1986 Iowa Acts, chapter 1007, section 16.

[Filed 11/26/86, effective 1/21/87]
[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7214
TRANSPORTATION,
DEPARTMENT OF[820]
06 HIGHWAYS

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2 as amended by 1986 Iowa Acts, Senate File 2175, sections 1909 and 1926, the Department of Transportation, on November 18, 1986, rescinded 820—[06,P] Chapter 4, "General Requirements for Bikeway and Walkway Facilities" and adopted 820—[06,A] Chapter 2, "Bikeways and Walkways," Iowa Administrative Code.

A Notice of Intended Action for these rules was published in the October 8, 1986, Iowa Administrative Bulletin as ARC 6995.

These rules amend the ban against motorized vehicles on bikeways and walkways to permit handicapped persons to operate motorized wheelchairs, carts, or similar vehicles. The rules have been rewritten to eliminate repetition.

These rules are identical to the ones published under Notice and are intended to implement Iowa Code chapter 308A.

These rules will become effective January 21, 1987.

Rule-making actions:

ITEM 1. Rescind 820—[06,P] Chapter 4.

ITEM 2. Adopt 820—[06,A] Chapter 2 as follows:

CHAPTER 2
BIKEWAYS AND WALKWAYS

820—[06,A]2.1(308A) General requirements. All proposed bikeway and walkway construction projects shall meet the following requirements.

2.1(1) The bikeway or walkway is part of a plan which has been reviewed and approved by the department of natural resources.

2.1(2) The proposed facility will not impair the safety of the motorist, bicyclist, or pedestrian.

2.1(3) A public agency other than the department has formally agreed to operate and maintain the facility.

2.1(4) The responsible public agency has agreed to ban all motorized vehicles except:

a. Maintenance vehicles.

b. Motorized wheelchairs, carts, or similar vehicles used exclusively by handicapped persons.

c. Snowmobiles where permitted by state and local laws.

2.1(5) The initiating public agency can reasonably predict that the bikeway or walkway will have sufficient use to justify its construction and maintenance.

820—[06,A]2.2(308A) Specific construction requirements.

2.2(1) Primary road construction project. The department may design and construct a bikeway or walkway as an incidental part of a primary road construction or reconstruction project if the inclusion is requested by a public agency or determined to be viable by the department.

2.2(2) Within existing right-of-way of the primary system. Upon approval of a proper agreement, the department may authorize a public agency to design and construct a bikeway or walkway within the right-of-way of an existing segment of the federal-aid primary road system.

2.2(3) Federal-aid secondary system. When requested by a county, the department may authorize the county, or other public agency under agreement with the county, to design and construct a bikeway or walkway as an incidental feature of a federal-aid secondary construction project or on an existing segment of the federal-aid secondary system.

2.2(4) Federal-aid urban system. When requested by an urban area (over 5,000 population), the department may authorize the design and construction of a bikeway or walkway as an incidental feature of a federal-aid construction project or on an existing segment of the federal-aid urban system.

TRANSPORTATION, DEPARTMENT OF[820] (cont'd)

820—[06,A]2.3(308A) Funding and authorization.

2.3(1) When federal funding is used for a bikeway or walkway project, the responsible public agency shall provide the matching funds required.

2.3(2) Any authorization for a bikeway or walkway which uses federal funds is subject to the regulations specified in the "Federal-Aid Program Manual," volume 6, chapter 2, section 5, subsection 2.

These rules are intended to implement Iowa Code chapter 308A.

[Filed 11/20/86, effective 1/21/87]
[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

ARC 7237

VETERINARY MEDICINE, BOARD OF[842]

Pursuant to the authority of Iowa Code section 169.5, subsections 8 and 9, the Board of Veterinary Medicine hereby adopts an amendment to Chapter 2 of the Iowa Administrative Code entitled "Application for Licensure."

Notice of Intended Action was published in the Iowa Administrative Bulletin October 22, 1986, as ARC 7036. Public comments were solicited until November 11, 1986, and no comments or suggestions were received.

This rule is identical to that published under Notice except for the removal of the word "such" in the first paragraph of rule 2.2(169).

This rule is intended to implement Iowa Code section 169.5 and shall become effective May 1, 1987.

The following amendment is adopted:

Rescind rule 842—2.2(169) and insert the following in lieu thereof:

842—2.2(169) Fee schedule. The following fees shall be collected by the board and shall not be refunded except by board action in unusual instances such as documented illness of the applicant, death of the applicant, inability of the applicant to comply with the rules of the board, or withdrawal of application provided withdrawal is received in writing forty-five (45) days prior to the examination date. Examination fees shall be nontransferable from one examination to another.

The fee for the National Board Examination (NBE) or Clinical Competency Test (CCT), utilized by the board as a part of their examination process, shall be the fees charged that year by the Professional Examination Service (PES) and approved by the board, plus the costs incurred by the board for administration of the NBE or CCT examination.

Based on the board's anticipated financial requirements, the following fees are hereby adopted:

- State Board Examination (SBE) \$50.00
National Board Examination (NBE)
..... cost of PES plus \$10.00
Clinical Competency Test (CCT)
..... cost of PES plus \$10.00
Iowa resident, NBE or CCT only
..... administrative fee of \$10.00
Non-Iowa resident, taking NBE or CCT
only..... administrative fee of \$25.00
Triennial license \$45.00
Reciprocal license \$60.00
Duplicate license \$15.00
Temporary permit..... \$25.00

This rule is intended to implement Iowa Code section 169.5.

[Filed 12/1/86, effective 5/1/87]
[Published 12/17/86]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 12/17/86.

PERSONNEL DEPARTMENT[581]

At its November meeting the Administrative Rules Review Committee voted to object to that portion of 581 IAC 1.1 which relates to the definition of a confidential employee. It is the opinion of the committee this definition is unreasonable in that it overly restricts the availability of confidential secretaries. This definition appears as part of ARC 7103 and is published in IX IAB 10 (11-5-86).

This rule in pertinent part provides a confidential employee is the secretary of an elected official. All other secretaries are not defined as confidential and are protected by the merit provisions of Chapter 19A, Iowa Code. In the committee's opinion this definition is too narrow and should be broadened to include the secretary of the deputy official and the secretaries of the division heads.

The authority for this rule is found in Senate File 2175, section 205, which re-defined the exemptions from the merit system. Part of this re-definition included the elimination of the following language:

"3. Three principal assistants or deputies for each elective official and one stenographer or secretary for each elective official and each principal assistant or deputy thereof, also all supervisory employees and their confidential assistants."

While this specific exemption was deleted from Chapter 19A, S.F. 2175 added a generic exclusion for "all confidential employees". The committee believes that the deletion of section 19A.3(3) did not mean that all division level or higher secretaries were to be covered by merit. The committee believes that the re-write of section 19A.3 was intended to reduce the number of automatic exemptions (from twenty-four to seventeen) and to vest in the Personnel Department authority to create exemptions as needed in particular situations.

The committee feels that deputy and division level secretaries are within those "particular situations" where the department should provide an exemption by rule. Agencies headed by elected officials are unique. The management of those agencies is based on agenda developed by a political as well as administrative process. The highest level managers and their immediate staff should be directly accountable to the official who campaigned on that agenda and they should be expected to have some loyalty for that agenda.

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