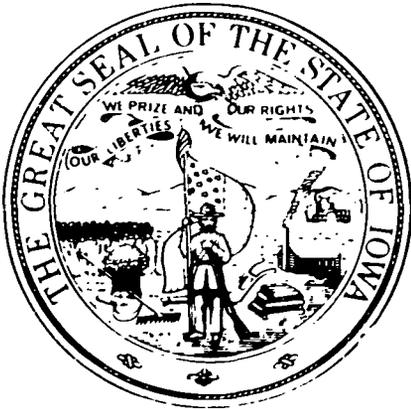


Jana Wilson



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IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

**VOLUME X
September 9, 1987**

**NUMBER 6
Pages 381 to 472**

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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 of 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
DONNA WATERS, Administrative Code Assistant

Phone: (515) 281-3355
(515) 281-8157

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
7	Friday, September 4, 1987	September 23, 1987
8	Friday, September 18, 1987	October 7, 1987
9	Friday, October 2, 1987	October 21, 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, 1987, to June 30, 1988	\$146.00 plus \$5.84 sales tax
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Fourth quarter	April 1, 1988, to June 30, 1988	\$ 37.00 plus \$1.48 sales tax

Single copies may be purchased for \$4.50 plus \$0.18 tax. Back issues may be purchased if the issues are available.

Iowa Administrative Code

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

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

Iowa Administrative Code - \$770.00 plus \$30.80 sales tax
(Price includes Volumes I through XII, index and binder, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders can be purchased for \$3.30 plus \$0.13 tax.)

Iowa Administrative Code Supplement - \$232.00 plus \$9.28 sales tax
(Subscription expires June 30, 1988)

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Des Moines, IA 50319
Phone: (515) 281-8796

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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. 9	Jan. 28	Feb. 17	Mar. 4	Mar. 25	Apr. 29	July 27
Jan. 23	Feb. 11	Mar. 3	Mar. 18	Apr. 8	May 13	Aug. 10
Feb. 6	Feb. 25	Mar. 17	Apr. 1	Apr. 22	May 27	Aug. 24
Feb. 20	Mar. 11	Mar. 31	Apr. 15	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	July 15	Aug. 19	Nov. 16
May 15	June 3	June 23	July 8	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	Aug. 12	Sep. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 26	Sep. 30	Dec. 28
June 26	July 15	Aug. 4	Aug. 19	Sep. 9	Oct. 14	Jan. 11 '88
July 10	July 29	Aug. 18	Sep. 2	Sep. 23	Oct. 28	Jan. 25 '88
July 24	Aug. 12	Sep. 1	Sep. 16	Oct. 7	Nov. 11	Feb. 8 '88
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 21	Nov. 25	Feb. 22 '88
Aug. 21	Sep. 9	Sep. 29	Oct. 14	Nov. 4	Dec. 9	Mar. 7 '88
Sep. 4	Sep. 23	Oct. 13	Oct. 28	Nov. 18	Dec. 23	Mar. 21 '88
Sep. 18	Oct. 7	Oct. 27	Nov. 11	Dec. 2	Jan. 6 '88	Apr. 4 '88
Oct. 2	Oct. 21	Nov. 10	Nov. 25	Dec. 16	Jan. 20 '88	Apr. 18 '88
Oct. 16	Nov. 4	Nov. 24	Dec. 9	Dec. 30	Feb. 3 '88	May 2 '88
Oct. 30	Nov. 18	Dec. 8	Dec. 23	Jan. 13 '88	Feb. 17 '88	May 16 '88
Nov. 13	Dec. 2	Dec. 22	Jan. 6 '88	Jan. 27 '88	Mar. 2 '88	May 30 '88
Nov. 27	Dec. 16	Jan. 5 '88	Jan. 20 '88	Feb. 10 '88	Mar. 16 '88	June 13 '88
Dec. 11	Dec. 30	Jan. 19 '88	Feb. 3 '88	Feb. 24 '88	Mar. 30 '88	June 27 '88
Dec. 25	Jan. 13 '88	Feb. 2 '88	Feb. 17 '88	Mar. 9 '88	Apr. 13 '88	July 11 '88

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 5, 1986, the Task Force presented a report to the Governor. The Governor has accepted the Task Force recommendations on agency procedure for rule making which have been printed at the front of the Iowa Administrative Code for adoption by state agencies. [Green Tab — Uniform Rules]

To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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Consumer rental purchase agreement forms, ch 19 IAB 8/26/87 ARC 7869	Conference Room Second Floor Hoover State Office Bldg. Des Moines, Iowa	September 17, 1987 10 a.m.
Regulation of membership campgrounds, ch 25 IAB 9/9/87 ARC 7899	Conference Room Second Floor Hoover State Office Bldg. Des Moines, Iowa	October 13, 1987 9 a.m.
COMMUNITY ACTION AGENCIES DIVISION[427]		
Weatherization assistance program, ch 5 IAB 9/9/87 ARC 7908	Conference Room Ground Level Lucas State Office Bldg. Des Moines, Iowa	September 29, 1987 9:30 a.m.
Low-income home energy assistance program, ch 10 IAB 9/9/87 ARC 7893 (See also ARC 7894)	Conference Room First Floor Lucas State Office Bldg. Des Moines, Iowa	September 30, 1987 10:30 a.m.
EDUCATION DEPARTMENT[670]		
Evaluator approval, ch 81 IAB 9/9/87 ARC 7900	State Board Room Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 30, 1987 9 a.m.
ELDER AFFAIRS DEPARTMENT[321]		
Miscellaneous amendments to chs 1 to 9 IAB 9/9/87 ARC 7895	Conference Room 914 Grand Ave. Room 236 Des Moines, Iowa	October 15, 1987 10 a.m.
ENGINEERING AND LAND SURVEYING EXAMINING BOARD[390]		
Property surveys, definitions, 2.1, 2.2 IAB 8/26/87 ARC 7853	Examining Board Offices 1918 S.E. Hulsizer Ave. Ankeny, Iowa	September 22, 1987 10 a.m.
ENVIRONMENTAL PROTECTION COMMISSION [567]		
PCB maximum contaminant level, 143.6 IAB 8/12/87 ARC 7837	Conference Room Geological Survey Bureau 125 North Capitol Iowa City, Iowa	September 9, 1987 3 p.m.
	Community Hall Room 205 South Main Council Bluffs, Iowa	September 10, 1987 3 p.m.
Criteria for siting low-level radioactive waste disposal facilities, ch 152 IAB 9/9/87, ARC 7917	Trowbridge Hall Geological Survey Bureau 123 North Capitol Iowa City, Iowa	October 1, 1987 1 p.m.
	Conference Room Fifth Floor Wallace State Office Bldg. Des Moines, Iowa	October 2, 1987 1 p.m.
	Continuing Education Bldg. Iowa Western Community College 2700 College Road Council Bluffs, Iowa	October 6, 1987 11 a.m.

GENERAL SERVICES DEPARTMENT [450]

Capitol grounds curfew,
1.6 (13)
IAB 9/9/87 ARC 7923
(See also ARC 7760 IAB 7/15/87)

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

October 1, 1987
9 a.m.

HUMAN SERVICES DEPARTMENT [441]

Rehabilitation and residential
facilities, amendments to
chs 79, 81, 150, 156 and 172
IAB 9/9/87 ARC 7886
(See also ARC 7739 IAB 7/15/87)

Conference Room
First Floor
Hoover State Office Bldg.
Des Moines, Iowa

September 30, 1987
1 p.m.

LABOR SERVICES DIVISION[347]

Boiler inspections and certificates, fees,
ch 42
IAB 9/9/87 ARC 7920

Division of Labor Services
1000 East Grand Ave.
Des Moines, Iowa

September 30, 1987
9 a.m.

Hazardous chemicals risks
right-to-know, amendments
to chs 110, 120, 130, and 140
IAB 9/9/87 ARC 7925
(See also ARC 7778 IAB 7/29/87)

Division of Labor Services
1000 East Grand Ave.
Des Moines, Iowa

October 5, 1987
1 p.m.
(If requested)

NATURAL RESOURCES DEPARTMENT[561]

Groundwater hazard documentation,
amendments to ch 9
IAB 9/9/87 ARC 7919
(See also ARC 7769 IAB 7/29/87)
(See also ARC 7847 IAB 8/26/87)

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

September 30, 1987
1 p.m.

NATURAL RESOURCE COMMISSION[571]

Water recreation access cost-share program,
ch 30
IAB 8/26/87 ARC 7877

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

September 17, 1987
10 a.m.

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

September 15, 1987
11 a.m.

State park user fees, amendments to ch 65
IAB 8/26/87 ARC 7876

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

September 15, 1987
10 a.m.

Fishing regulations, 81.1, 81.2
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Conference Room
Fourth Floor
Wallace State Office Bldg.
Des Moines, Iowa

September 15, 1987
10 a.m.

PUBLIC DEFENSE DEPARTMENT[650]

State emergency response
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IAB 7/29/87 ARC 7793
(See also ARC 7792)

Office of Disaster Services
Room A29
Hoover State Office Bldg.
Des Moines, Iowa

September 9, 1987
9 a.m.
(If requested)

State emergency response
commission, ch 103
IAB 9/9/87 ARC 7889
(See also ARC 7890)

Office of Disaster Services
Room A29
Hoover State Office Bldg.
Des Moines, Iowa

October 2, 1987
9 a.m.
(If requested)

PUBLIC HEALTH DEPARTMENT[641]

Lead abatement program,
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Fourth Floor
Lucas State Office Bldg.
Des Moines, Iowa

September 29, 1987
2 p.m.

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IAB 8/26/87 ARC 7851

Examining Board Offices
1918 S.E. Hulsizer Ave.
Ankeny, Iowa

September 15, 1987
10 a.m.

Administrative procedures, ch 2
IAB 8/26/87 ARC 7852

Examining Board Offices
1918 S.E. Hulsizer Ave.
Ankeny, Iowa

September 15, 1987
10 a.m.

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IAB 8/26/87 ARC 7850

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

September 18, 1987
10 a.m.

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Alternative voting systems,
amendments to ch 10
IAB 9/9/87 ARC 7888

Secretary of State Offices
First Floor
State Capitol
Des Moines, Iowa

September 29, 1987
1:30 p.m.

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Aeronautics administration,
ch 700
IAB 7/15/87 ARC 7765

Department of
Transportation Complex
800 Lincoln Way
Ames, Iowa

September 1, 1987

Iowa airport registration,
ch 720
IAB 7/15/87 ARC 7766

Department of
Transportation Complex
800 Lincoln Way
Ames, Iowa

September 1, 1987

Driver licenses—
physically handicapped, 600.16
IAB 7/29/87 ARC 7767

Department of
Transportation Complex
800 Lincoln Way
Ames, Iowa

September 18, 1987

Highway and bridge
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IAB 9/9/87 ARC 7892

Department of
Transportation Complex
800 Lincoln Way
Ames, Iowa

October 20, 1987

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IAB 8/12/87 ARC 7839

Department of Transportation
Complex
800 Lincoln Way
Ames, Iowa

October 20, 1987

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IAB 8/12/87 ARC 7840
(See also ARC 7841)

Department of Transportation
Complex
800 Lincoln Way
Ames, Iowa

October 20, 1987

AGENCY IDENTIFICATION NUMBERS

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

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

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

Other agencies are included alphabetically in lowercase type at the left-hand margin, e.g., Beef Industry Council, Iowa [101].

Implementation of reorganization is continuing and the following list will be updated as changes occur:

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Agricultural Development Authority[25]

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AUDITOR OF STATE[81]

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CAMPAIGN FINANCE DISCLOSURE COMMISSION[121]

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ARC 7899**ATTORNEY GENERAL [61]**

DEPARTMENT OF JUSTICE

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 1987 Iowa Acts, House File 520, the Attorney General hereby gives Notice of Intended Action to adopt Chapter 25, "Regulation of Membership Campground Operators," Iowa Administrative Code.

House File 520, which became effective on July 1, 1987, requires that certain persons who offer or sell membership campground contracts in this state must first register with the Attorney General's office. Rule 61-25.3(72GA, HF520) Registration, which was previously emergency adopted and published in the Iowa Administrative Bulletin, August 26, 1987, as **ARC 7868**, establishes the procedure and filing fees for registration, amendment and renewal of a registration.

The legislation also provides for administrative sanctions against a person who engages in an activity proscribed by the statute. These sanctions include denial, suspension, or revocation of a registration or the imposition of a penalty not to exceed \$5,000 or both. The rules establish a procedure whereby a person who has been charged with violating certain statutory prohibitions may request an administrative hearing. Such contested cases will be prosecuted by a representative of the consumer protection division and will be heard before an independent hearing officer. The hearing officer will issue a proposed decision which becomes final unless further review is sought before the Attorney General.

The third major part of these rules governs the types of advertising used by persons who engage in the business of offering or selling membership campground contracts in this state. The proposed rules would proscribe the use of untrue statements of material fact in any advertisement. Frequently, membership campground operators offer consumers various items of merchandise or other property in order to induce the consumer to visit the campground and listen to a sales presentation. These proposed rules would prohibit the use of false or misleading representations in connection with such inducements. In addition, the rules as proposed would require that advertisements contain certain disclosures including the consumer's odds of receiving each item offered as well as all restrictions, qualifications, or other conditions a consumer must satisfy in order to receive an offered item. There is also a proposed rule specifically relating to the disclosures an advertiser must make if a vacation is offered as an inducement.

The Attorney General has concluded that these rules may have an impact on small business and pursuant to Iowa Code section 17A.31 will consider the impact of these rules on small businesses. These rules will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any interested person may make written suggestions or comments on these rules prior to October 13, 1987. Such written materials should be directed to Richard L. Cleland, Assistant Attorney General, Department of Justice, Hoover Building, Des Moines, Iowa 50319. There will be a public hearing on October 13, 1987, at 9 a.m. in the second floor conference room of the Hoover State Office Building. Persons may present their views orally or in writing at this hearing; however, persons wishing to schedule an oral presentation should so advise the Attorney General's office by contacting Richard L. Cleland at 515-281-5926 by 4:30 p.m., October 9, 1987.

These rules are intended to implement 1987 Iowa Acts, House File 520, section 20.

Add 61—Chapter 25 as follows:

**CHAPTER 25
REGULATION OF MEMBERSHIP
CAMPGROUND OPERATORS**

61-25.1(72GA, HF520) Place of filing. Information required to be filed by the membership campground statute, 1987 Iowa Acts, House File 520, sections 5 to 20, or these rules shall be submitted to the Office of the Attorney General, Consumer Protection Division, Hoover Building, 2nd Floor, Des Moines, Iowa 50319. Whenever these rules state that a document be "filed," the document must be delivered to the attorney general's office by United States postal service or personal service and shall be considered filed on the date of the United States postal service mark or the date personal service is made.

61-25.2(72GA, HF520) Definitions. Unless otherwise defined, the terms used in these rules have the same definitions found in 1987 Iowa Acts, House File 520, section 5.

REGISTRATION

61-25.3(72GA, HF520) Registration.

25.3(1) Who must register. A person shall not offer or sell a membership camping contract in this state unless the membership camping contract is covered by a membership camping registration. The application for registration must be filed with the attorney general's office at the address indicated in rule 25.1(72GA, HF520). The following transactions are exempt from the requirement of registration:

a. An offer, sale, or transfer by any one person of not more than one membership camping contract in any 12-month period.

b. An offer or sale by a government, government agency, or other subdivision of government.

c. A bona fide pledge of a membership camping contract.

d. Transactions subject to regulation pursuant to Iowa Code chapter 557A.

25.3(2) Contents of application. The application for registration must contain all of the information required by 1987 Iowa Acts, House File 520, section 7. A form which may be used by the applicant for registration is available. Copies of this form, which is designated as Form 557B-1, may be obtained from the consumer protection division at the address stated in rule 25.1(72GA, HF520). If an alternative format is used, the information must be supplied in a readable, coherent, and complete manner, or the application will be denied.

25.3(3) Fee for registration. The application for registration must be accompanied by a nonrefundable

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fee of \$200. Applications which are received without such payment will be returned to the sender.

25.3(4) Effective date. Registration is effective for one year from the date the application is granted either by the attorney general's office or by operation of law. The attorney general's office will notify each registrant of the effective date of its registration.

25.3(5) Amendments to registration and fee. An application for registration must be amended and the amendment must be filed with the attorney general within 25 days of any material change in the information included in the application. Amendments must be accompanied by a nonrefundable fee of \$50.

25.3(6) Renewal of registration. A membership camping operator's registration must be renewed annually by filing an application for renewal no later than 30 days prior to the anniversary of the current registration. An application for renewal must be accompanied by a nonrefundable fee of \$200. The renewal application must include all changes in the information which has been provided in the previously filed application.

SANCTIONS AND HEARINGS

61—25.4(72GA, HF520) Sanctions.

25.4(1) Statement of charges. A membership campground registration may be denied, suspended, or revoked or a fee of not more than \$5,000 may be imposed or a combination of suspension or revocation and fine may be imposed for any of the reasons set forth in 1987 Iowa Acts, House File 520, section 10. If any such action is taken, a representative of the consumer protection division shall mail by certified mail a statement of charges to the applicant or registrant. The applicant or registrant has 30 calendar days from the date of mailing the statement of charges to request a hearing. Requests for hearing must be filed within the 30-day time period or the applicant or registrant will not be permitted to contest the matter. Such requests must be filed at the address specified in rule 25.1(72GA, HF520).

25.4(2) Hearings. If a request for hearing is filed, the contested case will be referred to an independent hearing officer. Upon request, the Iowa department of inspections and appeals will establish a time and provide a hearing officer to conduct the contested case. A representative of the consumer protection division will prosecute these cases on behalf of the state.

25.4(3) Notice of hearing. The applicant or registrant shall be mailed by certified mail a notice of hearing which will include:

- a. The date, time, and place of hearing.
- b. A statement that the party may be represented by legal counsel.
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- d. A statement that the respondent has the right to appear at a hearing and be heard.
- e. A reference to the statute or rules involved.
- f. A copy of the statement of charges referred to in subrule 25.4(1).

25.4(4) Prehearing conferences. The hearing officer either on the hearing officer's own motion or at the request of either party may hold a prehearing conference which shall be scheduled not less than two days prior to the hearing. Notice by ordinary mail shall be given to each party of the date, time, and place of the prehearing conference.

25.4(5) Informal settlement. Nothing in these rules shall be construed to discourage or limit the parties in their right to pursue an informal settlement of the contested case. Any such settlement shall be subject to review and approval by the attorney general.

25.4(6) Failure by respondent to appear. If a respondent, upon whom a notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the hearing officer may proceed with the conduct of the hearing. The results of the hearing shall be binding to the same extent as if respondent had been present.

25.4(7) Conduct of hearings. Hearings under this rule will be held pursuant to the Iowa administrative procedure Act. These hearings will generally be conducted according to the following format, subject to modification at the discretion of the hearing officer:

- a. The representative of the consumer protection division may make an opening statement.
- b. The respondent(s) may make an opening statement or may elect to reserve the opening statement until just prior to the presentation of evidence by the respondent.
- c. The evidence on behalf of the consumer protection division is presented.
- d. The evidence on behalf of the respondent(s) is presented.
- e. Rebuttal evidence, if any, on behalf of the consumer protection division is presented.
- f. Rebuttal evidence, if any, on behalf of the respondent(s) is presented.

g. Each party may make a closing argument.

25.4(8) Continuances. No ex parte continuance shall be granted to any party.

25.4(9) Interlocutory appeal. Any party to a contested case may seek an interlocutory appeal on a procedural question with the attorney general by filing a timely request therefor.

25.4(10) Discovery and subpoenas. The provisions of Iowa Code section 17A.13 relating to discovery and subpoenas shall govern in contested cases held pursuant to these rules. If the department of inspections and appeals provides a hearing officer to conduct the hearing, the provisions of 481—4.5(10A) shall not apply.

25.4(11) Proposed decision. The hearing officer who presides over the case will render a proposed decision which shall be in writing or stated in the record. The decision may include any of the following:

- a. Dismissal of the charges against respondent.
- b. Denial of an application for registration.
- c. Suspension of a registration for a specified period.
- d. Revocation of a registration.
- e. Imposition of a fine not to exceed \$5,000.

25.4(12) Further review. Any party, including the consumer protection division, who is adversely affected by a proposed decision, may seek further review with the attorney general by complying with the following procedure:

a. A request for further review must be filed with the attorney general within 20 days of the date of the hearing officer's decision.

b. Within ten days after filing the request for further review, the requesting party must file written exceptions to the proposed decision of the hearing officer and must set forth the specific relief requested as well as all of the grounds upon which the request for relief is based. The party seeking further review may also file a written brief and argument along with its exceptions.

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c. The opposing party has 14 days following service of the exceptions to file a responsive brief and argument if desired.

25.4(13) Notification of decision. All parties to a contested case shall be promptly furnished with a copy of any final or proposed decision either by personal service or by certified mail.

25.4(14) A party who has exhausted administrative remedies may seek judicial review of the decision pursuant to the Iowa administrative procedure Act.

ADVERTISING

61—25.5(72GA, HF520) Advertising plans.

25.5(1) Prohibitions. An advertisement shall not:

a. Make any untrue statement of material fact which would make the statements misleading in light of the circumstances under which the statements were made.

b. Misrepresent either explicitly or implicitly, the size, quantity, identity, or quality of any prize, gift, amount of money, or other item of value;

c. Represent to a consumer that the consumer is being notified for the second or final time of the right to collect a prize, gift, award, or other thing of value in exchange for participating in a sales presentation if, in fact, it is not the second or final attempt to notify the consumer.

d. Employ the use of any device resembling a negotiable instrument such as a check, money order, or cashier's check, in such a way as to mislead the recipient.

e. Refer to a prize, gift, award, or any other type of inducement as being previously claimed or awarded unless, in fact, each of those prizes, gifts, awards, or other type of inducements has been awarded during the same promotional program.

f. Offer a prize, gift, award, or other inducement unless one of each such prizes, gifts, awards or other inducements is available at the beginning of the promotional program.

g. Refer to any item as a prize, gift, award, or words of similar meaning if the consumer must purchase anything or give, or promise to give, any consideration, other than visiting the property to claim the item.

h. Offer anything of value unless, contemporaneously with the offer, all expenses the recipient must pay (excluding the cost of travel to the sales presentation) are clearly and conspicuously disclosed on the face of the advertisement and within a reasonable proximity of the offer.

i. Represent that an offered prize, gift, award, or other type of inducement has a certain value or manufacturer's suggested price unless there is, in fact, a bona fide retail market for the item.

j. Represent directly or by implication that the number of participants in an advertising plan has been significantly limited or that any person has been selected to receive a particular prize, gift, money, or other item of value, unless such representation is true.

k. Contain an offer which is represented as urgent, nor shall it convey a sense of urgency by use of description, narrative copy, or phrasing on the envelope unless there is a limited time period in which a recipient must accept the terms of the offer, and such limited time period is clearly stated in the advertisement.

l. Represent directly or by implication that the membership camping contracts are offered without risk or the possibility of loss.

m. Make any statement, representation, or pictorial presentation of proposed improvements or nonexistent

scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

n. Misrepresent in any manner the odds of receiving a particular gift, prize, amount of money, or other item of value.

o. Label any offer a notice of termination or notice of cancellation.

p. Misrepresent, in any manner, the offer, plan, or program.

25.5(2) Required disclosures. An advertisement shall:

a. Disclose on the face of the advertisement that, in order to claim an offered prize, gift, award, or other item of value, the recipient must listen to a sales presentation if that is the case.

b. Disclose the name and address of the owner of the real or personal property or the provider of the services which are the subject of the sales presentation, visit, or contact with a sales agent.

c. Include a general description of the business of the owner or provider so identified and the purpose of any requested visit, sales presentation, or contact with a sales agent, including a general description of the facilities or services which are the subject of the sales presentation.

d. Contain a statement of the odds, in arabic numerals, of receiving each item offered.

e. Clearly and conspicuously disclose all restrictions, qualifications, and other conditions that must be satisfied before the recipient is entitled to receive an offered prize, gift, award, or other item of value, including, but not limited to, all of the following:

(1) Any deadline by which the recipient must visit the location, attend the sales presentation, or contact the sales agent in order to receive the item;

(2) The approximate duration of any visit and sales presentation;

(3) Any other conditions, such as a minimum age qualification, a financial qualification, or a requirement that if the recipient is married both husband and wife must be present in order to receive the item.

These conditions must be disclosed on the face of the advertisement or in the alternative, the conditions may be stated on the back of the advertisement or on a separate sheet if they are printed in boldfaced type of a minimum size of ten points and the following statement is printed in boldfaced type of a minimum size of ten points conspicuously on the face of the advertisement:

CHECK THE CONDITIONS OF PARTICIPATION TO SEE IF YOU ARE ELIGIBLE FOR ANY OF THE MERCHANDISE.

f. Clearly disclose that a particular promotion has multiple sponsors, if that is the case.

g. Include an explanation of the procedure by which the consumer may receive a list of names and addresses of major gift, prize, or award recipients.

h. Contain a statement that the owner or provider reserves the right to provide a rain check or a substitute or like item, if these rights are reserved.

i. Contain a statement that a recipient who receives an offered item may request and will receive evidence showing that the item provided matches the item randomly or otherwise selected for distribution to that recipient.

j. Disclose all other rules, terms, and conditions of the offer, plan, or program.

25.5(3) Vacation inducements. If an advertisement offers a vacation or vacation certificate as an inducement

ATTORNEY GENERAL[61] (cont'd)

to the recipient to visit or attend a sales presentation, all conditions of the vacation must be clearly and conspicuously disclosed in the advertisement, including but not limited to, any required deposits, points of departure if outside of Iowa, the nature of the accommodation, procedures for redeeming the certificate, and all charges or fees incident to the vacation. If such a vacation or vacation certificate is actually provided by a person other than the membership campground operator, the advertisement must disclose the name and address of the person responsible for providing the vacation.

25.5(4) A violation of any of the advertising rules contained in subrule 25.5(1), 25.5(2), or 25.5(3) constitutes a deceptive, false, or misleading practice and may subject the violator to sanctions under subrule 25.4(1).

61—25.6(72GA, HF520) Applicability of other rules. To the extent that they are not inconsistent with the provisions of this chapter, the rules found in Chapters 11 and 12 regarding petitions for adoption, amendment, or repeal of a rule and petitions for declaratory rulings shall govern similar petitions which may be brought under this chapter.

These rules are intended to implement 1987 Iowa Acts, House File 520.

ARC 7908

COMMUNITY ACTION AGENCIES
DIVISION[427]

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 1987 Iowa Acts, Senate File 517, sections 1 and 3; and Part A, 42 U.S.C. 6861-6870 of Title IV of the Energy Conservation and Production Act, Public Law 94-385, Title IV, Part A, as amended by PL 95-619, 10 Code of Federal Regulations (CFR), Part 440, Title XXVI of the Omnibus Budget Reconciliation Act (PL 98-558), the Division of Community Action Agencies, hereby gives Notice of Intended Action to rescind Chapter 5 and adopt a new Chapter 5, "Weatherization Assistance Program," Iowa Administrative Code. This program is to implement the Weatherization Assistance Program as provided by 1987 Iowa Acts, Senate File 517, sections 1 and 3; and Part A, 42 U.S.C. 6861-6870 of Title IV of the Energy Conservation and Production Act, Public Law 94-385, Title IV, Part A, as amended by PL 95-619, 10 Code of Federal Regulations (CFR), Part 440, Title XXVI of the Omnibus Budget Reconciliation Act (Public Law 98-558).

The purpose of this Notice is to solicit public comment on the proposed rules.

Any interested person may make written suggestions or comments on these proposed rules prior to September 29, 1987. Such written materials should be directed to Administrator, Division of Community Action Agencies, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Chief, Bureau of Weatherization Assistance at 515/281-4204, or in the offices on the first floor of the Lucas State Office Building. There will also be a public hearing on September 29, 1987, at 9:30 a.m. in the Ground Level Conference Room of the Lucas State Office Building. 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 Chief, Bureau of Weatherization Assistance, at least one day prior to the date of the public hearing.

Rescind 427—Chapter 5 and insert the following in lieu thereof:

CHAPTER 5

WEATHERIZATION ASSISTANCE PROGRAM

427—5.1(72GA, SF517) Purpose. Pursuant to a grant from the Department of Energy (DOE), Part A, 42 U.S.C. 6861-6870 of Title IV of the Energy Conservation and Production Act, Public Law 94-385, Title IV, Part A, as amended by Public Law 95-619, 10 Code of Federal Regulations (CFR), Part 440, Title XXVI of the Omnibus Budget Reconciliation Act (Public Law 98-558), approved October 30, 1984; and 1987 Iowa Acts, Senate File 517, section 1, paragraph 1 and section 3, paragraph 1, the Department of Human Rights, Division of Community Action Agencies, will administer the weatherization assistance program.

ARC 7881

COLLEGE AID COMMISSION[245]

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 261.81, the College Aid Commission proposes to adopt a new Chapter 18, "Iowa Work-Study Program," Iowa Administrative Code.

The new chapter will summarize the procedures to be followed in the administration of the Iowa Work-Study Program.

Interested persons may submit comments orally or in writing to the Executive Director, Iowa College Aid Commission, 201 Jewett Building, Des Moines, Iowa 50309 (515/281-3501) on or before October 14, 1987.

These rules are intended to implement Iowa Code section 261.81.

These rules are also filed emergency and published herein as ARC 7882, and the content of that filing is incorporated here by reference.

COMMUNITY ACTION AGENCIES DIVISION[427] (cont'd)

The purpose of the program is to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwellings of low-income persons, particularly those of elderly and handicapped persons, in order to both aid those persons least able to afford higher utility costs and to conserve needed energy.

427—5.2(72GA,SF517) Eligible households. All households assisted by this program must meet income eligibility requirements.

5.2(1) Only households with incomes no higher than 150 percent of the poverty guidelines determined in accordance with criteria established by the director of the Office of Management and Budget (OMB) may be assisted by the programs.

5.2(2) Both owner-occupied and renter-occupied dwellings may be weatherized. However, in the latter case, rental units occupied by low-income residents shall be weatherized providing benefits accrue primarily to the low-income tenants, rents are not raised because of the weatherization, and no undue or excessive enhancement occurs to the value of the dwelling unit.

5.2(3) Further program criteria is contained in the Iowa state plan for the weatherization assistance program, which is incorporated by reference as part of these rules. This document, as well as delegate agreements and reporting forms, is available at the Department of Human Rights, Division of Community Action Agencies, Lucas State Office Building, Des Moines, Iowa 50319, and is available for public inspection between the hours of 8 a.m. and 4:30 p.m. Monday through Friday. Copies of these documents and forms may be obtained at cost by contacting the Department of Human Rights at the above address, telephone (515) 281-4204.

427—5.3(72GA,SF517) Local administering agencies (LAA). The department of human rights, division of community action agencies, shall administer this program by utilizing community action agencies (CAAs), their approved subcontractors, or other public or nonprofit entities that have shown the ability or have the capacity to undertake a timely and effective weatherization program.

Funds shall be used for the purchase of weatherization materials, e.g., insulation, storm windows, caulking, weatherstripping and other related items; training and technical assistance; administration; and supportive services.

LAAs will be required to sign a contractual agreement which specifies allowable program activities, regulations and special conditions, participant forms and audit requirements.

427—5.4(72GA,SF517) Appeal and hearing procedure. The following appeal and hearing procedure shall be used:

5.4(1) When an applicant is denied assistance or wishes to file a complaint about the quality or extent of work performed, the applicant has 90 days from the date of

the denial letter or completion of the work to appeal that decision by mailing or delivering the request for appeal to the local administering agency (LAA).

5.4(2) If the LAA neither approves nor denies a complete application within 90 calendar days of receipt, the applicant may treat the failure to act as a denial. The applicant then has 30 additional calendar days to appeal.

5.4(3) To appeal, the applicant (claimant) must contact the agency at which the application was made and tell the agency of the wish to appeal, what action the applicant would like taken, and any other information which might affect the decision. All appeals must be in writing. Those claimants unable to read or write shall have the LAA assist them in reading, writing or understanding appeals, hearings, and their associated procedures.

5.4(4) The LAA will act on the claimant's request and notify the claimant of the result in writing within seven calendar days of the date an appeal was requested (postmark date if sent in mail).

5.4(5) If the claimant does not agree with the decision reached, the claimant may write the LAA again within 17 calendar days of the decision (postmark date if sent in mail) and request that a state hearing be held. The claimant must explain in writing why the agency's decision is being appealed and include any information which might affect the decision.

5.4(6) Within seven calendar days (postmark date if sent in mail) the LAA will forward all information concerning the request for hearing to the state, and a hearing will be scheduled. The claimant will receive written notice of a state-scheduled hearing from the director of the department of human rights, division of community action agencies. The notice will include the date, time and place of the hearing. State hearings may be held by telephone at a mutually convenient time. Prior to the hearing the agency will provide an opportunity for the claimant to review the case file and any written evidence that will be used in the hearing. An informal conference with the director or appropriate state staff personnel may be requested for the purpose of discussing actions taken and resolving the issues raised in the request for hearing.

427—5.5(72GA,SF517) Public information. All parties interested in further information concerning the weatherization assistance program should contact the Department of Human Rights, Division of Community Action Agencies, Lucas State Office Building, Des Moines, Iowa 50319, telephone (515) 281-4204.

Income guidelines, contractual agreements, application and reporting forms are on file at the above address and available for public inspection between the hours of 8 a.m. to 4:30 p.m., Monday through Friday.

These rules are intended to implement Part A, 42 U.S.C. 6861-6870 of Title IV of the Energy Conservation and Production Act, Public Law 94-385, 90 Statute 1125 et seq., and 1987 Iowa Acts, Senate File 517.

ARC 7893

COMMUNITY ACTION AGENCIES DIVISION [427]

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 1987 Iowa Acts, Senate File 513, section 10, the Division of Community Action Agencies hereby gives Notice of Intended Action to rescind Chapter 10 and adopt a new Chapter 10, "Low-Income Home Energy Assistance Program," Iowa Administrative Code.

The substance of these rules is submitted herein as emergency adopted and implemented ARC 7894.

The purpose of this Notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written suggestions or comments on the proposed rules prior to September 30, 1987. Such written materials should be directed to Administrator, Division of Community Action Agencies, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Chief, Bureau of Energy Assistance, at 515/281-3838 or in the offices on the first floor of the Lucas State Office Building. There will also be a public hearing on Tuesday, September 30, 1987, at 10:30 a.m. in the conference room on the first floor of the Lucas State Office Building. 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 chief of the Bureau of Energy Assistance at least one day prior to the date of the public hearing.

ARC 7900

EDUCATION DEPARTMENT[281]

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 260.33, the Department of Education hereby gives Notice of Intended Action to adopt Chapter 81, "Evaluator Approval," Iowa Administrative Code.

Iowa Code section 260.33 explicitly requires the board of educational examiners (state board of education) to adopt rules establishing requirements for an evaluator approval. This chapter is being adopted to comply with Iowa Code section 260.33.

These proposed rules include the standards for evaluator approval programs, including content areas, personnel, resources, program evaluation, records retention and a waiver provision.

Any person or agency may submit written comments on these proposed rules through September 30, 1987. Such written material should be directed to the Chief, Bureau of Teacher Education and Certification, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146. Persons who wish to convey their views orally should contact Orrin Nearhoof, Chief, Bureau of Teacher Education and Certification at (515)281-3245 or in the office of teacher education and certification on the third floor of the Grimes State Office Building.

There will be a public hearing on September 30, 1987, beginning at 9 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. Persons may present their views either orally or in writing at this public hearing.

These rules are intended to implement Iowa Code section 260.33.

CHAPTER 81 EVALUATOR APPROVAL

281—81.1(260) Evaluator approval. Effective October 1, 1988, the requirements for the evaluator approval shall be included in each program leading to administrative certification and administrative endorsements in Iowa colleges and universities approved to offer these programs.

281—81.2(260) Applicants for administrative certification. Beginning on or after July 1, 1990, each applicant for an initial administrative certificate or endorsement shall have completed the evaluator approval program.

281—81.3(260) Renewal or continuation of administrative certificates or endorsements. On or after July 1, 1990, each applicant for renewal or continuation of an administrative certificate or endorsement shall have completed the evaluator approval program.

281—81.4(260) Out-of-state applicants. Persons entering the state after July 1, 1990, who are seeking an administrative certificate or endorsement will be granted a one-year conditional certificate in order to complete the evaluator approval program. The conditional certificate is nonrenewable.

The requirements for the evaluator approval must be met before the issuance of the administrative certificate or endorsement.

281—81.5(260) Development of evaluator approval programs.

81.5(1) Evaluator approval programs shall be developed by approved Iowa colleges or universities offering administrative programs.

(Note: Although the law permits other colleges to develop these programs, we must require colleges and universities which prepare administrators to include this program requirement.)

81.5(2) In-service evaluator approval programs may be developed by colleges and universities approved for teacher education, area education agencies, or merged area schools. Any of these agencies or institutions may develop in-service evaluator approval programs in cooperation or in consortia.

EDUCATION DEPARTMENT[281] (cont'd)

81.5(3) Standards for approved evaluator approval programs.

a. Evaluator approval programs will be approved by the department of education upon submission of evidence that they are designed to develop the ability of the participants to:

(1) Develop trust and credibility as an evaluator, including an understanding of interpersonal behaviors and their impact on success or failure of evaluation efforts.

(2) Identify and analyze effective teaching and performance behaviors utilizing position descriptions, including the establishment of direct relationships between position descriptions and the evaluation of performance.

(3) Analyze lesson designs, including attention to artifact collection and relevant student data.

(4) Observe, record, and report job performance, including monitoring student achievement, classroom management, the effective use of time, and developing facility with evaluation models and processes.

(5) Conduct effective evaluation conferences, including oral and written communication skills.

(6) Develop growth or improvement plans, including goal setting and motivation strategies.

(7) Develop an understanding of the purposes and legal aspects of evaluation.

(8) Each applicant institution or agency or consortium shall describe in detail the competencies, knowledge, skills and attitudes to be developed for each standard and also the nature of learning experiences, including activities and materials designed to meet each standard.

(9) Each program for the initial evaluator approval must have a minimum program length of 30 contact hours or two semester hours.

b. Program instructors. Each instructor involved in the delivery of evaluator approval programs shall have had preparation and experience in evaluation activities related to the standards or in the development of related evaluation processes.

Each applicant agency shall submit the following information for each person involved in providing evaluator approval programs:

(1) Name, official position, academic preparation.

(2) Preparation related to evaluation.

(3) Experience in the evaluation process or in the development and design of evaluation processes.

c. Resources. Each application shall include a listing or outline of the resources available to support the scope of the program.

d. Evaluation. Institutions and agencies offering evaluator approval programs shall indicate the means to be utilized for program evaluation.

e. Records. Each applicant institution or agency will set forth the procedures for retention of the record of credit earned by program participants and for reporting the credit to the department of education and to the participants.

f. Contact person. Each institution or agency submitting an application for approval shall designate a single contact person. The contact person shall file the application with the department and will serve as a liaison with the department on all matters concerning the program.

81.5(4) Waiver of initial requirement. The initial evaluator approval may be waived for persons who have

completed a comparable program which meets the approved standards.

a. The waiver will be based on recommendations from approved program providers. To be authorized to recommend for the waiver, each institution or agency seeking this authority shall set forth in its application the procedures to be employed in the review and analysis of an individual's preparation. The waiver cannot be based on experience.

b. Only course work or similar preparation completed during the five-year period immediately preceding the date for waiver shall be considered.

c. A copy of the recommendation for waiver will be forwarded to the department and on forms provided by the department.

281—81.6(260) Requirements for renewal of evaluator approval. Reserved.

These rules are intended to implement Iowa Code section 260.33.

ARC 7895

**ELDER AFFAIRS
DEPARTMENT[321]**

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 17A.3 and 249D.14, the Iowa Department of Elder Affairs hereby gives Notice of Intended Action to amend Chapters 1 to 9, Iowa Administrative Code.

These amendments to the rules include the following:

Chapter 1: Corrected definitions and an additional definition of eligibility for the Elderly Service program.

Chapter 2: An update on department organization;

Chapter 3: Updated rules that provide for a State Advisory Council and supply criteria for membership.

Chapter 5: Correction of Elderly Service fund eligibility and correction of reporting due dates;

Chapter 6: Clarification of required area advisory council membership and duties of area agencies. Also in rule 6.10(249D), new wording simplifies the process for area agencies to provide direct service;

Chapter 8: Two corrections in subrules 8.4(2) and 8.4(3) to the Long-Term Care Resident's Advocate/Ombudsman rules; and

Chapter 9: Changes in the size of the Care Review Committees, rescission of subrule 9.1(4) in response to requests from nursing home administrators, clarification of the resident review and complaint resolution process, and the deletion of restriction on kinds of forms to be used by care review committees.

ELDER AFFAIRS DEPARTMENT[321] (cont'd)

These rules are also filed emergency and published herein as **ARC 7896**. The content of that filing is incorporated here by reference.

Any interested person may make written suggestions or comment on these proposed amendments at least one day prior to October 15, 1987. These comments should be directed to the Executive Director, Iowa Department of Elder Affairs, 914 Grand Avenue #236, Des Moines, Iowa 50309.

Persons who wish to convey their views orally may present them at the public hearing to be held at 10 a.m. on Thursday, October 15, 1987, at the Department Conference Room, 914 Grand Avenue #236, Des Moines, Iowa 50309.

These amendments are intended to implement Iowa Code chapter 249D.

ARC 7917**ENVIRONMENTAL PROTECTION
COMMISSION[567]****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 1987 Iowa Acts, Senate File 396, sections 7 and 8, the Environmental Protection Commission proposes to adopt a new 567—Chapter 152, "Criteria for Siting Low-Level Radioactive Waste Disposal Facilities," Iowa Administrative Code.

In accordance with 1987 Iowa Acts, Senate File 396, the Commission adopts rules establishing criteria for identification of sites which are suitable for the operation of low-level radioactive waste disposal facilities. In accordance with this authority, the Commission proposes to adopt rules which are similar to the existing rules in 567—Chapter 151, "Criteria for Siting Hazardous Waste Management Facilities." These rules provide exclusionary and quantitative criteria for site selection and the method to be used by the waste management authority for applying these criteria. These criteria are to be applied to facilities which are owned or operated by the state of Iowa and privately owned or operated facilities which are located upon land owned by the state of Iowa which are used for low-level radioactive waste disposal.

These rules may impact small business.

Any interested person may file written comments on the proposed rules through October 15, 1987. Persons are also invited to attend public hearings on October 1, 1987, at 1 p.m. in the Trowbridge Hall Conference Room, Room 115B, Geological Survey Bureau, 123 North Capitol Street, Iowa City, Iowa; on October 2, 1987, at 1 p.m. in the Fifth Floor Conference Room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa; and on October 6, 1987, at 11 a.m. in Room 006, Continuing Education Building, Iowa Western Community College, 2700 College Road, Council Bluffs, Iowa.

**CHAPTER 152
CRITERIA FOR SITING LOW-LEVEL
RADIOACTIVE WASTE DISPOSAL FACILITIES****567—152.1(72GA, SF396) Authority, purpose and scope.**

152.1(1) Authority. This chapter is authorized in 1987 Iowa Acts, Senate File 396, section 8, which relates to the siting of low-level radioactive waste disposal facilities.

152.1(2) Purpose. These rules establish criteria for identifying sites which are suitable for operation of low-level radioactive waste disposal facilities. The waste management authority will apply these criteria to identify and recommend to the commission sites suitable for locating these facilities.

152.1(3) Scope. These rules apply only to facilities which are owned or operated by the state of Iowa and privately owned or operated facilities which are located upon land owned by the state of Iowa which are used for low-level radioactive waste disposal pursuant to 1987 Iowa Acts, Senate File 396, section 8.

567—152.2(72GA, SF396) Definitions. In addition to the definitions in 1987 Iowa Acts, Senate File 396, section 4, the following definitions apply to this chapter:

"Aquifers" means water-bearing geological formations, group of formations, or part of a formation that is capable of yielding significant amounts of groundwater for beneficial use.

"Conservation area" means any park, recreation area, wildlife area, forest, prairie, preserve, natural area, scenic area owned, managed, or under control of any government agency or organized conservation group on or before the effective date of these rules.

"Criterion" means a test, rule, measure, or model by which judgment will be made.

"Critical wildlife habitat" means any areas known to be inhabited on a seasonal or permanent basis by, or to be critical at any stage of the life cycle of, any wildlife or vegetation identified as "rare," "threatened," or "endangered" by official federal or state lists of species, or is under active consideration for listing.

"Cultural area" means any known property of recognized archaeological, architectural, cultural or historical significance as listed in or eligible for the National Register of Historic Places, the significant state site records of the Office of Historic Preservation, the office of the state archaeologist, or is under active consideration for listing. Archaeological property shall include, but is not limited to, ancient mortuary sites.

"Dam hazard area" means any area identified as an area of dynamic flooding below a dam (the inundation zone) or area of static flooding above a dam (flood pool). The inundation zone includes the area that would be flooded by a flood wave generated by dam failure during a 100-year flood. The static flooding zone is equal to the pool level reached during a 100-year inflow flood, or the top of the dam, whichever is greater.

"Drinking water source" means the groundwater or surface water intake of drinking water used for human consumption.

"Facility" means any hazardous waste management facility including land and structures, appurtenances, improvement and equipment for handling, treatment, storage or disposal of hazardous wastes.

ENVIRONMENTAL PROTECTION COMMISSION[567] (cont'd)

“Floodplain” means the land adjacent to a stream which has been or may be inundated by a flood having the magnitude of the regional 100-year flood.

“Geological hazard structures” means any faults, fracture zones, or other structures that may provide pathways to groundwater.

“Karst areas” means a type of topography or surface area covered by alluvial or colluvial sediments that may form over limestone, dolomite, or gypsum formations by dissolving or solutions, and that are characterized by closed depressions or sinkholes, caves, and underground drainage.

“Mineral and energy resources” means minerals, construction materials, metals, coal, gas, and oil.

“Mining activity” means any area of past or present underground or surface mining, mineral extraction, or major exploration or production drilling for oil, gas, or mineral resources, and any area likely to be influenced by mining activity through subsidence or surface deformation.

“Nonattainment area” means any area not attaining the National Ambient Air Quality Standards as defined in Part D of the Clean Air Act.

“Population area” means any commercial, school, church, social, medical facility, elderly housing, correctional facility, mobile home park, or incorporated residential area.

“Prevention of significant deterioration” is defined in Part C of the Clean Air Act.

“Prime farmland” means any area identified as such by the United States Department of Agriculture, Soil Conservation Service.

“Protected basins” means any portion of the drainage basin of protected water areas within two miles of the water area. Protected water areas are those classified as such pursuant to Iowa Code chapter 108A, or high-quality waters, high-quality resource waters or Class “C” waters designated in Chapter 61 of the department’s rules.

“Proximity to major generators” means within 50 miles of the central point of generation based on the latest available RCRA biennial report on hazardous waste generation in Iowa.

“Seismic risk” means the relative geologic stability of the site based on the likelihood of structural damage due to seismic events. Seismic risk categories, as developed by the National Oceanographic and Atmospheric Administration, will be used to rate relative stability.

“Site” means the land area upon which a facility is, or is proposed to be, physically located, including but not limited to adjacent land use for utility systems such as repair, storage, processing, or other areas incident to the facility or operation.

“Siting authority” means the party with the specific authority to select sites for facilities.

“Transportation routes” means any public all-weather hard-surfaced road with adequate capacity to carry the type and volume of commercial vehicular traffic serving the facility for the entire year with no embargoes, special permits or other restrictions on roads, overpasses or bridges that would prevent transportation to the facility.

“Utilities and services” means electricity, gas, water and sewer utilities, and police, fire protection, and emergency medical services.

“Wetlands” means any area inundated by surface or groundwater with a frequency sufficient to support, under normal circumstances, a prevalence of vegetation

or wildlife requiring saturated or seasonally saturated soil conditions for growth or reproduction. These areas include swamps, marshes, bogs, sloughs, wet meadows, mudflats, sandflats, ponds, lakes, and similar areas.

567—152.3(72GA, SF396) Siting criteria. The siting authority shall use the following criteria in selecting sites for facilities.

152.3(1) Exclusionary criteria. No facility shall be sited within:

- a. An area of seismic risk category of “4” or greater;
- b. A 100-year floodplain;
- c. A dam hazard area;
- d. An area with less than 100 feet of aquitard between the base of operation and the subjacent aquifer;
- e. One mile of a geologic hazard structure;
- f. One mile of a karst area;
- g. One mile of an area of past or present surface or underground mining activity;
- h. One mile of wetland;
- i. Any protected basin; or
- j. Ten miles of any nuclear power plant.

152.3(2) Quantitative criteria. The quantitative criteria and corresponding values which are to be applied are in Table 1 as follows:

Table 1

	Value Assigned		
	5 points	2 points	Excluded
Mineral and Energy Resources	No significance present within one mile	Significant presence with perpetual ban on recovery	---
Drinking Water Sources	No sources within one mile	Source permanently closed and alternative water source provided	---
Critical Wildlife Habitats	No habitat within one mile	Permanent buffer and no interference	Interference
Conservation Areas	No area within one mile	Permanent buffer and no interference	Interference
Cultural Areas	No area within one mile	Permanent buffer and no interference	Interference
Population Areas	No area within one mile	Permanent buffer and no interference	Interference
Prime Farmland	Less than 25% prime farmland	More than 25% prime farmland	---
Nonattainment With NAAQS	No significant impact predicted	Little significant impact predicted	---
Prevention of Significant Deterioration	Good data available and sufficient increments	Little data available but increment available	---
Transportation Routes	Within 5 miles of major highway, 10 miles of a rail line, and 50 miles interstate highway	Beyond 5 miles from major high-way, 10 miles of a rail line, or 50 miles from interstate highway	---
Proximity to Major Generators	Within 50 miles major generators	Beyond 50 miles from generators	---
Utilities and Services	Accessible services available	Sites needing services extended	---

ENVIRONMENTAL PROTECTION COMMISSION[567] (cont'd)

152.3(3) Methodology. The methodology to be used by the siting authority in applying these criteria is contained in the report "Hazardous Waste Management Facility Siting Criteria and Methodology" which is adopted by reference. The criteria listed in this rule shall be applied in three steps as follows:

a. Step 1. The exclusionary criteria shall be applied to the entire state. Step 2 shall be applied to those areas remaining.

b. Step 2. The quantitative criteria shall be applied to the nonexcluded areas identified in step 1. The values in table 1 shall be applied and the potential sites ranked in order of priority.

c. Step 3. The top rated potential sites shall be subject to detailed evaluation. The best site for the facility shall be selected.

1.5(4) Smoking is not permitted in *open space offices*, lobbies, conference rooms, elevators, rest rooms, hallways, stairwells, *corridors, tunnels*, and the Wallace building auditorium.; *unless specifically allowed by the director.*

This rule is intended to implement Iowa Code section ~~98A-2(6)~~ *chapter 98A as amended by 1987 Iowa Acts, House File 79.*

ARC 7923**GENERAL SERVICES
DEPARTMENT[450]****Amended 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 18.10, the Iowa Department of General Services hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation," Iowa Administrative Code. The substance of this rule was previously submitted as an Emergency Adopted Rule ARC 7760, published in the Iowa Administrative Bulletin on July 15, 1987.

The purpose of this Notice is to solicit public comment on that submission, the subject matter of which is the closure of the capitol grounds to the public from the hours of 11 p.m. to 6 a.m. daily.

Any interested person may make written suggestions or comments on these proposed rules prior to October 2, 1987. Such written materials should be directed to the Director, Department of General Services, Level A, Hoover State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the Director at (515) 281-3196. There will also be a public hearing on Thursday, October 1, 1987, at 9 a.m. in the auditorium of the Wallace State Office Building. 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 Director of the Department of General Services at least one day prior to the date of the public hearing.

ARC 7905**HUMAN SERVICES
DEPARTMENT[441]****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 249A.4, the Department of Human Services proposes

ARC 7922**GENERAL SERVICES
DEPARTMENT[450]****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 98.1, 98A.2(2), and 98A.4, the Iowa Department of General Services hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation," Iowa Administrative Code.

1987 Iowa Acts, House File 79, prohibits smoking in certain public places.

The present rules of the Department are in conflict with the statutory changes since they allow smoking in offices where posted "smoking permitted." These amendments are to bring the Department's rules into compliance with the new statute.

Any interested person may make written suggestions or comments on this proposed rule prior to September 29, 1987. Such written materials should be directed to the Director, Department of General Services, Level A, Hoover State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the director at (515) 281-3196.

This rule is intended to implement Iowa Code chapter 98A as amended by 1987 Iowa Acts, House File 79.

The following amendments are proposed:

Amend rule 450—1.5 (98A), introductory paragraph, subrules 1.5(3) and 1.5(4), and the implementation clause to read as follows:

450—1.5 (1898A) Smoking.

1.5(3) Smoking is allowed in *private, enclosed* offices *occupied exclusively by smokers* where the department, agency or agency officer has posted signs reading, "smoking permitted."

HUMAN SERVICES DEPARTMENT[441] (cont'd)

to amend Chapter 54, "Facility Participation," and Chapter 82, "Intermediate Care Facilities for the Mentally Retarded," appearing in the Iowa Administrative Code.

Currently the Department requires residential care facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded to report their financial and statistical information for maintenance costs on three separate forms.

These amendments consolidate the three forms into one form so all long-term care facilities providing more than one level of care will only have to complete one form.

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 September 30, 1987.

These rules are intended to implement Iowa Code sections 249.12 and 249A.4.

ITEM 1. Amend rule 441-54.3(249) as follows:
Amend the introductory paragraph as follows:

441-54.3(249) Financial and statistical report. All facilities wishing to participate in the program shall submit a Financial and Statistical Report for ~~Residential Care Facilities~~, Form AA-4038-0 AA-4036-0, to the department. The reports shall be based on the following rules.

Amend subrule 54.3(2) as follows:

54.3(2) Accounting procedures. Financial information shall be based on that appearing in the audited financial statement. Adjustments to convert to the accrual basis of accounting shall be made when the records are maintained on other accounting basis. ~~Residential care facilities which are a part of a health facility providing nursing home services are not required to file Form AA-4038-0, Financial and Statistical Report for Residential Care Facilities. Combination facilities shall continue to file Form AA-4036-0, Financial and Statistical Report for Nursing Homes.~~

ITEM 2. Amend subrule 54.8(1), introductory paragraph, and paragraph "a," as follows:

54.8(1) Audit of financial and statistical report. Authorized representatives of the department of human services or the Department of Health and Human Services shall have the right, upon proper identification, to audit, using generally accepted auditing procedures, the general financial records of a facility to determine if expenses reported on the Financial and Statistical Report for ~~Residential Care Facilities~~, Form AA-4038-0 AA-4036-0, are reasonable and proper according to the rules set forth in rule 54.3(249). The aforementioned audits may be done either on the basis of an on-site visit to the facility, their central accounting office, or office(s) of their agent(s).

a. When a proper per diem rate cannot be determined, through generally accepted and customary auditing procedures, the auditor shall examine and adjust the report to arrive at what appears to be an acceptable rate and shall recommend to the department of human services that the indicated per diem be reduced to ~~seventy five~~ 75 percent (75%) of the established payment rate for the ensuing six (6)-month period and if the situation is not remedied on the subsequent Financial and Statistical Report for ~~Residential Care~~

~~Facilities~~, Form AA-4038-0 AA-4036-0, the health facility shall be suspended and eventually canceled from the residential care facility program, or

ITEM 3. Amend rule 82.5(249A), introductory paragraph, as follows:

441-82.5(249A) Financial and statistical report. All facilities wishing to participate in the program shall submit a Financial and Statistical Report for ~~Nursing Homes—Mentally Retarded~~, Form AA-4039-0 AA-4036-0, to the department. These reports shall be based on the following rules.

ITEM 4. Amend subrule 82.17(1), introductory paragraph and paragraph "a," as follows:

82.17(1) Audits of financial and statistical report. Authorized representatives of the department or the Department of Health and Human Services shall have the right, upon proper identification, to audit, using generally accepted auditing procedures, the general financial records of a facility to determine if expenses reported on the Financial and Statistical Report for ~~Nursing Homes—Mentally Retarded~~, Form AA-4039-0 AA-4036-0, are reasonable and proper according to the rules set forth in 441-82.5(249A). The aforementioned audits may be done either on the basis of an on-site visit to the facility, their central accounting office, or office(s) of their agents.

a. When a proper per diem rate cannot be determined, through generally accepted auditing procedures, the auditor shall examine and adjust the report to arrive at what appears to be an acceptable rate and shall recommend to the department that the indicated per diem should be reduced to ~~seventy five~~ 75 percent (75%) of the established payment rate for the ensuing six (6)-month period and if the situation is not remedied on the subsequent Financial and Statistical Report for ~~Nursing Homes—Mentally Retarded~~, Form AA-4039-0 AA-4036-0, the facility shall be suspended and eventually canceled from the intermediate care facility program, or

ARC 7904

**HUMAN SERVICES
DEPARTMENT[441]**

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)^{7b}.

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.14, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

This amendment provides that recipients terminated from Refugee Cash Assistance because of an increase in earnings or hours of employment or because of child or spousal support are eligible to receive four months of extended medical coverage.

HUMAN SERVICES DEPARTMENT[441] (cont'd)

Clarification has been received from the Department of Health and Human Services that Refugee Medical Assistance must be provided in the same manner and to the same extent as under the state's Medicaid program. There will be no fiscal impact other than staff time for the extended medical for refugees as the program is 100 percent federally funded through the Office of Refugee Resettlement.

Policy is clarified that the Earned Income Tax Credit must be received on an ongoing basis to meet the definition of an increase in income from employment. The Earned Income Tax Credit can either be paid on an ongoing basis in the person's paycheck or on a one-time basis with the person's income tax refund. It is only when it is paid on an ongoing basis that it meets the definition of an increase in income. Otherwise it is considered as a lump sum payment.

Policy is also clarified that medical assistance is available to persons eligible for aid to dependent children (ADC), supplemental security income, state supplementary assistance, and refugee cash assistance who are not receiving cash assistance, regardless of whether they have chosen not to receive payments. Examples are persons who do not make application before they die, or persons who return to a public institution.

This amendment adds a new Medicaid coverage group for pregnant women. Clarification has been received from the Health Care Financing Administration that pregnant women who qualify for Medicaid by meeting the ADC income and resource requirements, but who do not meet the deprivation requirement, are a separate coverage group and are not entitled to the four and nine months of extended Medicaid coverage because they are not considered deemed recipients of ADC. (See also ARC 7906 herein.)

This amendment also provides that the needs of the unborn child or children must be considered when determining household size for purposes of determining eligibility for all ADC-related medical assistance programs.

Consideration will be given to all written data, views, and 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 September 30, 1987.

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

ITEM 1. Amend subrule 75.1(11) as follows:

75.1(11) Persons and Families ~~families~~ terminated from aid to dependent children or refugee cash assistance because of increased earnings or hours of employment. Medical assistance shall be available for a period of up to four (4) months to ~~individuals~~ persons who are canceled from the aid to dependent children program or refugee cash assistance solely because a member of the eligible group receives increased income from employment.

a. Increased ~~income~~ income from employment includes:

a. (1) Increased in rate of pay.

b. (2) Increased hours of employment.

e. (3) Receipt of income from ongoing Earned Income Tax Credit (EITC).

b. These recipients must have received aid to dependent children benefits or refugee cash assistance or a combination of the two programs during at least three

(2) of the six (6) months immediately preceding the month in which ineligibility occurred and at

c. At least one (1) member of the eligible group, although not necessarily the same member, must continue to be employed during the period of extended medical coverage.

d. The four (4) months medical coverage begins the day following termination of aid to dependent children benefits or refugee cash assistance.

e. When ineligibility is determined to occur retroactively, the extended medical coverage begins with the first month in which aid to dependent children or refugee cash assistance was erroneously paid.

f. Recipients terminated from refugee cash assistance are eligible for the four months of extended medical coverage as long as the 18-month limit for the refugee program is not exceeded.

ITEM 2. Amend subrule 75.1(15), paragraph "a," subparagraphs (1), (2), (3), (4), and (5) as follows:

(1) ~~An~~ If the child under age 21 is pregnant, the unborn child (or children if more than one) is ~~not~~ considered a member of the family for purposes of establishing the number of persons in the family.

(2) A "man-in-the-house" who is not married to the mother of the unborn child is not considered a member of the unborn child's family for the purpose of establishing the number of persons in the family. His income and resources are not automatically considered, regardless of whether or not he is the legal or natural father of the unborn child. However, income and resources made available to the mother of the unborn child by the "man-in-the-house" shall be considered in determining eligibility for the ~~unborn~~ pregnant child.

(3) When a person is living with a parent(s), the family size shall consist of all family members as defined by the aid to dependent children program in subrule 41.7(8), paragraph "c," and subrule 41.8(1) except as provided in 75.1(15)"a" (1) and (6).

Application for medical assistance shall be made by the parent(s) when the person is residing with them. A person shall be considered to be living with the parent(s) when the person is temporarily absent from the parent's(s') home as defined in subrule 41.3(3).

(4) When a person is living with a spouse the family size shall consist of that person, the spouse and any of their children, including any unborn children.

(5) A person who is not living with a parent(s) or spouse shall be considered a family of one unless the person is living with a sibling as defined in subrule 41.2(3), or is pregnant, in which case the family size shall consist of the person and all siblings under the age of ~~twenty-one~~ (21) and any unborn children.

ITEM 3. Amend subrule 75.1(15), paragraphs "b" and "c," as follows:

b. In cases involving ~~an unborn~~ a pregnant child under age 21 the pregnancy shall be verified in writing by a licensed physician. The verification shall also establish the number of fetuses if more than one and the probable date of conception. When an examination to establish pregnancy is required and no other resources are available to meet the expense of the examination, the physician shall be authorized to make the examination and submit a claim for the cost of the examination. Payment shall be made in accordance with existing regulations regarding physicians' fees.

HUMAN SERVICES DEPARTMENT[441] (cont'd)

Eligibility may be established no earlier than the first day of the month in which conception occurred and shall be in accordance with rule 441-76.5(249A).

c. A review of all eligibility factors shall be made no less frequently than every six (6) months.

ITEM 4. Amend subrule 75.1(17) as follows:

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

ITEM 5. Amend subrule 75.1(21) as follows:

75.1(21) ~~Individuals~~ Persons and families ineligible for aid to dependent children or refugee cash assistance in whole or in part ~~due to because of~~ child or spousal support. Medical assistance shall be available for four (4) months to ~~individuals persons~~ and families who become ineligible for aid to dependent children or refugee cash assistance ~~due to because of~~ income from child support, alimony or contributions from a spouse if the ~~individual person~~ or family member received aid to dependent children or refugee cash assistance or a combination of the two programs in at least three (3) of the six (6) months immediately preceding the month of cancellation.

a. *The four-months' medical coverage begins the day following termination of aid-to-dependent-children benefits or refugee cash assistance.*

b. *When ineligibility is determined to occur retroactively, the extended medical coverage begins with the first month in which aid to dependent children or refugee cash assistance was erroneously paid.*

c. *Recipients terminated from refugee cash assistance are eligible for the four months of extended medical coverage as long as the 18-month limit for the refugee program is not exceeded.*

ITEM 6. Amend rule 75.1(249A) by adding the following new subrule:

75.1(26) Qualified pregnant women. Medical assistance shall be available to pregnant women who meet the income and resource guidelines of the aid-to-dependent-children program.

The pregnancy shall be certified in writing by a licensed physician. The verification shall attest to the fact of the pregnancy, verify the number of fetuses, if more than one exists, and establish the probable date of conception. When an examination is required and other medical resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment.

a. Eligibility for medical assistance under this rule shall begin no earlier than the first of the month in which conception occurred, and in accordance with 441-76.5(249A).

b. Financial eligibility shall be established using the income and resource standards in effect in the aid-to-dependent-children program.

c. A person shall not be ineligible for medical assistance under this rule for failure to participate in the work incentive program.

d. Eligibility for medical assistance under this rule shall end when the pregnancy terminates.

e. The unborn child, or children if more than one, shall be considered a member of the family for purposes of establishing the number of persons in the family.

f. Eligibility for this program is not dependent upon the deprivation of the unborn child.

g. Recipients in this coverage group are not eligible for the four and nine months of extended medical assistance.

ARC 7906

HUMAN SERVICES
DEPARTMENT[441]

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.14, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

This amendment removes coverage of the unborn child under the Child Medical Assistance coverage group.

Clarification has been received from the Health Care Financing Administration that federal financial participation is no longer available for the unborn child under the Child Medical Assistance coverage group. With the introduction of the Qualifying Pregnant Women coverage group, the majority of the women receiving Medicaid on behalf of their unborn children are now eligible in their own right. (See ARC 7904 herein.)

However, there are some persons who will be adversely affected by this change.

Previously foreign students could receive Medicaid on behalf of their unborn children because the children would be considered citizens if born in the United States. Under the other Medicaid coverage groups the mothers will not be eligible in their own right and thus the unborn children will also not receive Medicaid.

There also may be a small number of women who may be over income guidelines for the Qualifying Pregnant Women coverage group because the income of the fathers of the unborn children must be taken into consideration if they are in the home and not married to the mothers. In the Child Medical Assistance coverage group income of the fathers living in the home was not considered if the fathers were not married to the mothers. These women will still be covered under the Medically Needy program but they may have to incur a spenddown, depending upon the amount of excess income.

Consideration will be given to all written data, views, and 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 September 30, 1987.

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

HUMAN SERVICES DEPARTMENT[441] (cont'd)

Amend subrule 75.1(15), introductory paragraph, as follows:

75.1(15) Child medical assistance program. Medical assistance shall be available to persons under age ~~twenty-one (21), including unborn children,~~ if the following criteria are met:

ARC 7886**HUMAN SERVICES DEPARTMENT[441]****Amended 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, 234.6, and 249A.4 and 1987 Iowa Acts, House File 671, section 212, the Department of Human Services proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Chapter 81, "Intermediate Care Facilities," Chapter 150, "Purchase of Service," Chapter 156, "Payments for Foster Care and Foster Parent Training," and Chapter 172, "Sheltered Work/Work Activity Services," appearing in the Iowa Administrative Code.

The Iowa Association of Rehabilitation and Residential Facilities has requested a public hearing regarding ARC 7740, published in the Iowa Administrative Bulletin, July 15, 1987.

This amendment schedules a public hearing as provided for in Iowa Code section 17A.4(1)"b".

Oral presentations may be made at the following meeting; written comments will also be accepted at that time.

Des Moines - September 30, 1987 1 p.m.
Hoover State Office Building
First Floor Conference Room
Des Moines, Iowa 50319-0114

These rules are intended to implement Iowa Code sections 234.6, 234.38, 249.4, 249A.4, and 1987 Iowa Acts, House File 671, sections 203, 212, and 213.

ARC 7907**HUMAN SERVICES DEPARTMENT[441]****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 217.6, the Department of Human Services proposes to amend Chapter 176, "Dependent Adult Abuse," appearing in the Iowa Administrative Code.

The Seventy-second General Assembly in 1987 Iowa Acts, House File 660, section 4, mandated the Department to establish multidisciplinary teams to provide leadership at the local and district levels in the delivery of services to victims of dependent adult abuse.

This amendment establishes those teams.

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 September 30, 1987.

These rules are intended to implement 1987 Iowa Acts, House File 660, section 4.

ITEM 1. Amend rule 441—176.1(235B) by adding the following new definition:

"Multidisciplinary team" shall mean a membership of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, social work, law, law enforcement, and other disciplines relative to dependent adults. Members of the team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and others involved in advocating or providing services for dependent adults.

ITEM 2. Amend 441—chapter 176 by adding the following new rule:

441—176.15(235B) Multidisciplinary teams.

176.15(1) Purpose of multidisciplinary teams. The district office shall establish multidisciplinary teams for the purpose of assisting the department in assessment, diagnosis, and disposition of reported dependent adult abuse cases. The disposition of a case may include the provision for treatment recommendations and services.

176.15(2) Execution of team agreement. When the team is established the district administrator or designee and all team members shall execute an agreement on Form 470-2328, Dependent Adult Abuse Multidisciplinary Team Agreement. This agreement specifies:

a. That the team shall be consulted solely for the purpose of assisting the department in the assessment, diagnosis, and treatment of dependent adult abuse cases.

b. That any team member may cause a dependent adult abuse case to be reviewed if approved by the department through use of the process of requesting adult abuse information specified in rule 176.10(235B).

c. That no team members shall disseminate adult abuse information obtained solely through the multidisciplinary team. This shall not preclude dissemination of information as authorized by Iowa Code section 235A.17 when an individual team member has received information as a result of another authorized access provision of the Code.

d. That the department may consider the recommendation of the team in a specific dependent adult abuse case but shall not, in any way, be bound by the recommendations.

e. That any written report or document produced by the team pertaining to an individual case shall be made a part of the file for the case and shall be subject to all confidentiality provisions of Iowa Code chapter 235A and of 441—Chapter 176.

f. That any written records maintained by the team which identify an individual dependent adult abuse case shall be destroyed when the agreement lapses.

HUMAN SERVICES DEPARTMENT[441] (cont'd)

g. That consultation team members shall serve without compensation.

h. That any party to the contract may withdraw with or without cause upon the giving of 30 days' notice.

i. The date on which the agreement will expire.

176.15(3) Filing of agreement. Whenever a team is created, a copy of the executed contract shall be filed with the central registry in addition to any other requirement placed upon execution of agreements by the department.

This rule is intended to implement 1987 Iowa Acts, House File 660, section 4.

INSURANCE DIVISION

Notice — Hearing

Pursuant to 1987 Iowa Acts, House File 506, section 8 (effective July 1, 1987), notice is hereby given that a hearing will be held on the issue of whether a competitive market exists with regard to personal lines automobile liability insurance. The factors to be considered are as set out in section 8, subsection 2, paragraphs "a" through "f" of the Act. The hearing will be held on September 30, 1987, at 10 a.m., 1st Floor Conference Room, Lucas Building, Des Moines, Iowa.

Any person wishing to appear and present evidence or argument on this issue must contact Lanice Goettsch (515/281-4033) at the Iowa Division of Insurance by September 23, 1987.

Editor's Note: Notice published pursuant to Iowa Code section 17A.6(1)"c."

ARC 7920

LABOR SERVICES DIVISION[347]

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 sections 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to rescind Chapter 42 and to adopt a new 347—Chapter 42, "Fees," Iowa Administrative Code, relating to fees for boiler inspections and certificates. The fees are to approximate the cost of an inspection and certificate. The cost of a certificate is being increased from \$5 per year to \$10 per year. This increase has also been passed along to inspection fees which include the certificate.

A public hearing will be held on September 30, 1987, at 9 a.m. in the office of the Department of Employment Services, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed rules. Written data or arguments to be considered in adoption may be

submitted by interested persons no later than September 29, 1987, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

The agency has determined that this Notice of Intended Action may have an impact on small business. The agency has considered the factors listed in Iowa Code section 17A.31. The agency will issue a regulatory flexibility analysis as provided in Iowa Code section 17A.31 if a written request is filed by delivery or by mailing postmarked no later than September 29, 1987, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. 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 the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

Rescind 347—Chapter 42 and adopt a new 347—Chapter 42 to read as follows:

CHAPTER 42 FEES

347—42.1(89) Special inspector certification fee. A \$20 fee shall be charged annually by the commissioner for a special inspector certification obtained pursuant to Iowa Code section 89.7, subsection 1.

347—42.2(89) Insured boiler certificate fee. A payment of a fee of \$10 for each one-year inspection and \$20 for each two-year inspection shall be charged for a certificate on an insured boiler pursuant to Iowa Code section 89.7, subsection 3.

347—42.3(89) Fees for inspection. An inspection fee of each boiler or pressure unit inspected by the boiler inspector according to the terms of Iowa Code chapter 89 shall be paid by the owner or user as follows:

1. Hot water heating boilers having a working pressure to and including 70 pounds per square inch, \$20 for each hot water heating boiler.

2. Boilers other than hot water heating boilers, having a working pressure to and including 70 pounds per square inch, \$35 for each boiler.

3. Boilers having a working pressure of 71 pounds to and including 150 pounds per square inch, \$25 for each boiler.

4. Boilers having a working pressure of 151 pounds to and including 450 pounds per square inch, \$40 for each boiler.

5. Boilers having a working pressure of 451 pounds and excess per square inch, \$50 for each boiler.

6. Steam stills, tanks, jacket kettles, sterilizers and all other reservoirs fired or unfired having a working pressure in excess of 15 pounds per square inch shall be charged as follows for each piece of equipment: 15 pounds to and including 70 pounds per square inch, \$15; 71 pounds to and including 150 pounds per square inch, \$17; 151 pounds to and including 450 pounds per square inch, \$20.

7. If at any time the owner, user or agent of the owner of a steam boiler or equipment shall request an inspection of any boiler or equipment, it shall be made by the commissioner after a request therefor, and the commissioner shall collect a fee of \$50 for each boiler, together with the expenses in connection therewith.

LABOR SERVICES DIVISION[347] (cont'd)

8. Inspections and code qualification surveys made by the commissioner at the request of a boiler or tank manufacturer shall be charged for at a rate set by the commissioner not to exceed the rate currently charged by the various insurance companies for performing a similar service. This charge shall not void the regular fee for inspection or certification when the boiler or tank is installed.

9. Notwithstanding the provisions of subrule 42.3(2), the fee for miniature model boilers constructed and maintained as a hobby and not for commercial use that have an inside diameter of 12 inches or less and a grate area not exceeding one square foot shall be \$20.

These rules are intended to implement Iowa Code chapter 89.

ARC 7925

LABOR SERVICES DIVISION[347]

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 88.5, 89B.8, 89B.12, and 89B.14, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 110, "Hazardous Chemical Risks Right to Know—General Provisions," Chapter 120, "Worker Right to Know," Chapter 130, "Community Right to Know," and Chapter 140, "Public Safety/Emergency Response Right to Know," Iowa Administrative Code, relating to hazardous chemicals risks right-to-know. These amendments implement changes made to the federal OSHA hazard communication standard, make minor changes to correct style and clerical errors in the published rules, and add a reference to hearing procedure rules which are being adopted by the Division (published in the Iowa Administrative Bulletin under Notice of Intended Action as ARC 7778 on July 29, 1987).

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) has adopted a new hazard communication standard. The rules contained in Iowa Administrative Code 347—Chapters 110 and 120 were based upon the federal OSHA standard published in November 1983. That standard applied only to employers who were chemical manufacturers, distributors, or manufacturing purchaser (SIC Code 20-39). Pursuant to court order, federal OSHA has expanded the coverage of its standard to all employers. The Iowa hazardous chemicals risks right-to-know Act, Iowa Code chapter 89B, applies to most employers in the state. In adopting a new standard, federal OSHA made some significant changes to the standard. These have been incorporated in this Notice of Intended Action.

The substantive changes affect the need for all employers to fully comply with the existing standard. Exemptions are made for medical, retail, construction, and warehousing establishments.

Nonsubstantive changes include the substitution of the Iowa employment appeal board for former Iowa occupational safety and health review commission, clerical corrections, addition of a reference to the division's hearing procedures.

If requested by September 30, 1987, a public hearing to accept comments on this Notice of Intended Action will be held on October 5, 1987, at 1 p.m. at offices of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. This is done pursuant to Iowa Code section 88.5(1)"b." Any interested person will be given the opportunity to make oral or written submissions concerning the proposed rules. Written data or arguments to be considered in adoption shall be submitted to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. Written comments postmarked by September 30, 1987, will be considered.

The agency has determined that this Notice of Intended Action may have an impact on small business. The agency has considered the factors listed in Iowa Code section 17A.31. The agency will issue a regulatory flexibility analysis as provided in Iowa Code section 17A.31 if a written request is filed by delivery or by mailing postmarked no later than September 29, 1987, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. 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 the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

These rules are intended to implement Iowa Code chapters 17A, 88, and 89B.

ITEM 1. Amend subrule 110.1(1), introductory paragraph and unnumbered paragraph 1 to read as follows:

110.1(1) Purpose. The purpose of Chapters 110, 120, 130, and 140 is to implement Iowa Code chapter 89B. The rules in Chapter 110 are to ensure that the hazards of all chemicals produced or imported by ~~chemical manufacturers or importers~~ are evaluated and that the information is transmitted to affected employers. This chapter is enforced under Iowa Code chapters 88 and 89B.

Chapter 120 provides that information concerning chemical hazards is transmitted to affected employers and employees. This transmittal of information is to be accomplished by means of a comprehensive hazard communication ~~program~~ *programs*, which ~~is~~ *are* to include container labeling and other forms of warning, material safety data sheets, and employee training. This chapter is enforceable under Iowa Code chapter 88.

ITEM 2. Adopt a new subrule 110.1(7) to read as follows and renumber the existing subrule 110.1(7) to be 110.1(8):

110.1(7) Exemption of employers - minimal exposure operations. In working operations where employees only handle chemicals in sealed containers which are not opened under normal conditions of use (such as are found in marine cargo handling, warehousing, or retail sales), this section applies to these operations only as follows:

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a. Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;

b. Employers shall maintain copies of any material safety data sheets that are received with incoming shipments of the sealed containers of hazardous chemicals, shall obtain a material safety data sheet for sealed containers of hazardous chemicals received without a material safety data sheet, and shall ensure that the material safety data sheets are readily accessible during each work shift to employees when they are in their work area(s); and

c. Employers shall ensure that employees are provided with information and training in accordance with rule 347—120.6(88,89B), except for the location and availability of the written hazard communication program under paragraph 120.6(1)"c," to the extent necessary to protect them in the event of a spill or leak of a hazardous chemical from a sealed container.

ITEM 3. Amend paragraph 110.1(7)"b" to read as follows:

b. Any food, food additive, color additive, drug, or cosmetic, or medical or veterinary device, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and regulations issued under that Act, when they are subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Food and Drug Administration;

ITEM 4. Amend subparagraph 110.1(7)"e"4 to read as follows:

4. Articles; and

ITEM 5. Rescind subparagraph 110.1(7)"e"6 and insert the following in lieu thereof:

6. Any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) respectively, where the employer can demonstrate it is used in the workplace in the same manner as normal consumer use, and which use results in a duration and frequency of exposure which is not greater than exposure experienced by consumers; and

7. Any drug, as that term is defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), when it is in solid, final form for direct administration to the patient (i.e., tablets or pills).

ITEM 6. Amend the definitions in rule 347—110.2(88,89B) as follows:

"Appeal board" means the employment appeal board created under Iowa Code section 10A.601.

"Container" means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical. For purposes of this section 347—Chapters 110, 120, 130, and 140, pipes or piping systems, and engines, fuel tanks, or other operating systems in a vehicle, are not considered to be containers.

"Distributor" means a business, other than a chemical manufacturer or importer, which supplies hazardous chemical to other distributors or to purchasers employers.

"Employee" means an individual employed by an employer in a workplace in this state who may be exposed to hazardous chemicals under normal operating conditions or foreseeable emergencies. *Workers such as office*

workers or bank tellers who encounter hazardous chemicals only in nonroutine, isolated instances are not covered.

"Employer" means a person engaged in a business in this state where chemicals are either used, distributed, or produced for use or distribution including a contractor or subcontractor.

"Hazard warning" means any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the hazards hazard(s) of the chemical(s) in the container(s).

"Importer" means the first business with employees within the Customs Territory of the United States which receives hazardous chemicals produced in other countries for the purpose of supplying them to distributors or purchasers employers within the United States.

"Purchaser" means an employer covered by Iowa Code chapter 89B with a workplace in this state who purchases a hazardous chemical for use within or at that workplace.

"Review commission" means Iowa occupational safety and health review commission established at Iowa Code section 88-10.

"Workplace" means an establishment, job site, or project, at one geographical location containing one or more work areas.

ITEM 7. Amend subrule 110.3(3) to read as follows:

110.3(3) The chemical manufacturer, importer, or employer evaluating chemicals shall treat the following sources as establishing that the chemicals listed in them are hazardous:

a. 29 CFR Part 1910, Subpart Z, (1986) Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA); or

b. "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment," American Conference of Government Industrial Hygienists (ACGIH)(1986).

The chemical manufacturer, importer, or employer is still responsible for evaluating the hazards associated with the chemicals in these source lists in accordance with the requirements of the standard this chapter.

ITEM 8. Amend paragraph 110.3(5)"d" to read as follows:

d. If the employer chemical manufacturers, importers, or employers has have evidence to indicate that a component present in the mixture in concentrations of less than one percent (or in the case of carcinogens, less than 0.1 percent) could be released in concentrations which would exceed an established division (OSHA) permissible exposure limit or ACGIH Threshold Limit Value (1985-1986), or could present a health hazard to employees in those concentrations, the mixture shall be assumed to present the same hazard.

ITEM 9. Add a new subrule 110.4(2) and renumber the subsequent subrules accordingly.

110.4(2) For solid metal (such as a steel beam or a metal casting) that is not exempted as an article due to its downstream use, the required label may be transmitted to the customer at the time of the initial shipment, and need not be included with subsequent shipments to the same employer unless the information on the label changes. The label may be transmitted with the initial shipment itself, or with the material safety data sheet that is to be provided prior to or at the time of the first shipment. This exception to requiring labels

LABOR SERVICES DIVISION[347] (cont'd)

on every container of hazardous chemicals is only for the solid metal itself and does not apply to hazardous chemicals used in conjunction with, or known to be present with, the metal and to which employees handling the metal may be exposed (for example, cutting fluids or lubricants).

ITEM 10. Amend renumbered subrule 110.4(3) to read as follows:

110.4(3) Chemical manufacturers, importers, or distributors shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked in accordance with this rule in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and regulations issued under that Act by the Department of Transportation.

ITEM 11. Amend subrule 110.5(2), paragraph "a," subparagraph (3), by adding a new "2" and renumbering "2" as "3."

2. The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise less than one percent (0.1 percent for carcinogens) of the mixture, if there is evidence that the ingredient(s) could be released from the mixture in concentrations which would exceed an established division's (OSHA) permissible exposure limit or ACGIH Threshold Limit Value, or could present a health hazard to employees; and,

ITEM 12. Amend paragraph 110.5(2)"g" to read as follows:

g. Whether the hazardous chemical is listed in the National Toxicology Program (NTP) "Annual Report on Carcinogens" (1982) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) "Monographs" (1982), or by the division;

ITEM 13. Amend paragraph 110.5(2)"j" to read as follows:

j. Emergency and first-aid practices procedures;

ITEM 14. Amend subrule 110.5(5) to read as follows:

110.5(5) The chemical manufacturer, importer, or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer or employer preparing the material safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported, the chemical manufacturer or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.

ITEM 15. Amend subrule 110.5(6) to read as follows:

110.5(6) Chemical manufacturers or importers shall ensure that distributors and purchasers of hazardous chemicals employers are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated. The chemical manufacturer or importer shall either provide material safety data sheets with the shipped containers or send them to the purchaser employer prior to or at the time of the shipment. If the

material safety data sheet is not provided with the shipment that has been labeled as a hazardous chemical, the employer, the purchaser shall obtain one from the chemical manufacturer, importer, or distributor as soon as possible.

ITEM 16. Amend subrule 110.5(7) to read as follows:

110.5(7) Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors and purchasers of hazardous chemicals employers. Retail distributors which sell hazardous chemicals to commercial customers shall provide a material safety data sheet to the employers upon request, and shall post a sign or otherwise inform them that a material safety data sheet is available. Chemical manufacturers, importers, and distributors need not provide material safety data sheets to retail distributors which have informed them that the retail distributor does not sell the product to commercial customers or open the sealed container to use it in their own workplaces.

ITEM 17. Amend subrule 110.6(3), introductory paragraph, to read as follows:

110.6(3) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under subrule 110.6(1), to a health professional (i.e., physician, industrial hygienist, toxicologist, or epidemiologist, or occupational health nurse), providing medical or other occupational health services to exposed employee(s), and to employees or designated representatives, if:

ITEM 18. Amend subparagraph 110.6(3)"b"(3) to read as follows:

(3) To conduct preassignment of or periodic medical surveillance of exposed employees;

ITEM 19. Amend subparagraph 110.6(3)"c"(2) to read as follows:

(2) Measures for controlling worker's workers' exposure to the chemical;

ITEM 20. Amend subrule 110.6(11) to read as follows:

110.6(11) If following the issuance of a citation and any protective orders, for a failure to release specific chemical identity information is contested by the chemical manufacturer, importer, or employer continues to withhold the information, the matter is referable to will be adjudicated before the review commission appeal board for enforcement of the citation in accordance with the enforcement scheme established in Iowa Code chapter 88 and the applicable appeal board rules. In accordance with review commission appeal board rules, when a chemical manufacturer, importer, or employer continues to withhold the information during the contest, the review commission appeal board may review the citation and supporting documentation in camera or issue appropriate protective orders to protect the confidentiality of the matters.

ITEM 21. Rescind rule 347—110.7(88,89B).

ITEM 22. Amend rule 347—120.3(88,89B) to read as follows:

347—120.3(88,89B) Written hazard communication program.

120.3(1) Employers shall develop, and implement, and maintain a written hazard communication program for their workplaces which at least describes how the

LABOR SERVICES DIVISION[347] (cont'd)

criteria specified in rules 347—110.4(88,89B), 110.5(88,89B), and 120.4(88,89B) to 120.6(88,89B) for labels and other forms of warning, material safety data sheets, and employee information and training will be met, and shall also include the following:

a. A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas); and,

b. The methods the employer will use to inform employees of the hazards of nonroutine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their areas; and

c. ~~The methods the employer will use to inform any contractor employers with employees working in the employers workplace of the hazardous chemical their employees may be exposed to while performing their work, and any suggestions for appropriate protective measures.~~

120.3(2) Multiemployer workplaces. *Employers who produce, use, or store hazardous chemicals at a workplace in a way that the employees of other employer(s) may be exposed (for example, employees of a construction contractor working on-site) shall additionally ensure that the hazard communication programs developed and implemented under this rule include the following:*

a. *The methods the employer will use to provide the other employer(s) with a copy of the material safety data sheet, or to make it available at a central location in the workplace, for each hazardous chemical the other employer(s) employees may be exposed to while working;*

b. *The methods the employer will use to inform the other employer(s) of any precautionary measures that need to be taken to protect employees during the workplace's normal operating conditions and in foreseeable emergencies; and,*

c. *The methods the employer will use to inform the other employer(s) of the labeling system used in the workplace.*

120.3(3) The employer may rely on an existing hazard communication program to comply with these requirements, provided that it meets the criteria established in rule 120.3(88,89B).

120.3(34) The employer shall make the written hazard communication program available, upon request, to employees, their designated representatives and the commissioner during working hours, in accordance with the requirements of rule 347—10.20(88), specifically 29 C.F.R. 1910.20(e).

ITEM 23. Amend rule 120.5(88,89B) by adding a new subrule 120.5(3) and renumbering the remaining subrules accordingly.

120.5(3) Where employees must travel between workplaces during a workshift, i.e., their work is carried out at more than one geographic location, the material safety data sheets may be kept at a central location at the primary workplace facility. In this situation, the employer shall ensure that employees can immediately obtain the required information in an emergency.

ITEM 24. Amend paragraph 120.6(2)“b” to read as follows:

b. The physical and health hazards of the chemicals in the work area including the effects of chronic and acute exposure;

ITEM 25. Rescind and reserve subrule 120.6(5).

ITEM 26. Amend rule 347—120.10(88,89B) to read as follows:

347—120.10(88,89B) Trade secret, medical emergency. In the event that a trade secret is involved in an employee exposure to a hazardous chemical that results in a medical emergency, the commissioner may issue a subpoena to obtain the identity of a chemical and the most recent update of the MSDS when the immediate release of such information is necessary for emergency medical treatment. The subpoena shall be issued to the *chemical manufacturer, importer, or employer* upon notice to the commissioner from the attending physician (or other authorized personnel) that a request for this information has been denied and a medical emergency does exist in accordance with subrule 110.6(2).

ITEM 27. Amend rule 347—120.11(88,89B) to read as follows:

347—120.11(88,89B) General procedures for citation, penalties, and appeal. In the event that an investigation reveals a violation of this chapter, the commissioner shall issue a citation in accordance with Iowa Code section 88.7 and follow the procedure for enforcement of Iowa Code section 88.8. The ~~review commission appeal board~~ may assess penalties pursuant to Iowa Code section 88.14.

ITEM 28. Rescind rule 347—120.12(88,89B).

ITEM 29. Amend rule 347—130.1(89B) to read as follows:

347—130.1(89B) Employer's duty. Upon request, an employer has a duty to inform the public of the presence of hazardous chemicals in the community and the potential health and environmental hazards that the chemicals pose. Requests shall be made during normal office hours of the employer. The employer shall provide the information or reason for refusal within ten days. *If unless the request is from a health professional, the information shall be provided immediately.*

ITEM 30. Rescind rule 347—130.11(89B) and insert the following in lieu thereof:

347—130.11(89B) Hearing procedures. The rules at 347—Chapter 200 shall be applicable to the procedures set forth in this chapter. Any conflicts which may exist shall be resolved in favor of any statutory provisions and 347—Chapter 200*.

ITEM 31. Amend subparagraphs 140.4(1)“a”(7) and (8) to read as follows:

(7) An NFPA 704-1980 flammability rating of 4 health rating of greater than or equal to 3;

(8) An NFPA 704-1980 health rating of greater than or equal to 3 flammability rating of 4; or

ITEM 32. Rescind rule 347—140.9(89B) and insert the following in lieu thereof:

347—140.9(89B) Hearing procedures. The rules at 347—Chapter 200 shall be applicable to the procedures set forth in this chapter. Any conflicts which may exist shall be resolved in favor of any statutory provisions and 347—Chapter 200*.

*Note: Rules in 347—Chapter 200 were published under Notice of Intended Action in the Iowa Administrative Bulletin, July 29, 1987, as ARC 7778.

ARC 7919
NATURAL RESOURCES
DEPARTMENT[561]

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 1987 Iowa Acts, House File 631, section 307, and Iowa Code section 455A.4 and chapter 17A, the Department of Natural Resources hereby gives Notice of Intended Action to adopt a new Chapter 9, "Groundwater Hazard Documentation," Iowa Administrative Code, to provide rules and forms for reporting the existence and location of wells, disposal sites, underground storage tanks and hazardous waste sites at the time of transferring title to real property.

1987 Iowa Acts, House File 631, section 307, provides for the submitting of a statement with each declaration of value submitted to the county recorder setting forth the existence and location of wells, disposal sites, underground storage tanks and hazardous waste. This statement may also be required in cases where the declaration of value is not required. The statute requires the Department to adopt rules governing the statement as well as to prescribe the form of statement to be used.

The substance of this new Chapter 9 was emergency adopted and implemented rules on July 1, 1987, and was published as **ARC 7769** on July 29, 1987, and amended by emergency adopted and implemented rules on July 31, 1987, and published as **ARC 7847** on August 26, 1987, and the subject matter of those rules is incorporated herein by this reference.

This Notice solicits public comment on the rules filed emergency on July 1, 1987, and amended by rules filed emergency on July 31, 1987, and further proposes to amend the rules by adding the requirement to subrule 9.2(1) that if an agent or attorney signs on behalf of the transferor, in doing so the agent or attorney represents that a good faith inquiry of the transferor regarding the information contained in the form has been made and that it is correct. The department is of the opinion that the primary intent of the statute is to alert transferees of real property of potential groundwater hazards on the property, and enable them to effect a remedy for such hazards. The department specifically seeks comment on these rules or transactions.

Any interested person may make written comments or suggestions on these proposed rules to Victor Kennedy, Coordination and Information Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319 and must be received no later than September 30, 1987. It is requested that any comments be accompanied by proposed wording for any rule changes suggested.

A public hearing will be held September 30, 1987, at 1 p.m. in the Auditorium, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319. Interested persons who wish to present their views orally or in writing at this hearing should contact Victor Kennedy at least one day prior to the public hearing.

Contact may be made by calling 515/281-8889 or writing to Coordination and Information Division, Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319.

These rules are intended to implement 1987 Iowa Acts, House File 631, section 307, and Iowa Code section 455A.4.

Amend subrule 9.2(1), as follows:

9.2(1) The ~~grantor or~~* transferor, their agent or attorney, shall sign department Form 542-0960 "Groundwater Hazard Statement" which may be obtained from the department or local county recorder. *An agent or attorney may sign the form for the transferor, but in doing so the agent or attorney represents that a good faith inquiry of the transferor has been made regarding the information contained in the form, and that it is correct.*

* The words "grantor or" were deleted in emergency filing.

ARC 7891
NURSING BOARD[655]

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 17A.3 and 147.76, the Iowa Board of Nursing hereby gives Notice of Intended Action to adopt amendments to Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," appearing in the Iowa Administrative Code.

These amendments provide for a special licensure for those already licensed in other states or for those licensed in other countries. The intent of the special license is to allow nurses licensed in another state or in another country to be licensed and to practice in Iowa for a fixed period of time and only under certain circumstances. The purpose of the license is to allow those nurses not previously licensed in Iowa to provide care in a specialty area, to provide consultation or teaching where care is directed or to obtain clinically based continuing education. These licenses would be granted by the Board in very limited circumstances when full licensure by endorsement or by examination would not be reasonable.

Any interested person may make written suggestions or comments prior to September 29, 1987. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, State Capitol Complex, 1223 East Court Avenue, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Executive Director at (515) 281-3256 or in the office at 1223 East Court Avenue by appointment.

These amendments are intended to implement Iowa Code sections 17A.3, 147.2 and 147.76.

The following amendments are proposed:

ITEM 1. Amend rule **3.1(17A,147,152,258A)**, definition of fees, by adding a new paragraph "15" as follows:

15. For special licensure by endorsement, \$47.

NURSING BOARD[655] (cont'd)

ITEM 2. Add the following new rule 655—3.6(17A,147,152,258A) and renumber remaining rules accordingly.

655—3.6(17A,147,152,258A) Special licensure.

3.6(1) Special licensure by endorsement. A short-term special license may be granted by the board on an individual basis. The intent of the special license is to allow nurses licensed in another state to be licensed and to practice in Iowa for a fixed period of time and only under certain conditions. The purpose of the license is to allow those nurses not previously licensed in Iowa to provide care in a specialty area, to provide consultation or teaching where care is directed, or to obtain clinically based continuing education.

The application process for those currently licensed in another state who are eligible for endorsement is as follows:

a. Upon receipt of a written or telephone request the board shall send the application form and instructions to the applicant.

b. The application shall seek identifying information, history of felony conviction, history of any disciplinary action or pending action against the individual's nursing license in another state, reason and circumstances surrounding the request for special endorsement.

c. The applicant shall submit the completed application form, special licensure fee as designated in rule 3.1(17A,147,152,258A), and notarized copy of current active license from another state.

d. The board staff shall determine the validity of the request for licensure by special endorsement based on the duration, location, and need for the short-term nursing license and the absence of sanctions against the applicant's current license and absence of any felony convictions.

(1) If the application is incomplete, the board staff shall return it to the applicant.

(2) If the application shows a previous felony conviction or any disciplinary action or pending action against the individual's nursing license, the board staff shall return the application with an explanation that the applicant is not eligible for special licensure by endorsement. The applicant may be eligible for regular licensure by endorsement according to rule 3.5(17A,147,152,258A). The board staff shall send the regular endorsement application to the individual.

(3) If the application is complete and the request is valid, the board staff shall send the information to the board for its review.

(4) The board shall review the need for a special license by endorsement.

1. If the board determines the need exists for special licensure by endorsement it shall grant such a license. The license shall indicate its special nature and the duration and location for which it can be used. The period of licensure by special endorsement shall be determined by the board. Upon written request extensions may be granted by the board. A second special license by endorsement will not be issued to the same person. A person with need for repeated special licensure may seek a waiver of this restriction.

2. If the board denies special licensure by endorsement, the individual may still be eligible for regular licensure

by endorsement according to rule 3.5(17A,147,152,258A). The regular endorsement application shall be sent to the individual along with a reason for the denial of special licensure by endorsement.

3.6(2) Special licensure for those licensed in another country. A short-term special license may be granted by the board on an individual basis. The intent of the special license is to allow nurses licensed in another country who are not eligible for endorsement to practice in Iowa for a fixed period of time and only under certain conditions. The purpose of the license is to allow those nurses not previously licensed in Iowa to provide care in a specialty area, to provide consultation or teaching where care is directed, or to obtain clinically based continuing education.

a. Upon receipt of a written request the board staff shall send the application form and instructions to the applicant or sponsor.

b. The application shall seek identifying information, history of felony conviction, history of licensure in any other state, and reason and circumstances surrounding the request for special licensure.

c. The applicant shall submit the completed application form, special licensure fee as designated in subrule 3.1(6), and a certificate by the Commission on Graduates of Foreign Nursing Schools (CGFNS).

d. The board staff shall determine the validity of the request for special licensure based on the duration, location, and need for the short-term nursing license and absence of any felony convictions.

(1) If the application is incomplete, the board staff shall return it to the applicant.

(2) If the application shows a previous felony conviction, the board staff shall return the application with an explanation that the applicant is not eligible for special licensure. The applicant may be eligible for licensure by examination according to subrule 3.4(6). The board staff shall send the application for individuals educated in another country to the individual.

e. The board shall review the need for a special license.

(1) If the board determines the need exists for special licensure, it shall grant such a license. The license shall indicate its special nature and the duration and location for which it can be used. The period of special licensure shall be determined by the board. Upon written request extensions may be granted by the board. A second special license will not be issued to the same person. A person with need for repeated special licensure may seek a waiver of this restriction.

(2) If the board denies such a license, the individual may be eligible for licensure by examination according to subrule 3.4(6).

f. This special licensure by endorsement shall be subject to all rules and regulations promulgated by the board except those pertaining to:

- (1) Verification.
- (2) Reactivation.
- (3) Inactivation.
- (4) Renewal.
- (5) Late renewal.
- (6) Continuing education requirements.

ARC 7910
PROFESSIONAL LICENSURE[645]
BOARD OF SPEECH PATHOLOGY
AND AUDIOLOGY EXAMINERS

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.10 and 258A.2, the Board of Speech Pathology and Audiology Examiners hereby gives Notice of Intended Action to amend 645—Chapter 156 of the Iowa Administrative Code.

The proposed rules clarify continuing education requirements, establish continuing education audit procedures, and lessen the continuing education application and reporting requirements of licensees.

The substance of these rules is published herein, emergency filed as **ARC 7911**. The purpose of this Notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on these proposed rules no later than September 29, 1987, addressed to Irene G. Howard, Director, Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, IA 50319-0075.

The proposed rule is intended to implement Iowa Code sections 147.10 and 258A.2.

ARC 7889
PUBLIC DEFENSE
DEPARTMENT[650]

STATE EMERGENCY RESPONSE COMMISSION

Notice of Intended Action

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

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

Pursuant to Governor's Executive Order No. 30, dated April 15, 1987, and Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III—Emergency Planning and Community Right-to-Know, Public Law 99-499, the State Emergency Response Commission (SERC), hereby gives Notice of Intended Action to adopt a new Chapter 103, "Local Emergency Planning Committees," Iowa Administrative Code. These rules establish local emergency planning committees; the method of appointing members; duties of the local emergency planning committee; development, review and submission of emergency response plans; and designation of a place for the covered facilities to file required information and where the public can obtain information.

These rules were approved by the State Emergency Response Commission on August 14, 1987.

These rules are also filed emergency and published herein as **ARC 7890**, and the content of that filing is incorporated here by reference. The purpose of this Notice of Intended Action is to solicit public comment.

If requested by September 29, 1987, a public hearing to accept comments on this Notice of Intended Action will be held on October 2, 1987, at 9 a.m. at Office of Disaster Services, Hoover State Office Building, Room A29, Des Moines, Iowa. Written comments by any interested person may be submitted at the public hearing or by mail to State Emergency Response Commission, Hoover State Office Building, Level A, Des Moines, Iowa 50319. Written comments postmarked by September 29, 1987, will be considered.

These rules are intended to implement Iowa Code chapter 17A, Executive Order No. 30, and Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, Title III—Emergency Planning and Community Right-to-Know.

ARC 7903
PUBLIC HEALTH
DEPARTMENT[641]
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 135.11(13) and 1987 Acts, House File 169, the Department of Public Health hereby gives Notice of Intended Action to create a new Chapter 72, "Lead Abatement Program," to establish procedures for administering the newly enacted lead abatement program.

The program will provide state funds to qualifying county, district, or city boards of health for lead abatement programs. The proposed rules outline the application process, selection process, funding provisions, and an appeal process.

Any interested person may attend a public hearing to be conducted on September 29, 1987, at 2 p.m. in the Lucas State Office Building, Fourth Floor, Director's Conference Room, or make written comments concerning the proposed rules not later than September 29, 1987, addressed to Theodore D. Scurletis, M.D., Medical Consultant, Iowa Department of Public Health, Family and Community Health Division, Third Floor, Des Moines, IA 50319-0075.

These rules are intended to implement 1987 Iowa Acts, House File 169.

CHAPTER 72
LEAD ABATEMENT PROGRAM

641—72.1(72GA, HF169) Definitions.

"Abatement" means, at a minimum, treatment of contaminated areas to eliminate accessible and chewable lead paint on surfaces. It shall consist of covering or removal of the lead paint from surfaces from which it

PUBLIC HEALTH DEPARTMENT[641] (cont'd)

is chipping or flaking or otherwise accessible for ingestion.

"Blood action level" means a blood level in a child of over 25 ug/dl of lead.

"Contamination action level" means a lead contamination level in a household of 1 mg/cm² or higher as measured by an X-ray fluorescence analyzer. (This level is established by the Department of Housing and Urban Development of the federal government and may be changed according to any changes required by H.U.D.)

"Department" means the Iowa department of public health.

"Laboratory" means a laboratory satisfactorily participating in the proficiency testing program of the Center for Disease Control or other specific proficiency testing program for erythrocyte protoporphyrin and lead.

"Local board" means a county, district, or city board of health.

641—72.2(72GA,HF169) Applicant eligibility and application process.

72.2(1) All local boards of health are eligible to apply for grants under this program.

72.2(2) Local boards wishing to participate in this program shall make application to the Iowa department of public health. Requests for funds must follow the "Request for Proposals" format which will be made available from the Maternal and Child Health Bureau, Iowa Department of Public Health, Lucas State Office Building, Des Moines, IA 50319-0075. All materials submitted as part of the grant application are public records.

72.2(3) Applicants must demonstrate a need for financial assistance for the program.

72.2(4) Applicants must satisfactorily describe their intent to meet the following activities and authority within the first year of the program in order to be eligible for initial and continued funding.

1. A public education program about lead poisoning and dangers of lead poisoning to children.

2. An effective outreach effort to ensure availability of services in geographic area to be served.

3. A blood screening program for children, with emphasis on children less than five years of age. Blood screening should be done in conformance with "Preventing Lead Poisoning in Young Children," a statement by the Center for Disease Control, January 1985, available on request from the department.

4. Provision of laboratory services, in conformance with the above-cited reference.

5. A program of referral of identified children for assessment and treatment which should be developed in association with the Child Health Specialty Clinics of the University of Iowa Hospitals and Clinics.

6. An environmental assessment of suspect dwelling units.

7. Abatement surveillance to ensure correction of the identified hazardous settings.

8. A local code which provides adequate authority to require abatement.

9. A plan of intent to continue the program on a maintenance basis after the grant is discontinued.

641—72.3(72GA,HF169) Selection process.

72.3(1) Proposed lead abatement programs will be prioritized by the department, with highest priority given to geographic areas having children with elevated

blood lead levels, as identified by surveys completed by the department.

72.3(2) Contract agencies are selected on the basis of the grant applications submitted to the Iowa department of public health in relation to the review criteria. Copies of review criteria are available from Bureau Chief, Maternal and Child Health Bureau, Iowa Department of Public Health, Lucas State Office Building, Des Moines, IA 50319-0075, (515)281-4911.

72.3(3) In the case of competing applications, the contracts will be awarded to the agencies that score the highest number of points in a review.

641—72.4(72GA,HF169) Funding.

72.4(1) Grant recipients will be required to provide matching contributions according to the following formula:

1. The grantee will provide one dollar for each three dollars awarded for each of the first two years and then one dollar for each dollar identified for a maximum of two additional years.

2. Local contributions may be in the form of in-kind matching.

3. No project can qualify for more than \$50,000 per year of state funds.

72.4(2) The contract period shall be from July 1 to June 30 annually, however, contracts may be subject to termination.

72.4(3) Agencies which have been awarded a grant for the first year must apply for renewal for each subsequent year.

72.4(4) Projects may negotiate for services or equipment with any firm, bearing in mind that according to Iowa Code section 193.7 the law requires the promotion of equal opportunity in all state contracts and services and the prohibition of discriminatory and unfair practices within any program receiving or benefiting from financial assistance in whole or in part.

72.4(5) The lead abatement grant program shall continue for so long as funds are appropriated to the department for that purpose.

641—72.5(72GA,HF169) Appeals.

72.5(1) Any applicant whose proposal has been timely filed, and is aggrieved by the awards made pursuant to these rules, may request a reconsideration of its proposal by filing a written request for reconsideration with the director of the Iowa department of public health. Such a request shall be filed within three working days of the date of notification as to the awards.

72.5(2) Requests for reconsideration must be in writing and clearly state the reasons for reconsideration and what remedy is being sought. The director's scope of review for requests shall be limited to a finding that the department erred in following the rules or procedures of the grant process as outlined in these administrative rules or in the program application kit.

72.5(3) The department shall refrain from awarding any funds until it has received the decision of the director as to any reconsideration. The review will be conducted as expeditiously as possible so that all funds can be distributed in a timely fashion.

72.5(4) This procedure shall end the review process at the administrative level.

ARC 7883**RACING AND GAMING
DIVISION[195]****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 99B.13 and 99D.7, the Division of Racing and Gaming hereby gives Notice of Intended Action to transfer agency [195]—Chapters 1 to 25 from the "umbrella" of the Department of Commerce to the "umbrella" of the Department of Inspections and Appeals, and to amend [491]—Chapters 18 to 25, Iowa Administrative Code.

The Division of Racing and Gaming was transferred by 1987 Iowa Acts, House File 671, section 421. The amendments simply correct the rules to conform to name changes resulting from that bill, which became effective July 1, 1987.

Any interested person may request in writing that a public hearing be conducted not later than September 29, 1987, addressed to the Division of Racing and Gaming, 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021.

The Racing Commission adopted the rule change pursuant to Iowa Code chapter 99D at a regular meeting on August 13, 1987. The Division Administrator adopted rule changes pursuant to Iowa Code chapter 99B on that same date.

These rules are necessary for implementation of Iowa Code chapters 99B and 99D as amended by 1987 Iowa Acts, House File 671, section 421.

ITEM 1. Transfer 195—Chapters 1 to 25 to 491—Chapters 1 to 25.

ITEM 2. Rule 491—18.1(17A) Definitions is amended to read as follows:

"Division" means the racing and gaming division, Iowa department of ~~commerce~~ *inspections and appeals*.

ITEM 3. Strike "Commerce" and insert "Inspections and Appeals" wherever this word appears in the following: 18.14"1," 18.17(3)"a," 18.18(1), and 18.19(1).

ITEM 4. Strike "Commerce" and insert "Inspections and Appeals" wherever this word appears in the following: 19.5(1), 19.6(3) and 19.11(1).

ITEM 5. Rule 491—20.2(99B) Definitions is amended by striking the word "commerce" and inserting the words "inspections and appeals".

ITEM 6. Subrule 20.4(1), unnumbered paragraph 2, last sentence, is amended as follows: See rule ~~701—7.17(17A)~~ *491—18.17(17A)*.

ITEM 7. Rule 491—20.5(99B), last sentence is amended as follows: See subrule ~~701—7.17(5)~~ *491—18.17(5)*.

ITEM 8. Rule 491—22.9(99B) is amended by striking the word "commerce" and inserting "inspections and appeals".

ITEM 9. Rule 491—24.8(99B) is amended by striking the word "commerce" and inserting "inspections and appeals".

EDITOR'S NOTE: Full text of new Chapters 18 and 19 will appear in IAC Supplement, 9/9/87.

ARC 7914**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 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage"; Chapter 26, "Sales and Use Tax on Service"; and Chapter 103, "Hotel and Motel Administration," Iowa Administrative Code.

In the past the Department has taxed the rental of a mobile home which was not real property as the rental of tangible personal property. Changes in applicable statutes have removed the rental of mobile homes from the category of rental of tangible personal property and placed such rentals within the category of the rental of hotel and motel rooms, sleeping rooms and apartments. The major result of this change is that the rental of a trailer which is not real property is now exempt from tax if rented by the same person for a period of more than 31 consecutive days. This exemption was not applicable when the rental of a trailer which is not real property was classified as the rental of tangible personal property.

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 September 29, 1987, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, Post Office 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 October 9, 1987. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, Post Office 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.

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

Requests for a public hearing must be received by October 1, 1987.

The amendments are intended to implement Iowa Code subsections 422.43(7) and (11) and 422A.1 as amended by 1987 Iowa Acts, House File 605.

The following amendments are proposed.

ITEM 1. Amend rule 701—18.40(422,423) to read as follows:

701—18.40(422,423) Renting of rooms. The gross receipts from the renting of any and all rooms, including but not limited to sleeping rooms, banquet rooms or conference rooms in any hotel, motel, inn, public lodging house, rooming or tourist court, or in any place where sleeping accommodations are furnished to transient guests, whether with or without meals, are subject to the tax. *On and after July 1, 1987, the rental of a mobile home which is tangible personal property is treated as room rental rather than tangible personal property rental. However, †The renting of all such rooms would be exempt from the tax if rented by the same person for a period of more than thirty-one (31) consecutive days.*

This rule is intended to implement Iowa Code section 422.43 as amended by 1987 Iowa Acts, House File 605.

ITEM 2. Amend subrule 26.18(2), paragraph "c," and the implementation clause following rule 701—26.18(422,423) to read as follows:

c. Rental of tangible personal property and rental of fixtures. The rental of tangible personal property which shall, prior to its use by the renter under the rental contract, become a fixture, shall not be subject to tax. Such a rental is the rental of real property rather than tangible personal property. In general, any tangible personal property which is connected to real property in such a way that it cannot be removed without damage to itself or to the real property is a fixture, *Equitable Life Assurance Society of the United States v. Chapman, 282 N.W.355 (Iowa 1983) and Marty v. Champlin Refining Co., 36 N.W.2d 360 (Iowa 1949). Prior to July 1, 1987, †the rental of a mobile home, not sufficiently attached to realty to constitute a fixture, is the rental of tangible personal property and subject to tax, Broadway Mobil Homes Sales Corp. v. State Tax Commission, 413 N.Y.S.2d 231 (N.Y. 1979). For the treatment of mobile home rental on and after that date see rule 18.40.*

This rule is intended to implement Iowa Code sections ~~422.23~~ 422.43 and 423.2 as amended by 1987 Iowa Acts, Senate House File 580 605.

ITEM 3. Amend subrule 103.1(2) and the implementation clause following rule 701—103.1(422A) to read as follows:

103.1(2) Rooms. The gross receipts from the renting of any and all sleeping rooms in any hotel, motel, inn, public lodging house, rooming or tourist court, or in any place where sleeping accommodations are furnished to transient guests, whether with or without meals, except the gross receipts from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in Iowa, are subject to tax. *On and after July 1, 1987, the rental of a mobile home which is tangible personal property rather than real property is subject to tax under this chapter in the same fashion as a sleeping room. However, †The renting of all such sleeping rooms would be exempt from the tax if rented*

by the same person for a period of more than ~~thirty-one~~ (31) consecutive days.

This rule is intended to implement Iowa Code section 422A.1 as amended by 1987 Iowa Acts, House File 605.

ARC 7915

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 20, "Foods for Human Consumption, Prescription Drugs, Insulin, Hypodermic Syringes, Diabetic Testing Materials, Prosthetic, Orthotic, or Orthopedic Devices," Iowa Administrative Code.

These amendments are being made to clarify what purchases of foods for human consumption are subject to tax with the amendment to Iowa Code section 422.45 contained in 1987 Iowa Acts, House File 266.

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 September 29, 1987, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, Post Office 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 October 9, 1987. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, Post Office 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 October 1, 1987.

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

These amendments are intended to implement Iowa Code chapter 422 as amended by 1987 Iowa Acts, House File 266.

The following amendments are proposed.

ITEM 1. Amend rule 701—20.1(422,423), introductory paragraph, to read as follows:

701—20.1(422,423) Foods for human consumption. Foods for human consumption which may be purchased with food coupons shall be exempt from tax regardless of whether the retailer from whom the foods are purchased is participating in the food coupon program. On or after July 1, 1985, candy, candy-coated items, candy products and certain beverages, which are described in subrule 20.1(3) and which may be purchased with food coupons, are taxable *unless purchased on or after October 1, 1987, with food coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. §2011, et seq.*

ITEM 2. Amend subrule 20.1(1), paragraph "b," to read as follows:

b. Distilled water and ice. These items, although having some nonfood usages, are largely used as food or in food for human consumption. Unless these items are specifically labeled for nonfood use or the recipient indicates they will be used for other than human consumption, they are eligible and may be purchased with food coupons. On or after July 1, 1985, distilled water and certain other beverages, which are described in subrule 20.1(3)"b" and which may be purchased with food coupons, are taxable *unless purchased on or after October 1, 1987, with food coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. §2011, et seq.*

ITEM 3. Amend subrule 20.1(1), paragraph "c," to read as follows:

c. Specialty foods. This category of eligible foods includes special dietary food (e.g., diabetic and dietetic), enriched or fortified foods, infant formulas, and certain foods commonly referred to as health food items. These items are food products which are substituted for more commonly used food items in the diet, and thus they are eligible for purchase with food coupons. Examples of items in this category of eligible foods are Metrecal, Enfamil, Sustegen, wheat germ, brewer's yeast, sunflower seeds which are packaged for human consumption, and rose hips powder which is used for preparing tea. It is not possible to formulate a comprehensive list of eligible specialty foods. The guideline to be used to determine the eligibility of specific items is the ordinary use of a product. NOTE: If the product is primarily used as a food or in preparing food, then it is an eligible item; if it is primarily used for medicinal purposes as either a therapeutic agent or a deficiency corrector and only occasionally used as a food, the product is not an eligible item. On or after July 1, 1985, candy, candy-coated items, candy products, and certain beverages, which are described in subrule 20.1(3) and which may be purchased with food coupons, are taxable *unless purchased on or after October 1, 1987, with food coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. §2011, et seq.*

ITEM 4. Amend subrule 20.1(1), paragraph "d," to read as follows:

d. Snack foods. These products are food items and, therefore, are eligible. Typical examples of snack foods are candy, soft drinks, potato chips, and chewing gum. On or after July 1, 1985, candy, candy-coated items, candy products, and certain beverages, which are described in subrule 20.1(3) and which may be purchased with food coupons, are taxable *unless purchased on or after October 1, 1987, with food coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. §2011, et seq.*

ITEM 5. Amend subrule 20.1(3), introductory paragraph, to read as follows:

20.1(3) Candy, candy-coated items, candy products, and certain beverages. Even when eligible for purchase with food coupons, candy, candy-coated items, candy products, and certain beverages are taxable on or after July 1, 1985, *unless purchased on or after October 1, 1987, with food coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. §2011, et seq.*

ITEM 6. Amend subrule 20.1(3), paragraph "a," to read as follows:

a. Candy, candy-coated items, and candy products. Candy, candy-coated items and candy products are taxable on or after July 1, 1985, *unless purchased on or after October 1, 1987, with food coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C., §2011, et seq.* Candy, candy-coated items, and candy products include those products normally considered to be "candy."

ITEM 7. Amend subrule 20.1(3), paragraph "b," by adding:

Beverages are not taxed if purchased on or after October 1, 1987, with coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. §2011, et seq.

ITEM 8. Amend rule 701—20.2(422,423) to read as follows:

701—20.2(422,423) Food coupon rules. Food coupon rules used in determining whether certain foods are eligible for purchase by food coupons and therefore exempt from sales tax shall be those United States Department of Agriculture regulations in effect on July 1, 1974, *unless the purchase is actually made with food coupons on or after October 1, 1987, in which case the exemption applies to the purchase of all food eligible under the federal Food Stamp Act of 1977, 7 U.S.C. §2011, et seq.*

(1) On or after July 1, 1985, candy, candy-coated items, candy products, and certain beverages, which are described in 20.1(3) and which may be purchased with food coupons, are taxable *unless purchased on or after October 1, 1987, with food coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. §2011, et seq.*

(2) *On or after October 1, 1987, the entire sale of eligible food items is exempt from tax when a purchase of items eligible for purchase with food coupons is paid with food coupons and cash.*

ARC 7916**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 51, "Administration," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 53, "Determination of Net Income," Chapter 54, "Allocation and Apportionment," Chapter 56, "Declaration of Estimated Tax for Corporations," Chapter 57, "Administration," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Net Income," and Chapter 61, "Declaration of Estimated Tax for Financial Institutions," Iowa Administrative Code.

1987 Iowa Acts, Senate File 523, updated references to the Internal Revenue Code for corporation income and franchise tax; amendments to rules 701—51.1(422) and 701—57.1(422) implement this legislative change. This legislation also revised the corporation income and franchise tax minimum taxes from a percentage of the federal minimum tax to a state alternative minimum tax. Amendments to rules 701—52.5(422) and 701—58.5(422) implement this legislation. Amendments are made to rules 701—53.6(422) and 701—59.6(422) to implement those provisions of 1987 Iowa Acts, Senate File 523, which require the addition of income distribution from regulated investment companies which are not subject to federal income taxes in computing Iowa taxable income. Also nonsubstantive definition changes from Internal Revenue Code of 1954 to Internal Revenue Code wherever they appear in the Iowa Administrative Code 701—Chapters 51 through 61.

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

The Department has determined that these proposed amendments 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 September 29, 1987, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, Post Office 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 October 9, 1987. Such written comments should be

directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, Post Office 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 October 1, 1987.

The following amendments are proposed.

ITEM 1. Amend rule 701—51.1(422) by adding the following new subrule:

51.1(4) The term "Internal Revenue Code" means the Internal Revenue Code of 1954 prior to the date of its redesignation as the Internal Revenue Code of 1986 or the Internal Revenue Code of 1986, whichever is applicable.

ITEM 2. Amend subrule 52.4(5), introductory paragraph, to read as follows:

52.4(5) Research activities credit. Effective for tax years beginning on or after January 1, 1985, taxpayers are allowed a tax credit equal to six and one-half percent of the state's apportioned share of qualifying expenditures for increasing research activities. For purposes of this credit, "qualifying expenditures" means the qualifying expenditures for increasing research activities as defined for purposes of the federal credit for increasing research activities computed under section 3041 of the Internal Revenue Code of 1954 as amended to and including January 1, 1985. The "state's apportioned share of qualifying expenditures for increasing research activities" must be the ratio of the qualified expenditures in Iowa to total qualified expenditures times total qualifying expenditures for increasing research activities.

ITEM 3. Rescind rule 701—52.5(422) and insert the following in lieu thereof:

701—52.5(422) Minimum tax.

52.5(1) Effective for tax years beginning on or after January 1, 1982, but before January 1, 1987, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.33. The Iowa minimum tax on tax preference items is a percentage of the federal minimum tax for tax preferences computed under sections 56 through 58 of the Internal Revenue Code for the tax year. For tax years beginning on or after January 1, 1986, "federal minimum tax" means the federal minimum tax for tax preferences computed under sections 56 through 58 except section 57(a)(8) of the Internal Revenue Code for the tax year.

For a corporation conducting 100 percent of its business within Iowa as defined in rule 54.1(422), the Iowa minimum tax is a percentage of the federal minimum tax. For a corporation doing business both within and without Iowa, the state's portion of the federal minimum tax shall be based upon the apportionment provisions of rule 54.5(422) through 54.8(422) unless an alternative method more accurately reflects that portion of minimum tax attributable to Iowa.

When a corporation joins with at least one other corporation in the filing of a consolidated federal income tax return, and files a separate Iowa corporation income

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

tax return, the consolidated federal minimum tax shall be allocated to the separate corporations. The allocation of the consolidated federal minimum tax shall be determined as follows: The consolidated federal minimum tax is multiplied by a fraction, the numerator of which is the sum of the taxpayer's federal tax preference items and the denominator of which is the total of the federal tax preference items of each corporation included in the consolidated federal income tax return.

For tax years beginning on or after January 1, 1982, and prior to January 1, 1983, the Iowa minimum tax is 25 percent of the state's apportioned share of the federal minimum tax on tax preference items.

For tax years beginning on or after January 1, 1983, the Iowa minimum tax is 70 percent of the state's apportioned share of the federal minimum tax on tax preference items.

52.5(2) For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that it exceeds the taxpayer's regular tax liability computed under Iowa Code section 422.33(1). The minimum tax rate is 60 percent of the maximum corporate tax rate rounded to the nearest one-tenth of one percent or 7.2 percent. Minimum taxable income is computed as follows:

	State taxable income as adjusted by Iowa Code section 422.35
Plus:	Tax preference items, adjustments and losses added back
	Subtotal
Times:	Apportionment percentage
	Result
Less:	\$40,000 exemption amount
	Iowa alternative tax net operating loss deduction
Equals:	Iowa alternative minimum taxable income

For tax years beginning on or after January 1, 1987, the items of tax preference are the same items of tax preference under section 57 except for subsections (a)(1) and (a)(5) of the Internal Revenue Code used to compute federal alternative minimum taxable income. The adjustments to state taxable income are those adjustments required by section 56 except for subsections (a)(4) and (d) of the Internal Revenue Code used to compute federal alternative minimum taxable income. In making the adjustment under section 56(c)(1) of the Internal Revenue Code, interest and dividends from federal securities net of amortization of any discount or premium shall be subtracted. Losses to be added are those losses required to be added by section 58 of the Internal Revenue Code in computing federal alternative minimum taxable income.

- a. Tax preference items are:
 1. Intangible drilling costs;
 2. Incentive stock options;
 3. Reserves for losses on bad debts of financial institutions;
 4. Appreciated property charitable deductions;
 5. Accelerated depreciation or amortization on certain property placed in service before January 1, 1987.
- b. Adjustments are:
 1. Depreciation;
 2. Mining exploration and development;
 3. Long-term contracts;

4. Iowa alternative minimum net operating loss deduction;

5. Book income or adjusted earnings and profits.

c. Losses added back are:

1. Farm losses;
2. Passive activity losses.

Computation of Iowa alternative minimum tax net operating loss deduction.

Net operating losses computed under rule 701—53.2(422) carried forward from tax years which begin before January 1, 1987, are deductible without adjustment.

Net operating losses from tax years which begin after December 31, 1986, which are carried back or carried forward to the current tax year shall be reduced by the amount of tax preferences and adjustments taken into account in computing the net operating loss prior to applying rule 701—52.2(422). The deduction for a net operating loss from a tax year beginning after December 31, 1986, which is carried back or carried forward shall not exceed 90 percent of the alternative minimum taxable income computed without regard for the net operating loss deduction.

The exemption amount shall be reduced by 25 percent of the amount that the alternative minimum taxable income computed without regard to the \$40,000 exemption exceeds \$150,000. The exemption shall not be reduced below zero.

52.5(3) Penalty and interest. In computing penalty and interest for failure to file a timely return or to pay the minimum tax, refer to subrules 52.6(4) and 52.6(5). Effective for tax years beginning on or after January 1, 1986, estimate payments are required for minimum tax.

This rule is intended to implement Iowa Code section 422.33 as amended by 1987 Iowa Acts, Senate File 523.

ITEM 4. Amend rule 701—53.6(422) to read as follows:

701—53.6(422) Interest and dividends from foreign securities, and securities of state and other political subdivisions. Interest and dividends from foreign securities and from securities of state and their political subdivisions are to be included in Iowa taxable income. Certain types of interest and dividends, because of specific exemption, are not includable in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the item of income is specifically exempted from state taxation by the laws or constitution of Iowa or of the United States, it must be added to Iowa taxable income.

For tax years beginning on or after January 1, 1987, add dividends received from regulated investment companies exempt from federal income tax under section 852(b)(5) of the Internal Revenue Code and subtract the loss on the sale or exchange of a share of a regulated investment company held for six months or less to the extent the loss was disallowed under section 852(b)(4)(B) of the Internal Revenue Code.

This rule is intended to implement Iowa Code section 422.35 as amended by 1987 Iowa Acts, Senate File 523.

ITEM 5. Amend subrule 53.11(4), introductory paragraph, to read as follows:

53.11(4) If a newly hired employee has been certified as either a vocational rehabilitation referral or an economically disadvantaged ex-convict for purposes of qualification for the targeted jobs tax credit under

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

section 4451 of the Internal Revenue Code, that employee shall be considered to have met the qualifications for the additional wage deduction.

ITEM 6. Amend rule 701—57.1(422) by adding the following new subrule:

57.1(3) The term "Internal Revenue Code" means the Internal Revenue Code of 1954 prior to the date of its redesignation as the Internal Revenue Code of 1986 or the Internal Revenue Code of 1986, whichever is applicable.

ITEM 7. Rescind rule 701—58.5(422) and insert in lieu thereof the following:

701—58.5(422) Minimum tax.

58.5(1) Effective for tax years beginning on or after January 1, 1982, but before January 1, 1987, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.60. The Iowa minimum tax on tax preference items is a percentage of the federal minimum tax on tax preference items. "Federal minimum tax" means the federal minimum tax for tax preferences computed under sections 56 through 58 of the Internal Revenue Code of 1954 for the tax year.

When a financial institution joins with at least one other corporation in the filing of a consolidated federal income tax return, and files a separate Iowa franchise tax return, the consolidated federal minimum tax shall be allocated to the separate entities included in the consolidated federal return. The allocation of the consolidated federal minimum tax shall be determined as follows: The consolidated federal minimum tax is multiplied by a fraction, the numerator of which is the sum of the taxpayer's federal tax preference items and the denominator of which is the total of the federal tax preference items of each entity included in the consolidated federal income tax return.

For tax years beginning on or after January 1, 1982, and prior to January 1, 1983, the Iowa minimum tax is 25 percent of the state's apportioned share of the federal minimum tax on tax preference items.

For tax years beginning on or after January 1, 1983, the Iowa minimum tax is 70 percent of the state's apportioned share of the federal minimum tax on tax preference items.

58.5(2) For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that it exceeds the taxpayer's regular tax liability computed under Iowa Code section 422.63. The minimum tax rate is 60 percent of the maximum franchise tax rate rounded to the nearest one-tenth of one percent or three percent. Minimum taxable income is computed as follows:

	State taxable income as adjusted by Iowa Code sections 422.35 and 422.61(4)
Plus:	Tax preference items, adjustments and losses added back
	Subtotal
Times:	Apportionment percentage
	Result
Less:	\$40,000 exemption amount
	Iowa alternative tax net operating loss deduction
Equals:	Iowa alternative minimum taxable income

The taxable years beginning on or after January 1, 1987, the items of tax preference under section 57 except for subsections (a)(1) and (a)(5) of the Internal Revenue Code used to compute federal alternative minimum taxable income. The adjustments to state taxable income are those adjustments required by section 56 except for subsections (a)(4), (c)(1), (d), (f), and (g) of the Internal Revenue Code used to compute federal alternative minimum taxable income computed without adjustments, the \$40,000 exemption and the state alternative tax net operating loss deduction shall be substituted for the amounts in sections 56(f)(1)(B) and 56(g)(1)(B) of the Internal Revenue Code. Losses to be added are those losses required to be added by section 58 of the Internal Revenue Code in computing federal alternative minimum taxable income.

- a. Tax preference items are:
 1. Intangible drilling costs;
 2. Incentive stock options;
 3. Reserves for losses on bad debts of financial institutions;
 4. Appreciated property charitable deductions;
 5. Accelerated depreciation or amortization on certain property placed in service before January 1, 1987.
- b. Adjustments are:
 1. Depreciation;
 2. Mining exploration and development;
 3. Long term contracts;
 4. Iowa alternative minimum net operating loss deduction;
 5. Book income or adjusted earnings and profits.
- c. Losses added back are:
 1. Farm losses;
 2. Passive activity losses.

Computation of Iowa alternative minimum tax net operating loss deduction.

Net operating losses computed under rule 701—59.2(422) carried forward from tax years beginning before January 1, 1987, are deductible without adjustment.

Net operating losses from tax years beginning after December 31, 1986, which are carried back or carried forward to the current tax year shall be reduced by the amount of tax preferences and adjustments taken into account in computing the net operating loss prior to applying allocation and apportionment. The deduction for a net operating loss from a tax year beginning after December 31, 1986, which is carried back or carried forward shall not exceed 90 percent of the alternative minimum taxable income computed without regard for the net operating loss deduction.

The exemption amount shall be reduced by 25 percent of the amount that the alternative minimum taxable income computed without regard to the \$40,000 exemption exceeds \$150,000. The exemption shall not be reduced below zero.

58.5(3) Penalty and interest. In computing penalty and interest for failure to file a timely return or to pay the minimum tax, refer to subrules 58.6(4) and 58.6(5). Effective for tax years beginning on or after January 1, 1986, estimate payments are required for minimum tax.

This rule is intended to implement Iowa Code section 422.60 as amended by 1987 Iowa Acts, Senate File 523.

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

ITEM 8. Amend rule 701—59.6(422) to read as follows:
701—59.6(422) Interest and dividends from foreign securities and securities of states and other political subdivisions. Interest and dividends from foreign securities and securities of states and their political subdivisions including Iowa shall be included in taxable income for periods beginning on or after January 1, 1980.

For tax years beginning on or after January 1, 1987, add dividends received from regulated investment companies exempt from federal income tax under section 852(b)(5) of the Internal Revenue Code and subtract the loss on the sale or exchange of a share of a regulated investment company held for six months or less to the extent the loss was disallowed under section 852(b)(4)(B) of the Internal Revenue Code.

This rule is intended to implement Iowa Code sections 422.35 as amended by 1987 Iowa Acts, Senate File 523, and 422.61.

ITEM 9. Amend subrule 59.8(4), introductory paragraph, to read as follows:

59.8(4) If a newly hired employee has been certified as either a vocational rehabilitation referral or an economically disadvantaged ex-convict for purposes of qualification for the targeted jobs credit under section 44 59 of the Internal Revenue Code, that employee shall be considered to have met the qualifications for the additional wage deduction.

ITEM 10. Amend rule 701—59.9(422) to read as follows:

701—59.9(422) Jobs tax credit. Where a financial institution claims the federal targeted jobs tax credit as provided in section 44B 51 of the Internal Revenue Code, the amount of credit allowable must be used to increase the federal taxable income. For tax years beginning on or after January 1, 1977, the amount of credit allowable used to increase the federal taxable income shall be deductible in determining Iowa taxable income. Iowa taxable income shall not be reduced by the amount of credit allowable used to increase the federal taxable income for the credit allowed under section 40 of the Internal Revenue Code related to the Work Incentive Programs for tax years beginning before January 1, 1979.

ITEM 11. Strike "Internal Revenue Code of 1954" and insert "Internal Revenue Code" in rules 701—51.2(1)(b), 51.3(1), 52.2(3), 52.4(5), 52.5, 53.1, 53.2(3)(b), 53.7, 53.8(1), 52.8(2)(a)(3), 53.8(3), 53.10, 53.16, 54.2(3), 56.3(1)(b), 57.2(1)(b), 57.3(1), 58.2(2), 58.5, 59.1, 59.2(3), 59.15, and 61.3(1)(b).

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**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 section 421.14, the Iowa Department of Revenue and Finance hereby

gives Notice of Intended Action to amend Chapter 74, "Semiannual Mobile Home Tax," Iowa Administrative Code.

These amendments are being made to implement 1987 Iowa Acts, Senate File 101, which provides a different filing period for elderly and disabled reduced tax rate claims, allows an extension of time to file such claims, and changes the date for county treasurers to file a claim for reimbursement with the Department.

These amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Department has determined that these proposed rules will not have an impact on small business within the meaning of Iowa Code section 17A.31.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 9, 1987. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, Post Office 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 October 2, 1987.

These amendments are intended to implement Iowa Code chapter 135D.

The following amendments are proposed.

ITEM 1. Rescind subrule 74.4(3) and insert in lieu thereof the following:

74.4(3) Claims. Claims for the reduced tax rate must be filed with the county treasurer on or before June 1 immediately preceding the fiscal year during which the taxes are due and must contain an affidavit that the claimant intends to occupy the mobile home for six months or more during the fiscal year. The director of revenue and finance may extend the time for filing a claim through December 31 if good cause exists. The claim forms shall be provided by the department of revenue and finance.

Transition year from semiannual to annual tax. Beginning July 1, 1988, the mobile home tax will become an annual rather than a semiannual tax. A claim for the elderly and disabled reduced tax rate filed on or after January 1, 1988, but on or before June 1, 1988, is applicable to both the semiannual tax for the period beginning January 1, 1988, and ending June 30, 1988, and the annual tax for the period beginning July 1, 1988, and ending June 30, 1989.

ITEM 2. Amend subrule 74.4(4) to read as follows:

74.4(4) Reports to department of revenue and finance. On or before ~~April fifteenth~~ *August 1* of each year, the county treasurer of each county shall report to the department of revenue and finance the amount of taxes not to be collected for the current ~~calendar~~ *fiscal* year as a result of the reduced tax rate provided in Iowa Code section 135D.22(2). All such reports shall be made on forms ~~prescribed~~ and provided by the department of revenue and finance.

Transition year from semiannual to annual tax. The report filed on or before August 1, 1988, shall include

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

the amount of tax which will not be collected due to the granting of reduced tax rates for both the semiannual tax period beginning January 1, 1988, and ending June 30, 1988, and the annual tax period beginning July 1, 1988, and ending June 30, 1989.

By not later than October fifteenth of each year, each county treasurer shall submit to the department of revenue and finance a supplemental report listing any additions or deletions to the original report. The supplemental report shall be made on forms prescribed and provided by the director.

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SECRETARY OF STATE[750]

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 17A.3(1)"b" and 47.1, the Secretary of State hereby gives Notice of Intended Action to amend 750—Chapter 10, "Alternative Voting Systems," Iowa Administrative Code.

The purpose of the proposed amendments is to make necessary changes to bring the rule into compliance with the current Iowa Code, correct errors, and make editorial changes for improving the clarity of the instructions to absentee voters. The rule also provides that county commissioners may summarize public measures on special paper ballots if the question is too long to fit on the special paper ballot in its entirety.

Any interested person may make written suggestions or comments on these amendments before September 29, 1987. Any written materials should be directed to the Director of Elections, Office of the Secretary of State, Statehouse, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Director of Elections at 515/281-5865 or in the office of the Secretary of State on the first floor of the Statehouse. There will also be a public hearing on September 29, 1987, at 1:30 p.m. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make presentations at the public hearing should contact the Director of Elections at least one day prior to the date of the public hearing.

This rule is intended to implement Iowa Code section 52.5.

ITEM 1. Amend rule 750—10.4(52), subrules 10.4(1) to 10.4(7), to read as follows:

750—10.4(52) Ballot cards Special paper ballots and portable vote tallying system. As an alternative to mechanical voting machines and paper ballots, the board of supervisors of any county may authorize, purchase and order the use of ~~ballot cards~~ *special paper ballots* and a portable vote tallying system for voting at any or all of the regular polling places within a county at any election.

10.4(1) Definitions. The definitions established by this rule shall apply whenever the terms defined appear in

relation to a portable vote tallying system used with the type of ballot defined in this rule.

a. "System" "*Portable vote tallying system*" means the portable vote tallying device and the ballots used therewith ~~a system employing special paper ballots~~ under which votes are cast by voters marking special paper ballots with a vote marking device and are thereafter counted by use of automatic tabulating equipment located in the precinct polling place.

b. "Ballot" means all of the offices or measures to be voted upon at a single election, whether they appear on one or more ~~ballot cards~~ *special paper ballots*.

c. "Ballot card" "*Special paper ballot*" means the a printed card bearing some or all of the names of the candidates and measures to be voted upon at an election; and upon which voters may record their votes ~~ballot~~ *designed to be marked by a voter with a vote marking device*.

d. "Secrecy envelope" means a reusable envelope of sufficient construction that when the ~~ballot card~~ *special paper ballot* is inserted in it, all portions indicating voting marks are hidden from view.

e. "Tabulating device" means the portable apparatus which removes the ~~ballot card~~ *special paper ballot* from the secrecy envelope, examines and counts the votes recorded on the ~~ballot card~~ *special paper ballot*, and produces a paper printout of the results of the voting.

f. "Ticket" means each list of candidates nominated by a political party or group of petitioners.

10.4(2) Ballot cards Special paper ballots. The ~~ballot cards~~ *special paper ballots* shall be printed pursuant to Iowa Code chapters 43 and 49, and by any relevant provisions of any statutes which specify the form of ballots for special elections, so far as possible within the constraints of the physical characteristics of the system.

a. The ~~ballot cards~~ *special paper ballots* may be printed on both sides. If both sides are used, the words "VOTE BOTH SIDES" shall be clearly printed in red on the front and back of the ~~ballot card~~ *special paper ballot*, at the bottom.

b. At the top of the ~~ballot card~~ *front side of the special paper ballot*, the name and date of the election for which the ~~ballot card~~ *special paper ballot* is intended shall be stated, and shall include the words, "Official Ballot" and a designation of the ballot rotation, *if any*.

c. Immediately following the names of the candidates for each office, a blank line shall be printed to accommodate a write-in vote for that office.

d. An open, rectangular shaped space (□) shall be printed ~~in red~~ opposite each candidate's name and write-in line on the ~~ballot card~~ *special paper ballot*, and opposite the "yes" and "no" for each public measure.

e. Immediately preceding ~~each ticket~~ *the offices to be voted upon on the general election* ~~ballot card~~ *special paper ballot*, the names of political ~~party parties~~ or groups of petitioners having candidates on the ballot shall be printed in capital letters. An open oval shaped space (○) shall be printed ~~in red~~ opposite each name of a political party or group of petitioners ~~at the head of a ticket~~ for the purpose of straight ticket voting.

f. If necessary, the names of candidates printed on the ~~ballot card~~ *special paper ballot* shall be rotated in accordance with Iowa Code sections 43.28 and 49.31.

g. For partisan primary elections, the names of candidates representing each political party shall be printed on separate ~~ballot cards~~ *special paper ballots*.

SECRETARY OF STATE[750] (cont'd)

A different color shall be used for the ~~ballot card~~ *special paper ballot* for each party.

h. Following the names of all candidates and all public measures to be voted upon at an election, there shall be printed a facsimile of the signature of the commissioner who has caused the ballot to be printed pursuant to Iowa Code section 49.51, and a line to accommodate the initials of the precinct election official who endorses the ballot as provided in Iowa Code sections 43.36 and 49.82.

i. *The commissioner may place a summary of a convention question, amendment or public measure on the special paper ballot if the commissioner finds that the text of the question is too long to be printed in its entirety in readable type on the special paper ballot. If a summary is used on the special paper ballot the entire convention question, amendment or public measure shall be printed and displayed prominently in at least two places within the voting precinct and on the left-hand side inside each voting booth. The printing of the complete text of the question shall be in conformity with the provisions of Iowa Code chapter 49. The public measure shall be summarized by the commissioner and in the largest type possible printed on the special paper ballots, except that:*

(1) *In the case of the question of a constitutional convention, or of an amendment or measure to be voted on in the entire state, the summary to be placed on the special paper ballots shall be worded by the state commissioner of elections as required by section 49.44; and*

(2) *In the case of a public question to be voted on in a political subdivision lying in more than one county, the summary shall be worded by the commissioner responsible under section 47.2 for conducting that election.*

10.4(3) Programming the tabulating devices.

a. All programming of tabulating devices shall be performed under the supervision of the commissioner. The devices shall be programmed so as to ensure that all votes will be counted in accordance with the laws of Iowa.

b. All tabulating devices shall be tested before each election in accordance with Iowa Code section ~~52.35~~ 52.38. The paper printout produced in testing the tabulating device ~~immediately before the start of the official tabulation of ballots cast in the election pursuant to section 52.35(3), The Code,~~ shall not be detached from the device and shall remain in evidence throughout the ~~tabulating process election day.~~ The tabulating device, including the ballot box, shall be sealed or locked upon completion of the test by the ~~precinct election official~~ person performing the test.

c. The maintenance key or keys used to gain access to the internal parts of the tabulating device shall be kept in a secure place and in a secure manner, in the custody of the commissioner. The key used to obtain the paper printout shall be ~~removed before the start of the official tabulation of votes and shall be kept by the chairman chairperson~~ of the precinct election officials in a secure manner.

d. At least one tabulating device shall be provided at each precinct polling place for an election.

e. Each precinct shall be furnished with an emergency ballot box which is suitably equipped with a lock and key or numbered, *tamperproof seal*. In the event of power failure or malfunction of the tabulating device, ballots which have been voted shall be deposited in the locked

or sealed emergency ballot box. The voted ballots so deposited may be removed from the locked emergency ballot box and tabulated before the polls close whenever a properly functioning tabulating device becomes available, or the voted ballots so deposited may be removed and counted manually immediately after the polls are closed.

10.4(4) Sample ballots and instructions to voters. Sample ~~ballot cards~~ *special paper ballots* and printed instructions for casting votes on ~~ballot cards~~ *special paper ballots* shall be prominently displayed in each polling place and inside each voting booth. Each ~~ballot card~~ *special paper ballot* shall also include an example of the method of marking the ballot *recommended by the manufacturer of the tabulating device*. Further instructions shall be provided to any voter who requests assistance in accordance with Iowa Code section 49.90.

10.4(5) Manner of voting. After the precinct election official has endorsed a *special paper ballot*, the *special paper ballot* shall be inserted in a secrecy envelope and given to ~~any~~ the person who is entitled to vote, receive the ballot in accordance with the provisions of Iowa Code section 49.77.

a. Upon receipt of the ballot in the secrecy envelope, the voter shall retire alone to a voting booth and without delay mark the ~~ballot card~~ *special paper ballot*.

b. The voter shall ~~mark vote upon the ballot card~~ *special paper ballot by filling in marking the appropriate rectangular (□) or oval (○) spaces with a special marking device or a #2 pencil in the manner described in the instructions printed on the ballot.*

When a write-in vote has been cast, the ~~ballot card~~ *special paper ballot* must also be marked in the corresponding rectangular space (□) in order to be counted. ~~A paster or sticker may be used in lieu of writing in a name.~~

c. After marking the ballot, the voter shall replace it in the secrecy envelope, and leave the voting booth at once, ~~hand the ballot in the secrecy envelope to the precinct election official without revealing any of the marks on the ballot card.~~

d. The ~~precinct election official~~ voter shall at once deposit the ballot, still enclosed in the secrecy envelope, in the tabulating device in such a manner that the ~~ballot card~~ *special paper ballot* is automatically removed from the secrecy envelope, the votes tabulated, and the ~~ballot card~~ *special paper ballot* deposited in the ballot box.

e. *If the tabulating device is not equipped with a mechanism that will not permit more than one ballot to be inserted at one time, the voter shall be required to hand the ballot in the secrecy envelope to the precinct election official without revealing any of the marks on the ballot. The precinct election official shall at once deposit the ballot in the manner described in paragraph "d."*

10.4(6) Results. After the polls are closed and all of the ~~ballot cards~~ *special paper ballots* have been processed by the tabulating device, the precinct election officials shall:

a. Insert the key in *Unlock* the tabulating device and obtain a paper printout showing the votes cast for each candidate and public measure.

b. Enter the totals for each candidate and public measure on the official tally sheet.

e.b. Fasten the paper printout to the official tally sheet.

d.c. ~~Remove~~ *Unlock or remove* the seals on the ~~tabulating device~~ *ballot box* and manually count the valid

SECRETARY OF STATE[750] (cont'd)

votes on any ~~ballot cards~~ *special paper ballots* found in the ~~front portion~~ *portion(s)* of the ballot box *designated for unread ballots and ballots with write-in votes*, and enter the votes so counted on the official tally sheet in the proper place.

e.d. Seal all ~~ballot cards~~ *special paper ballots* in a transfer case to be returned to the commissioner in accordance with Iowa Code section 50.12.

10.4(7) Absentee voting. ~~The ballots to be provided to qualified voters who request absentee ballots shall be the same as the ballot cards to be used at the precinct polling places.~~ Printed instructions as set out in subrule 10.4(8) of this chapter shall be included with the ~~ballot card or cards~~ *special paper ballot or ballots* given to or mailed to each absentee voter.

ITEM 2. Rescind subrule 10.4(8) and insert in lieu thereof the following:

10.4(8) Absentee voting instructions. A printed copy of instructions to the voter shall be included in the materials furnished to each person to whom absentee balloting materials are sent. The instructions to the voter shall be in substantially the following form:

**ABSENTEE VOTING INSTRUCTIONS
READ ALL INSTRUCTIONS CAREFULLY
BEFORE VOTING!**

If your ballot is not properly marked, your vote cannot be counted.

DO NOT MARK, FOLD OR PUNCH YOUR BALLOT CARD EXCEPT AS OUTLINED IN THESE INSTRUCTIONS.

Your ballot packet contains:

1. Official special paper ballot or ballots.
2. Secrecy envelope for ballot.
3. Affidavit envelope.
4. Return carrier envelope.

Follow all instructions carefully. If you spoil your ballot, you may return the entire ballot packet and request a new packet.

VOTING WITH ASSISTANCE

Voters who are blind, cannot read, or because of any other physical disability, are unable to mark their own ballots, may have the assistance of any person the voter chooses.

MARKING YOUR BALLOT

1. Vote in secrecy. Iowa law requires that absentee voters mark their ballots so that no other person will know how the ballot is marked.

2. Study ballot carefully. Study the ballot carefully before voting. Once you have marked your ballot, the mark cannot be erased without spoiling the ballot. After you have determined the candidates and public measures for which you wish to vote, locate the rectangle opposite the names or questions.

3. Use a #2 pencil. Using only a #2 pencil, mark the appropriate rectangle following the example on the ballot. Marks made by other pens or pencils may not be readable by the machine that will tabulate your votes. To vote a straight party ticket in the general election, mark the oval (○) opposite the name of the party or group of petitioners for whom you wish to vote.

4. Write-in votes. If you wish to vote for any person whose name is not printed on the ballot, write the name of that person in the appropriate blank space and mark

the rectangle opposite the name you have written. If you do not mark the rectangle opposite the name you have written on the ballot, your write-in vote cannot be detected, and, therefore, will not be counted. Marking the rectangle without writing in a name will not spoil the rest of your ballot.

5. Overvoting. If you mark rectangles next to the names of more candidates than can be elected to any single office, your vote for that office will not be counted.

6. No extra marks. Put no mark of any kind on the ballot other than voting marks inside rectangles or an oval or writing a person's name as described above.

RETURNING YOUR BALLOT

1. Affidavit. After marking your ballot, carefully read the affidavit on the back of the ballot envelope (Form No. 4-C-), fill in the information requested, and sign your name. If the ballot was folded when you received it, fold it exactly as it was folded before. Place the ballot in the secrecy envelope, insert the secrecy envelope containing the ballot(s) in the carrier envelope (Form No. 4-B-) and securely seal the envelope.

2. Postmark before election day. The carrier envelope must be postmarked no later than the day before the election and must be received by the county commissioner by 9 a.m. on the Monday following the election in order to be counted.

3. Return postage. Return postage for this ballot is _____ cents.

IF YOUR BALLOT IS REJECTED BEFORE THE OPENING OF THE BALLOT ENVELOPE, YOU WILL BE NOTIFIED OF THE REASON FOR THE REJECTION.

THIS BALLOT MUST BE RETURNED TO THE COUNTY COMMISSIONER WHETHER VOTED OR NOT VOTED.

This rule is intended to implement Iowa Code section 52.5.

ARC 7898

**TRANSPORTATION
DEPARTMENT[761]**

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §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(1)"a," the State Functional Classification Review Board hereby gives Notice of Intended Action to amend 761—Chapter 100, "Functional Classification of Highways," Iowa Administrative Code.

The amendment deletes a requirement that the State Functional Classification Review Board meet four times a year. Four meetings each year are unnecessary.

This amendment is intended to implement Iowa Code section 306.6.

TRANSPORTATION DEPARTMENT[761] (cont'd)

Any person or agency may submit written comments concerning this proposed amendment. The comments shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments.
2. Reference the number and title of the proposed rule, as given in this Notice.
3. Be addressed to Robert L. Humphrey, Highway Division, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.
4. Be delivered to this office or postmarked no later than October 14, 1987.

Proposed rule-making action:

Pursuant to the authority of Iowa Code section 306.6, 761—Chapter 100, "Functional Classification of Highways," Iowa Administrative Code, is hereby amended.

Amend subrule 100.15(2) as follows:

100.15(2) Meetings. Meeting dates and times shall be established by the chairman or any three members of the board. Meetings shall be held at least four times each year beginning May 17, 1976.

ARC 7892**TRANSPORTATION
DEPARTMENT[761]****Notice of Intended Action**

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §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, the Department of Transportation hereby gives Notice of Intended Action to amend 761—Chapter 125, "General Requirements and Covenants for Highway and Bridge Construction," Iowa Administrative Code.

The amendment incorporates a new supplemental specification to the "Standard Specifications for Highway and Bridge Construction." This supplemental specification, which is to be effective for the December 15, 1987, letting, amends section 1102.13 of the standard specifications.

Section 1102.13 currently requires a bidder to submit the bid proposal and the proposal guaranty in separate but attached envelopes. This requirement was to ensure that the guaranty was in proper order before opening the bid.

There are now other documents that must also be in order for the bid to be acceptable. The proposal guaranty is no more important than these documents; therefore, the separate envelope for the guaranty is not warranted and will no longer be required.

The change should be a benefit to persons bidding on highway work. It makes the process a little simpler.

A copy of the supplemental specification is being submitted to the Administrative Rules Coordinator with this Notice.

This amendment is intended to implement Iowa Code section 307A.2.

On October 20, 1987, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the Transportation Commission shall consider this proposed amendment.

Any person or agency may submit written comments concerning the proposed amendment 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 amendment, as given in this Notice.
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 October 6, 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 amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code subsection 17A.31(4), paragraphs "a" to "1." The Administrative Rules Review Committee, the governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code section 17A.31, or an organization of small businesses representing at least 25 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.

Amend rule 125.1(307A) by striking the date "October 28, 1986" and inserting in lieu thereof the date "December 15, 1987".

ARC 7882**COLLEGE AID COMMISSION[245]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 261.81, the College Aid Commission emergency adopts a new Chapter 18, "Iowa Work-Study Program," Iowa Administrative Code.

The new chapter summarizes the procedures to be followed in the administration of the Iowa Work-Study Program.

In accordance with Iowa Code section 17A.4(2), the College Aid Commission finds that public notice and participation are impracticable to ensure speedy implementation of the Iowa Work-Study Program regulations.

The Commission finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules, 35 days after publication, should be waived and the rules made effective on August 21, 1987, as it confers a benefit upon the public to ensure speedy implementation of these rules.

The Commission adopted these rules at its August 11, 1987, meeting.

These rules are intended to implement Iowa Code section 261.81.

These rules are also published herein under Notice of Intended Action as **ARC 7881** to solicit further public comment.

Adopt 245—Chapter 18 to read as follows:

**CHAPTER 18
IOWA WORK-STUDY PROGRAM**

245—18.1(261) Iowa work-study agreement. Institutions are required to enter into an agreement with the commission which defines the manner in which the Iowa work-study program is to be administered. Agreements will be provided each September to eligible nonparticipating institutions, and institutions will have 60 days to sign and return the document to the commission in order to receive funds for the following school year.

245—18.2(261) Annual application. Institutions are required to submit annual applications which are distributed each fall for the following school year. Institutions must submit the applications to the commission by December 15. The applications will collect pertinent information from the institutions' federal work-study documents as well as other information the commission deems necessary to administer the program.

245—18.3(261) Award notices. The commission will annually provide tentative award information by February 15. Tentative allocations will be based on the institutions' applications, the institutions' relative need for funding, and the program's standing limited appropriation.

245—18.4(261) Final notices. The commission will annually provide final award notices within 30 days after the appropriation is finalized.

245—18.5(261) Initial report. Institutions must submit initial reports by May 1 of each year. The report format will be developed by the commission to include estimates of the students served, funds used during the preceding fiscal year, and other basic information needed to prepare the commission's budget request for the subsequent school year.

245—18.6(261) Final report. Institutions must submit final reports by October 31 of each year in a format prescribed by the commission. The information reported may be based on the institutions' aggregate work-study data as long as institutions can document that state funds are provided only to Iowa residents. In addition, the commission will collect information necessary to determine the extent to which state-funded work-study jobs complement the students' education programs and career goals.

245—18.7(261) Administrative procedures. In order to facilitate efficient administration, the commission hereby adopts the federal work-study legislation and regulations. Institutions must administer state-funded work-study funds for Iowa residents in the same manner as the institution administers its federal work-study program except that state funds may not be transferred to another student aid program. These provisions include, but are not limited to, the following:

1. Need analysis,
2. Student budgets,
3. Wage and salary administration,
4. Civil rights requirements,
5. Employee benefits,
6. State workers' compensation laws, and
7. Social security requirements.

Federal work-study regulations are currently found at CFR 675, as of July 1, 1985.

245—18.8(261) Disbursement schedule. Funds will be disbursed in equal installments each September and January except that all institutional awards of less than \$50,000 will be disbursed in one September payment.

245—18.9(261) Matching funds. Institutions are required to provide at least 20 percent in institutional matching funds.

245—18.10(261) Due process. Students and institutional officials may appeal institutional or commission action in accordance with the commission's administrative rules, 245—Chapter 13.

245—18.11(261) Unused funds. The commission will reallocate unused funds and, if necessary, deduct any excess funds from an institution's subsequent award.

These rules are intended to implement Iowa Code section 261.81.

[Filed emergency 8/13/87, effective 8/21/87]

[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7894**COMMUNITY ACTION AGENCIES
DIVISION[427]****Adopted and Filed Emergency**

Pursuant to the authority of 1987 Iowa Acts, Senate File 513, section 10; and Title XXVI the Omnibus Budget Reconciliation Act of 1981, PL 97-35, as amended by PL 98-558, the Division of Community Action Agencies emergency adopts and implements rules rewriting Chapter 10, "Low-Income Home Energy Assistance Program, (LHEAP)."

COMMUNITY ACTION AGENCIES DIVISION[427] (cont'd)

The Low-Income Home Energy Assistance Program provides assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

In compliance with Iowa Code section 17A.4(2), the Council finds that public notice and participation are impracticable and contrary to the public interest in that the LHEAP program becomes effective October 1, 1987, by federal legislation. Statewide hearings have been conducted on the 1987-88 state plan for LHEAP, and these emergency rules implement the recommendations developed in those public hearings.

The only change from prior years is that (1) the maximum amount allowed to assist a client in a crisis situation has been increased from \$150 to \$500; and (2) in addition to a regular LHEAP benefit payment amount, an additional \$150 may be paid to eligible clients who can demonstrate that their annual heating costs exceed 20 percent of their annual income, minus out-of-pocket medical expenses. These changes have been implemented to give better service to eligible clients and to tailor assistance to clients with the greatest need.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of 35 days after publication should be waived and the Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of this rule 35 days after publication should be waived and the rule made effective on October 1, 1987, so that funds may be provided for the winter heating season. These rules confer a benefit on the low-income public sector by ensuring speedy and uniform energy assistance application, certification, and payment in a manner which is required by federal funding and which implements the provisions of the Iowa moratorium on winter heating disconnections in compliance with the Department of Human Rights' Low-Income Home Energy Assistance Program state plan.

Further criteria and guidelines may be found in the Low-Income Home Energy Assistance Program state plan and the Low-Income Home Energy Assistance Program procedures manual. These documents expand on the subjects contained herein in more detail, contain copies of the forms to be used by the local administering agencies, including those planning documents required for federal approval of this program, and set forth the methods for calculating levels of benefit and benefit payments.

Inclusion of these documents as part of these rules would be unduly cumbersome and expensive and is not expedient due to their length and the nature of those materials. Copies are available for public inspection at the local administering agencies and are on file at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319, 515/281-3943. Copies may be obtained at cost at the same address and phone number.

These rules are also filed as Notice of Intended Action, ARC 7893, to solicit public comment.

CHAPTER 10
LOW-INCOME HOME ENERGY
ASSISTANCE PROGRAM

427—10.1(72GA,SF513,PL97-35,PL98-558) Purpose. Pursuant to the requirements of the Department of Health and Human Services (DHHS) and the Social Security Administration (SSA), as set forth in Title

XXVI of the Omnibus Budget Reconciliation Act of 1981, PL 97-35 as amended by PL98-558, and 1987 Iowa Acts, Senate File 513, section 10, the department of human rights, division of community action agencies (DHR,CAAs) will administer the low-income home energy assistance program (LHEAP).

LHEAP is intended to provide assistance to eligible households to offset the rising costs of home heating that are excessive in relation to household income. Households with incomes at or below 150 percent of the Office of Management and Budget's federal poverty income guidelines, revisions of which are published in the Federal Register, may be eligible for assistance under LHEAP.

427—10.2(72GA,SF513,PL97-35,PL98-558) Income.

10.2(1) Proof of income eligibility is required. All income (each and every payment) shall be verified for each household member based on the three-month or twelve-month period immediately preceding the application date or the most recent calendar year. Verification of income shall be made through documentary evidence in the possession of the applicant household. If documentary evidence is not available from the household, verification shall be obtained from the source of income. No self-declarations of income may be accepted without state approval.

10.2(2) Household income refers to total gross cash receipts from all sources for each member of the household present at the time of application. Income includes but is not limited to: money, wages, and salaries before any deductions, but not including food or rent in lieu of wages. Household income includes receipts from nonfarm or farm self-employment, (e.g., receipts from the person's own farm or business after deductions for farm or business expenses; capital gains and losses are disregarded); also regular payments from social security, railroad retirement, unemployment compensation, workers' compensation, strike benefits, public assistance including supplemental security income, training stipends, alimony, child support, and military family allotments, or other regular support from an absent family member or someone not living in the household, private pensions, government employee pensions, regular insurance or annuity payments, and income from dividends, interest, rents, royalties, or income from estates and trusts.

10.2(3) For program eligibility purposes, income does not include the following: capital gains, any assets drawn down as withdrawals from a bank, sale of property, a house, or a car, tax refunds, gifts, lump sum inheritances, one-time insurance payments or compensation for injury, income which is administratively difficult to compute, income from G.I. educational benefits, interest from U.S. H & I Series Bonds, and income of household members under 18 who are employed part-time; also excluded are noncash benefits such as employer-paid or union-paid portions of health insurance and other employee fringe benefits, food, or rent received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or family housing, and such federal programs as Medicaid, food stamps, and public housing.

10.2(4) Further income criteria and guidelines are contained in the Iowa state plan for the Low-Income Home Energy Assistance Program and Low-Income Home Energy Assistance Program Procedures Manual as described in 10.6(72GA,SF513,PL97-35,PL98-558).

COMMUNITY ACTION AGENCIES DIVISION[427] (cont'd)

427—10.3 (72GA,SF513,PL97-35,PL98-558) Program criteria. All households assisted by this program must meet program eligibility guidelines, and may not have been assisted in another state for the current fiscal year.

10.3(1) Both owner-occupied and renter-occupied households will be assisted.

10.3(2) Applications will be accepted from the first working day in November until the last working day in February on a first-come, first-served basis. In order to conform to the federal requirement that priority be given to elderly and handicapped clients, their applications may be taken in October.

No household is entitled to a certain amount or form of assistance from this program. Households must apply and meet the income eligibility guidelines and there must be program funds available before benefit payments can be made. The amount of assistance a household may receive depends upon the household income, the household size, the dwelling type, the heating region of the state in which the household is located, and the type of primary heating fuel the household uses as set forth in the state plan and procedures manual described in 10.6(72GA,SF513,PL97-35,PL98-558).

10.3(3) All clients applying for this program will simultaneously be making application for weatherization assistance, and IAC 427—Chapter 5 shall govern such weatherization applications.

10.3(4) The following types of energy assistance payments may be made:

a. To home energy suppliers in the form of a single payment. One check may be issued to an energy supplier for more than one household. The client's assistance shall remain as a credit on the client account until the program assistance is expended or the account is terminated. Program assistance will be applied only to the cost of the heating source supplying the household's nonbusiness residential primary heating fuel.

b. To eligible households directly, made only as a last resort. When appropriate, the local administering agency shall complete a Request for Direct Payment form and submit it to the department of human rights, division of community action agencies for approval. Only after signed approval is received from the department of human rights, division of community action agencies may direct payments be made to the specified household.

c. Households which pay energy costs as an undesignated portion of rent are eligible for assistance. For administrative reasons payments shall be made jointly payable in the name of the household and the landlord, but sent to the household. The grant is, however, to the household and must be treated by the landlord as any other rental payment by that household. Multiple payments shall be issued if the assistance award exceeds the monthly rental payment until the full amount of the award is expended.

d. The assistance award for households whose primary source of heat is wood will be forwarded to the household's electric supplier if a suitable wood vendor is not available. If no electric supplier exists, a direct payment may be requested.

e. The level of assistance for the program year will be determined based on the household's circumstances at the time of approval. If a household moves or ceases to exist, any unused funds remaining with the vendor shall be returned to the local administering agency within 30 days. If the client contacts the local admin-

istering agency within 30 days after moving, any unused portion of the assistance award shall be forwarded to the client's new vendor or to the client's address. If the client fails to notify the agency of the new address within 30 days, any unused funds returned to the local administering agency shall be returned to program funds.

10.3(5) Crisis program.

a. Funds are available to provide assistance for energy-related home heating crisis situations. To be eligible for crisis assistance, a household must file an application by March 15, must meet the income guidelines of the energy assistance program, and must meet the definition of a "crisis situation."

b. "Crisis situation" is defined as one which poses an immediate threat to life or health when a fuel supply is disrupted or discontinued, or disruption or discontinuance will occur within 48 hours.

c. Each crisis situation will be evaluated individually by the CAA energy coordinator who shall determine the amount of assistance to be made. The nature of the crisis and the method of determining assistance shall be documented for the file and shall be subject to review by the local agency director.

d. Federal regulations require that a life-threatening situation be evaluated and resolved within 18 hours of contact by the household.

e. Any household which has been denied crisis assistance may utilize the regular appeal procedure.

10.3(6) Immediate drawdown of regular energy assistance payment. In a life-threatening situation, to assure an uninterrupted supply of fuel, an immediate drawdown of a regular energy assistance payment in an amount equal to the 150-percent energy assistance award for an eligible household may be made based on preliminary telephone verification of income or, when necessary, a self-declaration. A repayment agreement must be signed by the client in order to advance payment in the event the client is later found to be over income. The remaining amount of the assistance award, if any, may be paid after verification of income is received. This portion of the crisis program ends the last working day of February.

10.3(7) Energy crisis intervention payments. In addition to the above, one, or a combination of the following crisis payments may be made to an eligible household to resolve a crisis situation to a maximum payment of \$500 per household, with an individual agency overall average for all ECIP payments of \$350.

a. Payment for repair or replacement of furnace/heating system.

b. Payment for purchase of blankets or heaters.

c. Alternate shelter when required by loss of living quarters.

This portion of the crisis program ends March 15.

10.3(8) Supplemental assistance benefits. A supplemental energy assistance payment to a maximum of \$150 per eligible household may be available to meet heating costs that are excessive in relation to income. To qualify for this additional benefit, a household shall:

a. Submit within 30 days of its application for supplemental benefits third-party verification of the following:

(1) Gross income for all household members (annualized from 90-day income, or for most recent calendar year or 12 months prior to application);

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(2) Medical expenses for the same time period with proof of personal payment of those expenses;

(3) Residential heating fuel costs billed and paid for the same time period.

b. Demonstrate that their residential energy bills exceed 20 percent of their gross income less medical payments.

c. Demonstrate that they have paid at least 50 percent of their residential energy bills, less the amount of their LHEAP award.

Households may apply for supplemental assistance benefits no later than March 30.

10.3(9) Crisis weatherization. A household eligible for supplemental assistance benefits shall be eligible for LHEAP crisis weatherization, unless their dwelling is found to have been weatherized by the CAA since 1979.

Each CAA shall establish a crisis weatherization client prioritization system in addition to the eligibility requirements for supplemental benefits, recognizing that limited funds will be available for this purpose. A copy of each CAA client prioritization system shall be submitted for state review by October 1.

Crisis weatherization shall be performed in accordance with DOE cost, work, and material standards. Homes weatherized under the crisis program shall be excluded from further eligibility for weatherization assistance.

10.3(10) Each agency will be given \$10,000 of LHEAP funds to be used for crisis prevention services. These funds must be used for direct client services to resolve potential crisis situations, such as providing energy conservation information, budget counseling, and client/vendor problem resolutions.

10.3(11) Residents of publicly assisted housing units who are not directly billed for their primary heat source by a utility company and whose rent is established as a percentage of their income are not considered vulnerable to energy cost increases.

"Vulnerable to energy cost increases" means that a household is at least in part responsible for its own energy costs. This could be through direct payment to utilities, increases in rent when leases are renewed, extra energy charges or surcharges, or other vehicles through which the household's costs for shelter could ultimately be expected to rise as home energy costs rise. A household that is vulnerable to energy cost increases is one which is not fully protected against such increases under any government program. Evidence of vulnerability must be documented for the file.

10.3(12) No benefits will be paid to or on behalf of any household which is in no way responsible for payment of any portion of its energy costs.

10.3(13) Each CAA must notify the department of human rights, division of community action agencies, in writing when five percent of its contract program budget remains unobligated. At that point:

a. Payments will be prioritized according to the date and time of application as recorded on the intake form.

b. For homebound and handicapped applicants, the date and time of application shall be when such household contacted the office for assistance, not when the home visit is made.

10.3(14) Further program criteria are contained in the low-income home energy assistance program state plan and the low-income home energy assistance procedures manual referred to in 10.6(72GA,SF513,PL97-35,PL98-558).

427—10.4(72GA,SF513,PL97-35,PL98-558) Local administering agencies. The department of human rights shall administer the LHEAP program by contracting with community action agencies (CAAs) as local administering agencies meeting program and fiscal requirements. CAAs shall be required to provide applicants an opportunity to apply for assistance within ten days of client's initial contact after November 1; to process applications and notify household of eligibility within 30 days of application date, and to provide payments for approved households within seven days of approval date if federal funds are available.

10.4(1) The CAAs will be required to sign a delegate agreement which specifies allowable program activities, DHHS regulations, special conditions, program and fiscal reporting to department of human rights, division of community action agencies, participation forms and audit requirements.

10.4(2) Reserved.

427—10.5(72GA,SF513,PL97-35,PL98-558) Appeal and hearing procedures. The following appeal and hearing procedures shall be used.

10.5(1) When an applicant is denied assistance or believes that the assistance amount was not accurately determined, the applicant has 30 calendar days from the date of the approval or denial letter to appeal that decision by mailing or delivering the request for appeal to the CAA.

10.5(2) If the local administering agency neither approves nor denies the application within 30 calendar days of receipt of a complete application, the applicant may treat the failure to act as a denial. The applicant then has 30 additional calendar days to appeal.

10.5(3) To appeal, the applicant (claimant) must contact the agency at which the application was made and tell the agency of the wish to appeal, what action the applicant would like taken, and any other information which might affect the decision. All appeals must be in writing. Those claimants unable to read or write shall have the CAA assist them in reading, writing, or understanding appeals, hearings, and their associated procedures.

10.5(4) The CAA will act on the claimant's request and notify the claimant of the result in writing within seven calendar days of the date an appeal was requested (postmark date if sent in mail).

10.5(5) If the claimant does not agree with the decision reached, the claimant may write the CAA again within 17 calendar days of the decision (postmark date if sent in mail) and request that a state hearing be held. The claimant must explain in writing why the agency's decision is being appealed and include any information which might affect the decision.

10.5(6) The agency will then forward all information about the request for a hearing to the state and a hearing will be scheduled. The claimant will receive written notice of a state scheduled hearing from the administrator of the division of community action agencies, department of human rights. The notice will include the date, time, and place of the hearing. State hearings may be held by telephone at a mutually convenient time. Prior to the hearing the agency will provide an opportunity for the claimant to review the case file and any written evidence that will be used in the hearing. An informal conference with the administrator or appropriate staff personnel may be requested for the purposes of

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discussing actions taken and resolving the issues raised in the request for hearing.

427—10.6(72GA,SF513,PL97-35,PL98-558) Further criteria. The low-income home energy assistance program state plan, the low-income home energy assistance program procedures manual and assistance award criteria for the program are incorporated by reference as part of these rules. These documents as well as delegate agreements and department of human rights, division of community action agencies reporting forms are on file at the address below and are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Copies of these documents may be obtained at cost by contacting the Division of Community Action Agencies, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319, 515/281-3943.

These rules are intended to implement 1987 Iowa Acts, Senate File 513, section 10 and PL97-35 as amended by PL98-558.

[Filed emergency 8/20/87, effective 10/1/87]
[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7884**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF [261]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development emergency adopts and implements a new Chapter 58, "Welcome Center Program," Iowa Administrative Code.

The new chapter describes the award procedure to be followed to award funds for the welcome center pilot projects. The rules contain information about the rating criteria which will be used to evaluate proposals, describe the composition of the review committee, define who is an eligible applicant, and provide other information about the pilot project.

The Iowa Department of Economic Development Board adopted these rules on August 13, 1987.

In compliance with Iowa Code section 17A.4(2), the Department finds that public participation is unnecessary, impracticable, and contrary to the public interest because recent state legislation authorizing the pilot project establishes a September 1, 1987, deadline for submission of project proposals. The Department rules establish the procedures to meet this deadline and provide notice to applicants of the rating criteria which will be used to evaluate proposals.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the usual effective date, 35 days after publication, should be waived and the rules be made effective when filed with the Administrative Rules Coordinator because the rules confer a benefit on the public. Proposals must be submitted by September 1, 1987, and funding awards are required by statute to

be awarded by September 15, 1987. A benefit is conferred upon the public if it has advance notice of the award and rating procedures in the rules before the proposal due date.

These rules are intended to implement 1987 Iowa Acts, House File 540.

The rules became effective August 14, 1987.

The following new chapter is adopted:

CHAPTER 58

WELCOME CENTER PROGRAM

261—58.1(72GA, HF540) Purpose. The primary goal of a statewide program for welcome centers is to provide to travelers high quality, accurate, and interesting information about the following: travel in the state; national, statewide, and local attractions; lodging, medical service, food service, vehicle service, and other kinds of necessities; general information about the state; and needed and convenient services such as rest rooms, lodging information, and event reservation services. Settings for the welcome centers will convey a sense of being welcomed to the state through hospitable attitudes of personnel; high quality of site landscape architecture, architectural theme, and interior design of the buildings; special events that occur at the centers; and high level of maintenance.

261—58.2 (72GA, HF540) Long-range plan. Reserved.

261—58.3 (72GA, HF 540) Definitions. Reserved.

261—58.4 (72GA, HF540) Pilot Projects. The department is authorized by 1987 Iowa Acts, House File 540, to establish site locations for a welcome center pilot project.

58.4(1) Site categories. A welcome center may be located in any of the following sites for the pilot project:

- a. In proximity to interstate highways,
- b. In proximity to primary highways,
- c. In or near communities with populations of 5000 or less.

58.4(2) Eligible applicant. An applicant must either be an Iowa resident, a political subdivision of the state, or a business authorized to do business within the state to be eligible to apply under the pilot project.

58.4(3) Project eligibility. Eligible projects are those which expand the state's economy through the provision of facilities and programs where travelers can:

—a. Obtain information about travel and hospitality services, tourism attractions, park and recreation opportunities, cultural and natural resources, lodging, and other support information.

b. Have access to needed and convenient services, such as: rest rooms; lodging information and event reservation services; souvenirs, crafts, arts, and food products originating in the state; food and beverages; and fishing, hunting, and other permits and licenses needed for recreation.

c. Be welcomed to the state in a high quality manner that presents a positive, lasting image of the state of Iowa.

58.4(4) Assistance.

a. Assistance amount. Assistance will be available not to exceed 50 percent of the total project cost. Projects with local matches greater than 50 percent will receive priority, other things being equal.

b. Assistance match. The local match may take the form of, but is not limited to: funds; donations; private foundation grants; any federal or state grant not

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administered by the department of economic development, the department of natural resources, the department of cultural affairs, or the department of transportation; land, buildings and other types of in-kind services, such as long-term operation and maintenance costs, including personnel, management and other related supports. Assistance applicants shall provide evidence of local match sources and document all in-kind services. The department maintains the authority to verify the value of all forms of local matches, including independent, approved real estate appraisals.

58.4(5) Application submission.

a. Applications shall be on the forms provided by the department and contain the information specified in the application materials.

b. Applications shall be received by the date and time specified by the department in the application materials. Late applications will not be reviewed by the department.

c. All application materials submitted shall be deemed to be sealed bids.

d. The department will not, directly or indirectly or in any manner whatsoever, at any time other than as provided in the pilot project application materials, open any sealed bid or convey or divulge to any person any part of the contents of a sealed bid.

e. After submission of a completed application, applicants may be requested to present their project proposal to the project review committee.

f. Two or more eligible applicants may submit a joint proposal. One of the coapplicants must be designated as the lead applicant.

58.4(6) Project review and selection.

a. Review committee. The role of the review committee will be to evaluate, by site category, applications that are submitted based on information provided and make recommendations to the director of the department of economic development. The director will make recommendations to the IDED board who will approve the final selection decision. The review committee will consist of representatives from the department of economic development, the department of natural resources, the department of cultural affairs, the department of transportation, the Iowa chapter of the American Institute of Architects, the Iowa chapter of the American Society of Landscape Architects and the Iowa travel council.

b. Consideration withheld. The committee will not consider any application which is not complete upon submission and for which additional information was requested and not received, or which was not presented in an interview session as requested by the committee.

c. Rating criteria. Rating of the applications will be based upon the following criteria and total points:

1. Project/program cost and budget80 points

Evaluation of project/program cost and budget items includes development costs, operation costs, source of funding, and potential for self-sufficiency over time.

2. Project/program economic impact200 points

Evaluation of project/program economic impact includes job creation; the local, regional, and state level economic benefits; current project visitation; increased visitation; impact of new center upon existing center; types and presentation of information provided; types of service provided; and electronic data telecommunication systems.

3. Project/program feasibility200 points
Evaluation of project/program feasibility includes marketing and promotion, ownership, operation, average daily traffic, infrastructure availability, and project timing.

4. Project/program image quality200 points
Evaluation of project/program image quality includes concept plans, project/program image, plans for quality, potential for success, natural features, visual quality, and provision of a planning team.

58.4(7) Project contract.

a. Selected pilot projects shall be required to enter into a contract with the department. Terms and conditions will be as negotiated with the department.

b. Following the negotiation of a contract, applicants selected for assistance shall commence project planning within 30 days and commence construction within 12 months after the signing of the contract.

c. In the event there are funds remaining after the initial pilot projects are selected; or if the site(s) selected fail to sign a contract with the department; or if a contract is terminated before all contract funds are expended, the department reserves the right to negotiate a site contract with the next highest ranked applicant in that category that meets the established criteria.

58.4(8) Record keeping. Recipients of financial assistance shall keep adequate records relating to the welcome center project. These records are subject to audit by the department or the auditor of state.

58.4(9) Project reviews. The department may monitor and inspect the funded welcome center projects as deemed necessary by the department.

[Filed emergency 8/14/87, effective 8/14/87]

[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7896

**ELDER AFFAIRS
DEPARTMENT[321]**

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3 and 249D.14, the Iowa Department of Elder Affairs emergency adopts and implements rules correcting and updating Chs1to3,5,6,8,9, Iowa Administrative Code.

The Department filed adopted rules as **ARC 7610**, published in the Iowa Administrative Bulletin, May 20, 1987, that updated Noticed rules, **ARC 7403**, published in the Iowa Administrative Bulletin, February 25, 1987.

On June 9, 1987, the Administrative Rules Review Committee reviewed the adopted rules which had been scheduled to be effective on June 24, 1987, and voted to delay the effective date for 70 days to allow the new Executive Director time to review the impact of the rules.

The Executive Director met with committees appointed to further examine portions of the rules in Chapters 1 to 9, and submitted amended wording for Commission adoption at their regular meeting on August 17, 1987. The amendments to the adopted rules are reflected in this emergency adopted and implemented filing as follows:

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Chapter 1: Corrected definitions and an additional definition of eligibility for the Elderly Service program.

Chapter 2: An update on department organization.

Chapter 3: Updated rules that provide for a State Advisory Council and supply criteria for membership.

Chapter 5: Correction of Elderly Service fund eligibility and correction of reporting due dates.

Chapter 6: Clarification of required area advisory council membership and duties of area agencies. Also in rule 6.10(249D), new wording simplifies the process for area agencies to provide direct service.

Chapter 8: Two corrections in subrules 8.4(2) and 8.4(3) to the Long-Term Care Resident's Advocate/Ombudsman rules.

Chapter 9: Changes in the size of the Care Review Committees, rescission of subrule 9.1(4) in response to requests from nursing home administrators, clarification of the resident review and complaint resolution process, and the deletion of restriction on kinds of forms to be used by care review committees.

In compliance with Iowa Code section 17A.4(2), the Department finds that public notice and participation are not necessary as the changes are made in response to requests by groups that are directly benefited by the changes. These rules are also published herein as a Notice of Intended Action, ARC 7895 to further solicit public comment. A public hearing will be held on Thursday, October 15, 1987, at the Department conference room, 236 Jewett Building, 914 Grand Avenue, Des Moines, Iowa.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the normal effective date of these rules, 35 days after publication, should be waived and the amended rules be made effective on September 2, 1987, which would be consistent with the effective date of the adopted rules subsequent to the 70-day delay imposed by the Administrative Rules Review Committee.

These rules are intended to implement Iowa Code chapter 249D.

ITEM 1. Amend rule 1.7(249D) as follows:

"Complaint" (LTCRAP) means a report of an alleged violation of ~~applicable~~ requirements of *federal and state laws or regulations, Iowa Code chapter 135C, or rules adopted pursuant to said chapter, or report of practices and procedures related to admission or an individual's entitlement to care and services under federal and state laws and regulations.*

"Eligible individual" (Title III ~~and ES~~) means any person aged 60 or older and the spouse of the person 60 or older regardless of the age of the spouse.

"Low income" (SCSEP) means any person or persons whose actual individual or family income is less than 125 percent of the poverty guidelines issued annually by the U.S. Office of Management and Budget, Department of Labor in accordance with section 507(2) of the Older Americans Act.

"Poverty level" means a total family income or unrelated individual income of 100 percent of the poverty guidelines issued by the U.S. Department of Labor Health and Human Services and published annually in accordance with section 507(2) 305(d)(2) of the Older Americans Act.

Further amend rule 1.7(249D), by adding in alphabetical sequence a new definition as follows:

"Eligible individual" (ES) means any person aged 65 or older and the spouse of the person 65 or older regardless of the age of the spouse.

ITEM 2. Rescind subrule 2.3(2), renumber subrule 2.3(3), and amend rule 2.3(249D) as follows:

321—2.3(249D) Divisions of the department. The department's activities are performed by ~~three~~ *two* divisions directly responsible to the executive director:

2.3(1) Administrative, whose function is to control and account for all funds, provide technical assistance to funded agencies, manage purchasing activities, provide office management, complete all personnel transactions, manage central filing, ~~and~~ provide clerical support, *interagency coordination of consumer advocacy and information assistance, provide education and training services, development of legal assistance programs, and information resource management.*

2.3(2) Operations, whose function it is to prepare and manage grants, administer programs, develop program initiatives, provide technical assistance, review and process multiyear area plans and funding applications, monitor, assess and evaluate the ~~area agencies on aging~~ AAAs for performance, ~~and~~ develop and maintain relationships with programs providing service to elders, *policy advocacy and coordination, research and policy development (including development of the state plan on aging), program evaluation, resource development and administration of the long-term care resident's advocate program.*

ITEM 3. Rescind rule 3.5(249D) in its entirety, and insert in lieu thereof the following:

321—3.5(249D) State advisory council on aging.

3.5(1) Composition. The membership of the state advisory council shall include:

a. One member and an alternate who are at least 60 years of age from each of the 16 planning and service areas who are elected by the AAA advisory council. Alternates shall be nonvoting members of the council.

b. Seven at-large members who are nonstaff persons representing associated organizations appointed by the commission.

3.5(2) Duties. The duties of the state advisory council shall include, but not be limited to, reviewing and making recommendations on the state plan on aging and forming ad hoc study committees at the request of the commission.

ITEM 4. Amend subrule 5.1(4), paragraph "j," as follows:

j. The amount of carryover will be determined on the basis of the year-end final report for the budget year, which is due not later than 45 *calendar* days after the end of the budget year.

ITEM 5. Amend rule 5.5(249D) to read as follows:

321—5.5(249D) Elderly services allocation. All state elderly services funds allocated to the department shall be allocated to AAAs on the basis of persons ~~60~~ 65 and older in the planning and service area, minority persons ~~60~~ 65 and older in the planning and service area and double-weighted for persons ~~60~~ 65 and older living at or below the poverty level of income in the planning and service area.

ITEM 6. Amend subrule 5.13(2) as follows:

5.13(2) Reporting requirements. The grantee is required to submit all fiscal and performance reports following procedures and requirements established by the department. *AAA fiscal and performance reports are due in the department office by the fifteenth twentieth* of the month(s) following the end of the period being

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reported. Reports not received by the due date shall be considered delinquent.

ITEM 7. Amend rule 6.4(249D), paragraphs "3" and "11" to read as follows:

3. Enter into subgrants or contracts to provide all services under the plan except the services listed in subrule ~~6.10(4)~~ 6.10(1).

11. ~~Contract~~ Provide for outreach efforts, with special emphasis on rural elders, to identify elders with greatest economic or social needs and inform them of the availability of services under the multiyear area plan;

ITEM 8. Amend subrule 6.5(1), paragraph "c," to read as follows:

c. ~~Current Local~~ local elected officials; and

ITEM 9. Amend subrule 6.9(1) to read as follows:

6.9(1) General rule. Each AAA shall enter into subgrants or contracts to provide all services.

ITEM 10. Rescind rule 6.10(249D) in its entirety and insert in lieu thereof the following:

321—6.10(249D) Exception to the provision of service by subgrants or contracts.

6.10(1) Exceptions. Services that are directly related to the AAA's administrative functions of planning, development, and coordination, including the following services: Information and referral, outreach, employment, ombudsman, case management, and advocacy representation do not require a request to provide services directly.

6.10(2) Request to provide services directly. AAAs may provide services directly by submitting a request which is approved by the department based on documentation that:

a. The direct provision of service is necessary to ensure an adequate supply; or

b. Services of comparable quality can be provided more economically by the area agency.

6.10(3) Documentation. Requests to provide services directly and supporting documentation shall be submitted as part of the multiyear area plan.

6.10(4) Public hearing. The AAA shall hold a public hearing regarding services the AAA plans to provide directly prior to the submission of the multiyear area plan. The purpose of the public hearing is to give specific opportunity for comment. This public hearing may be held separately or this topic may be included in the public hearing for the multiyear area plan.

a. Notice of the public hearing shall be issued at least 30 days prior to the public hearing and shall specify the services which the AAA plans to provide directly.

b. The AAA shall prepare and submit to the department a written record of the public hearing.

6.10(5) Criteria for approval of a request to provide service directly. Approval of the AAA's request to provide service directly will be based upon review of the documentation provided by the AAA as follows:

a. Direct provision of service shall be considered necessary to ensure an adequate supply of the service if no other potential service provider is identified during the public hearing process; or

b. Direct provision of service shall be considered to be of comparable quality and provided more economically if, in the judgment of the department:

(1) The proposed service will be of comparable quality in the view of the AAA advisory council, and will meet or exceed service standards developed by the AAA; and

(2) The AAA can provide the service at lower cost than another provider.

c. The department may consider other factors including the demonstrated capacity of the AAA or other provider to deliver services consistently and reliably, the economic impact of transition from one provider to another, consideration of the disruption of service, input from the AAA advisory council and comments from the public at the public hearing.

6.10(6) Conditional approval. If the criteria for the approval of a request to provide direct services have not been met, a condition may be placed on the area plan approval.

ITEM 11. Amend subrule 8.4(2), paragraph "b," as follows:

b. When the resident's advocate/ombudsman encounters facts that may warrant the institution of civil proceedings, the resident's advocate/ombudsman shall refer the case to the appropriate *appropriately* for administrative and legal assistance.

ITEM 12. Amend subrule 8.4(3), paragraph "c," as follows:

c. Any information from this reporting system which identifies a specific facility shall state that problems identified in that facility have been corrected, if problems identified have been corrected to the satisfaction of the resident's advocate/ombudsman: *and the department of inspections and appeals.*

ITEM 13. Amend subrule 9.1(2) as follows:

9.1(2) Committee membership. The committee shall consist of at least three members or a number sufficient to maintain a ratio of 1 member to 15 residents: *with The the maximum number of size not to exceed 12 members. shall be established by the committee with the approval of the department. The ratio may be waived by the department if the committee demonstrates the ability to carry out the functions outlined in these rules with fewer members.*

ITEM 14. Rescind subrule 9.1(4) in its entirety.

ITEM 15. Amend subrule 9.2(3) as follows:

9.2(3) Membership restriction. Applications for membership on care review committees will be accepted unless the applicant has an ownership interest in a facility; or is employed by the facility; or is related to an employee, board member, or licensee of the facility; or is a public employee involved with the sponsoring or placement of residents in the facility; or is an administrator of the long-term care facility; or is a professional consultant to the facility. Relatives shall be defined as any one of the following: father, mother, son, daughter, brother, sister, aunt, uncle, first cousin, nephew, niece, wife, husband, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepbrother, stepchild, stepsister, half sister, half brother, grandparent or grandchild. *The restriction on relatives may be waived on an individual basis according to procedures developed by the department.*

ITEM 16. Amend subrule 9.6(1) as follows:

9.6(1) Structure. Every committee shall have a chairperson and secretary selected by the membership. The chairperson shall coordinate the activities of the committee. The secretary shall record minutes of each meeting *on forms provided by the department and distributed by AAAs; submit and prepare reports as necessary.*

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ITEM 17. Amend subrule 9.7(2), paragraph "c," as follows:

c. ~~Attend~~ *Participate* in a training session approved by the department at least once a year.

ITEM 18. Amend subrule 9.10(1), paragraph "a," as follows and rescind paragraph "c."

a. Resident reviews shall be recorded ~~on a form supplied by the department and distributed by AAAs; including responses to questions asked of residents or their representatives.~~

ITEM 19. Amend subrule 9.10(2) as follows:

9.10(2) Review visits. Committee members shall make some visits without prior notice to the facility to observe residents at different times of the day. Committee members shall notify the staff person in charge of the facility that they are in the facility. ~~Comments made after observing residents will be entered on the comments section of the form except as provided in subrule 9.10(4).~~

ITEM 20. Amend subrule 9.10(4) as follows:

9.10(4) Complaints and grievances during reviews. Complaints and grievances identified by the resident during resident reviews shall be handled according to ~~procedures identified in subrule 9.11(2) and shall not be recorded on~~ *with resident review forms reviews.*

ITEM 21. Amend subrule 9.11(2), paragraphs "b" and "c," as follows:

b. A committee member will investigate ~~or forward~~ the complaint or grievance ~~to the resident's advocate/ombudsman~~ within ~~14~~ *seven* calendar days of receipt. ~~Life or health threatening complaints will be forwarded within 72 hours.~~

c. The investigating care review committee member shall make an unannounced visit to the facility, and upon arrival at the facility, *may* notify the staff person in charge of the facility that the member is in the facility.

ITEM 22. Amend subrule 9.12(1) as follows:

9.12(1) Referral process. Complaints or grievances received or initiated by the department of inspections and appeals ~~shall may~~ be referred for investigation ~~by~~ to the care review committee by transmittal to the resident's advocate/ombudsman program at the department address in subrule 2.1(2).

ITEM 23. Amend subrule 9.12(3) as follows:

9.12(3) Notification. The resident's advocate/ombudsman program will provide adequate information within three days to a member of the appropriate care review committee. ~~to investigate the allegations.~~ Written notification will be provided within seven days.

ITEM 24. Amend rule 9.13(249D), paragraph "3," as follows:

3. Distribute department-provided forms ~~needed if~~ *requested* by care review committees;

Further amend rule 9.13(249D), paragraph "6," as follows:

6. Assist in the resolution of complaints or grievances being investigated by care review committees or the resident's advocate/ombudsman program: *as requested.*

[Filed emergency 8/20/87, effective 9/2/87]

[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7911

PROFESSIONAL LICENSURE
DIVISION [645]BOARD OF SPEECH PATHOLOGY
AND AUDIOLOGY EXAMINERS

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 147.10 and 258A.2, the Board of Speech Pathology and Audiology Examiners emergency adopts rules to amend 645—Chapter 156 of the Iowa Administrative Code.

The purpose of these rules is to simplify the continuing education application procedures and reporting requirements of licensees. Because the next two-year continuing education compliance period begins September 1, 1987, it is necessary that these rules become effective September 1, 1987, so that the continuing education reporting procedures will be the same throughout the continuing education compliance period.

The Board finds pursuant to Iowa Code section 17A.4(2) that it would be impracticable to delay implementation by soliciting public input through the notice and public participation requirements of 17A.4(1) since to do so would delay these rules, which simplify and clarify the continuing education reporting procedures for licensees, for two years.

The Board also finds, pursuant to Iowa Code section 17A.5(2) that the normal effective date of these rules, 35 days after publication, should be waived and the rules be made effective September 1, 1987, in order to implement these rules at the beginning of the next two-year continuing education compliance period. The proposed rule change confers a benefit upon the public by clarifying continued education requirements and lessening the continued education application and reporting requirements of licensees.

The Board of Speech Pathology and Audiology Examiners adopted these rules on August 21, 1987.

These rules are also submitted herein as a Notice of Intended Action, ARC 7910, to solicit public comment.

These rules are intended to implement Iowa Code sections 147.10 and 258A.2.

With this filing, Chapter 156 of the Board of Speech Pathology and Audiology Examiners is transferred from the former agency number [470] to the new agency number [645] as Chapter 301. This is necessary because a new agency identification numbering system for existing state agencies and new "umbrella" agencies was adopted by the Code Editor as a result of reorganization of state government by 1986 Iowa Acts, chapter 1245.

ITEM 1. Rule 156.1(147) "Definitions" is amended by deleting subrule numbers and arranging in alphabetical order:

Further amend 156.1(147) by adding the following in alphabetical order.

"Verification of attendance" means:

1. A certificate of attendance provided by a sponsor which contains the date of program, program title and presenter, program site, number of clock hours attended, name of sponsor (and sponsor number if board accredited), and name of the licensee; or

2. A certificate of attendance form provided by the board with all information completed; or

3. A transcript indicating successful completion of academic courses in appropriate subject matter; or

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4. A personal letter to the licensee with the information as specified in "1" above, signed by a program official; or

5. A board-issued certificate of attendance for national and international conventions and independent study.

ITEM 2. Amend 156.2(258A) as follows:

Subrule 156.2(2), introductory paragraph and first unnumbered paragraph, is amended to read as follows:

156.2(2) Beginning September 1, 1981, each person licensed to practice speech pathology or audiology in this state shall during each continuing education compliance period (biennium from September 1 of each of the odd-numbered year through August 31 of the next odd-numbered year) complete a minimum of 30 clock hours or three CEUs of approved continuing education directly related to the clinical practice of speech pathology or audiology. ~~Not more than six (6) clock hours may be obtained by independent study. A licensee can elect to successfully complete the Educational Testing Service National Teacher Examination in speech pathology or audiology as appropriate during the compliance period.~~

Compliance with the requirement of continuing education is a prerequisite for license renewal in each subsequent biennial license renewal period. The biennial license renewal period shall extend from January 1 of each even-numbered year until December 31 of the next odd-numbered year. *A person holding licensure in both speech pathology and audiology must meet the requirements for each profession.*

Further amend rule 156.2(258A) by adding the following new subrule:

156.2(6) Each licensee shall maintain a file of verifications of attendance for all 30 continuing education clock hours accrued during the biennium. The licensee shall retain verifications of attendance for three years after the biennium has ended.

ITEM 3. Subrule 156.3(2), paragraph "b," is amended to read as follows:

b. Pertains to subject matters which integrally relate to the practice of speech pathology or audiology or both; ~~and which is described as:~~

1. *Basic communication processes—information (beyond the basic certification requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information which would enable expansion of knowledge in the basic communication processes. Any computer course used for continuing education must involve the actual application to the communicatively impaired population.*

Professional areas—information pertaining to disorders of speech, language, and hearing, i.e., various types of disorders of communication, their manifestations, classification and causes; evaluation skills, including procedures, techniques, and instrumentation for assessment; and management procedures and principles in habilitation and rehabilitation of communication disorders. The board shall accept dysphagia courses provided by qualified instructors.

ITEM 4. Amend rule 156.4(258A), introductory paragraph, to read as follows:

470—156.4(258A) **Procedures for accreditation of sponsors and approval review of continuing education activities.**

ITEM 5. Subrule 156.4(1), paragraphs "b" and "c," are rescinded and the following new paragraphs "b," "c," and "d" are adopted in lieu thereof:

b. All accredited sponsors shall issue a certificate of attendance to each licensee who attends a continuing education activity. The certificate shall include sponsor name and number; date of program; name of participant; total number of clock hours excluding introductions, breaks, meals, etc.; program title and presenter; program site; and whether the program is approved for speech pathology, audiology, or both.

c. All accredited sponsors shall report to the board, on a form approved by the board, a list of attendees, license number, and number of continuing education clock hours, within 30 days of completion of each continuing education activity.

d. The board may at any time reevaluate an accredited sponsor. If after such reevaluation the board finds there is a basis for consideration of revocation of the accreditation of a sponsor, the board shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least 30 days prior to the hearing.

ITEM 6. Rescind subrules 156.4(2), 156.4(3) and 156.4(4) and insert the following:

156.4(2) Review of programs. The board may monitor and review any continuing education program already approved by the board. Upon evidence of significant variation in the program presented from the program approved, the board may disapprove all or any part of the approved hours granted the program.

156.4(3) Independent study. The independent study plan must be submitted and approved prior to beginning the study. The projected date of completion must be recorded on the board-provided application form. An independent study report must be filed within 30 days after the projected date of completion. One 30-day extension may be granted upon the condition that such a request in writing is received within 30 days of the projected date of completion. A reminder will not be sent by the board.

Program presenters will not receive continuing education credit for programs presented. Presenters may request independent study credit for preparation.

The maximum independent study which can be accrued during any biennium is six hours of the required 30 hours.

ITEM 7. Amend 156.5(258A) as follows:

470—156.5(258A) **Hearings.** In the event of denial, in whole or part, of any application for approval of continuing education program or credit for a continuing education activity, the applicant or licensee shall have the right to request a hearing. The request must be sent within 20 days after receipt of the notification of denial. The hearing shall be held within ~~sixty~~ 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a transcript or tape recording of the hearing including exhibits to the board after the hearing with the proposed

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

decision of the hearing officer. *The final decision of the hearing shall be rendered by the board.*

ITEM 8. Rule 156.6(258A) is rescinded and the following adopted in lieu thereof:

470—156.6(258A) Report of licensee. Each licensee shall file a signed report, on a form provided by the board no later than September 15 of each odd-numbered year. The report shall include the following information: title of continuing education activity, date(s), sponsor of activity, sponsor number (if board approved), and continuing education hours earned; or the date and location the licensee successfully completed the national teacher examination in speech pathology or audiology, as appropriate. A licensee who takes the licensing examination in lieu of earning continuing education credits shall have the results of the examination sent to the board by the agency administering the examination. The licensee's signature upon this form shall be regarded as verification that the licensee did attend and participate in the activities listed on the form.

The board shall select licensee's continuing education reports for audit. Each licensee to be accredited shall provide copies of verification of attendance for all reported activities. For activities not provided by an accredited sponsor, the licensee shall submit a description of the program content indicating that the content is integrally related to the practice of speech pathology or audiology and contributes directly to the provision of speech pathology or audiology services to the public. Submission of a false report of continuing education or failure to meet continuing education requirements will cause the license to lapse and may result in formal disciplinary action.

ITEM 9. Transfer Chapter 156 from agency number [470] to [645] as Chapter 301 under the "umbrella" of Public Health Department [641] with the following amendments:

Rule **156.101**, change "Licensing and Certification Section" to "Iowa Department of Public Health."

Rule **156.103**, change "licensing and certification section" to "professional licensure".

Substitute "Iowa department of public health" for "state department of public health" wherever it appears in Chapter 156.

[Filed emergency 8/21/87, effective 9/1/87]
[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7890**PUBLIC DEFENSE
DEPARTMENT[650]**

STATE EMERGENCY RESPONSE COMMISSION

Adopted and Filed Emergency

Pursuant to Governor's Executive Order No. 30, dated April 15, 1987, and Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III—Emergency Planning and Community Right-to-Know, Pub. Law 99-499, the State Emergency Response Commission (SERC), hereby adopts Chapter 103, "Local Emergency Planning Committees," Iowa Administrative

Code. These rules establish local emergency planning committees; the method of appointing members; duties of the local emergency planning committee; development, review, and submission of emergency response plans; and designation of a place for the covered facilities to file required information and where the public can obtain information.

These rules were approved by the State Emergency Response Commission on August 14, 1987.

Pursuant to Iowa Code section 17A.4(2), notice and public participation regarding this amendment are not necessary and, pursuant to Iowa Code section 17A.5(2)"b"(2), the normal effective date of this chapter, 35 days after publication, should be waived and the rules be made effective upon filing with the Administrative Rules Coordinator on August 17, 1987.

The State Emergency Response Commission finds that these rules confer a benefit upon the public in that the public will have rules of procedure for the operation of the local emergency response planning committees. Additionally, pursuant to federal law, the State Emergency Response Commission is required to make appointments to the local emergency response planning committees by August 17, 1987.

Notice of Intended Action regarding the adoption of these rules is published herein as **ARC 7889**. If requested by September 29, 1987, a public hearing to accept comments on the Notice of Intended Action will be held on October 2, 1987, at 9 a.m. at Office of Disaster Services, Hoover State Office Building, Room A29, Des Moines, Iowa.

CHAPTER 103

LOCAL EMERGENCY PLANNING COMMITTEES

650—103.1(Exec.Ord.30,42USC11001) Requirement to appoint local emergency planning committees (LEPC).

103.1(1) Purpose. A state emergency response commission (SERC) is required under Superfund Amendments and Reauthorization Act (SARA), section 301, to appoint members to local emergency planning committees. An LEPC is appointed for each of the emergency planning districts established in 601—Chapter 102.

103.1(2) Representation. As a minimum, each LEPC shall be comprised of a representative from each of the following groups or organizations:

- a. Elected state and local officials,
- b. Law enforcement personnel,
- c. Civil defense personnel,
- d. Firefighting personnel,
- e. First aid personnel,
- f. Health personnel,
- g. Local environmental personnel,
- h. Hospital personnel,
- i. Transportation personnel,
- j. Broadcast and print media,
- k. Community groups, and
- l. Owners and operators of facilities subject to the requirements of SARA, Title III.

A person may represent one or more of the disciplines listed, provided the person is duly appointed by each group or organization to be represented.

650—103.2(Exec.Ord.30,42USC11001) Committee members.

103.2(1) Appointment of local emergency planning committees. Nominations to the LEPC shall be made

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by the joint county-municipal disaster services and emergency planning administration (joint administration), established under Iowa Code section 29C.9, and shall be subject to review and appointment by the SERC. To the extent possible, membership of the LEPC shall be composed of members of the joint administration. Vacancies on the LEPC shall be filled in accordance with this subrule.

103.2(2) Meeting participation. Any member of the joint administration may participate in any meeting of the LEPC. If the joint administration member is not the appointed representative of one of the groups or organizations specified in subrule 103.1(2), the joint administration member shall not be eligible to vote on any issue before the LEPC.

103.2(3) Member changes. The SERC may revise the appointments made as it deems appropriate. Interested persons may petition the SERC to modify the membership of an LEPC.

650—103.3(Exec.Ord.30,42USC11001) Local emergency planning committee (LEPC) duties.

103.3(1) The LEPC shall establish procedures for the functioning of the committee to include:

a. The length of terms of the LEPC members and the selection of a chair and vice-chair;

b. The public notification of committee activity; 42 USC 11001(c)

c. The conduct of public meetings to discuss the emergency plan; Iowa Code chapter 21, 42 USC 11001(c) and

d. The procedures for receiving and responding to public comments; and the distribution of emergency plans. 42 USC 11001(c)

103.3(2) The LEPC shall establish procedures for receiving and processing requests from the public for information under SARA, section 324, including tier II information under SARA, section 312. 42 USC 11001(c)

103.3(3) The LEPC shall designate a 24-hour emergency contact point(s) for the immediate receipt of chemical release notifications. 42 USC 11003(c)(3)

103.3(4) The LEPC shall designate an official to respond to requests for information from the public for material safety data sheets, chemical inventory forms, emergency response plans, annual chemical inventory forms, and toxic chemical releases forms. The information, including minutes of the LEPC and related committee actions shall be available to the public during normal working hours at a location designated by the LEPC. 42 USC 11003(c)(3), 42 USC 11004(b)(1), 42 USC 11044(a)

103.3(5) The LEPC shall prepare an emergency plan for the district by October 17, 1988, and shall review and revise as necessary the emergency plan at least annually. Both the initial emergency plan and any updates or revisions shall be submitted by the LEPC to the SERC in accordance with subrule 103.4(2). 42 USC 11003(a), 42 USC 11003(e)

103.3(6) The LEPC shall evaluate the need for resources in the district necessary to develop, implement, and exercise the emergency plan(s) and make recommendations. 42 USC 11003(b)

103.3(7) The LEPC shall maintain a current listing of the emergency coordinators designated by each covered facility. 42 USC 11003(d)(1)

103.3(8) The LEPC shall receive, review, and act upon information updates from covered facilities regarding emergency planning.

103.3(9) The LEPC shall annually publish notice that emergency response plan, material safety data sheets, and inventory forms have been submitted and how the public can obtain access to the material for review. 42 USC 11044(b)

650—103.4(Exec.Ord.30,42USC11003) Emergency response plan development.

103.4(1) Statement of purpose. The SERC recognizes that emergency planning includes more than chemical release planning. The chemical release planning required by this chapter and Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III—Emergency Planning and Community Right-to-Know, Pub. Law 99-499, shall be included in the comprehensive emergency planning conducted by the joint administration as required by Iowa Code chapter 29C.

103.4(2) Plan preparation. The LEPC shall prepare a comprehensive emergency response plan(s) pursuant to 42 USC 11003 which shall become an integrated portion of the emergency plan established by the joint administration. Where a local emergency planning district exceeds the jurisdictional boundaries of a single joint administration, a comprehensive emergency response plan shall be developed for each joint administration within the local emergency planning district. The LEPC shall annually submit a plan to the joint administration by August 15, 1988, and at least annually thereafter. The plan shall be reviewed and revised as necessary. The joint administration shall not change the plan without the approval of the LEPC.

650—103.5(Exec.Ord.30,42USC11044) Local emergency planning committee office. The LEPC shall designate a local government office that will serve as the focal point for receiving nonemergency notifications from facilities that are subject to the law. This office shall also be the depository for chemical lists, a point of contact for the public regarding community right-to-know inquiries, and the office of record for minutes of the LEPC meetings and related committee actions.

650—103.6(Exec.Ord.30,42USC11001) Local emergency response committee meetings. The LEPC shall meet as frequently as deemed necessary by the chair until the local emergency operations plan is developed and concurred with the joint administration and reviewed by the SERC. Subsequent to plan approval, the LEPC is required to meet at least annually to review emergency response procedures, emergency plans and assure the actions required are properly administered within the local emergency planning district.

650—103.7(Exec.Ord.30,42USC11001) Local emergency response plan submission. After completion of the initial emergency response plan and any subsequent revisions thereto, the LEPC shall submit a copy to the SERC. The SERC shall review the submission and make recommendations to the LEPC on appropriate revisions that may be necessary to ensure coordination with emergency response plans of other emergency planning districts, the state of Iowa, and adjacent states. To the maximum extent practicable, the review shall not delay implementation of the plan or revisions thereto. All plans shall be submitted by October 17, 1988, and at least annually thereafter.

[Filed emergency 8/17/87, effective 8/17/87]

[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7897

CAMPAIGN FINANCE
DISCLOSURE COMMISSION[121]

Adopted and Filed

Pursuant to the authority of Iowa Code section 56.10, the Campaign Finance Disclosure Commission, based on action in its Commission meeting held on August 7, 1987, adopted amendments to Chapters 1 to 6, adopted a new Chapter 7, "Campaign Contributions to State Office-holders and Candidates for State Office," Iowa Administrative Code, and transferred 190—Chapters 1 to 7 to 121—Chapter 1 to 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin, June 17, 1987, as ARC 7686.

One oral comment was received and communicated to the Administrative Rules Review Committee concerning rule 4.3(56), and the rule has been changed to recognize that only contributions in excess of \$100 are required to be delivered to the treasurer of a committee within 15 calendar days.

At the suggestion of the Administrative Rules Review Committee, the word "power" in rule 1.6(56) has been changed to the word "authority" as it relates to complaint and hearing procedures.

Other grammatical changes have been made to improve the rules. Other than these changes, the rules are identical to those published under Notice of Intended Action.

These rules shall become effective October 14, 1987.

ITEM 1. Amend 190—Chapter 1 as follows:

CHAPTER 1
COMPLAINT PROCEDURE

190—1.1(56) No change.

190—1.2(56,68A) Forms. The verified complaint and affidavit shall be filed in triplicate on forms provided by the *state* commission. The complaint, affidavit and all other supporting papers filed in connection with a complaint shall be public information.

This rule is intended to implement *Iowa Code* sections 68A.2 and 68.7; ~~The Code~~.

190—1.3(56) Continuances. Any person served notice of hearing may, at or before the time set for hearing, show good cause to the *state* commission for a continuance to a date certain.

190—1.4(56,17A) Issuance of subpoenas. The *state* commission shall, on application of any interested party to the action, issue subpoenas or subpoenas duces tecum to require and compel the attendance at ~~such the~~ hearing of any person who has material facts concerning the allegations of the complaint and to compel the production of any records or other documents which are material to the complaint or which are required to be kept by *Iowa Code* chapter 56; ~~The Code~~. Any person desiring to issue a subpoena or subpoena duces tecum shall request ~~same it~~ from the *state* commission or any member thereof who may sign ~~said the~~ subpoena or subpoena duces tecum after being advised of the materiality of the person or documents to be produced. The service of the subpoena shall be made in accordance with the Iowa rules of civil procedure.

This rule is intended to implement *Iowa Code* sections 56.11 and 17A.13; ~~The Code~~.

190—1.5(56) Hearing officer. The hearing shall commence at the time and place specified in the notice of hearing issued by the *state* commission, but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later ~~day~~ *date* without notice other than apprising the parties thereto at ~~the such~~ hearing by the hearing officer. ~~The Said~~ hearing shall be conducted by a hearing officer who shall be the ~~chairman~~ or vice ~~chairman~~ of the *state* commission or a *state* commissioner designated by the ~~chairman~~ or vice ~~chairman~~ to be hearing officer for that specific complaint.

190—1.6(56) Power Authority of hearing officer. The hearing officer shall have ~~the power~~ *authority* to rule on the relevancy of any inquiry at the hearing and in all respects shall have ~~powers~~ *authority* of judicial magistrates in equitable matters as it pertains to the receipt of evidence. The hearing officer, however, shall restrict all testimony as to its relevancy and materiality to the complaint at issue.

Every hearing held by the *state* commission shall provide for reasonable opportunity for all persons to be present. The *state* commission, or hearing officer presiding at the hearing, shall have the ~~power~~ *authority* to administer oaths and affirmations, issue subpoenas, rule upon offers of proof and receive relevant, oral or documentary evidence, take or cause depositions to be taken, regulate the course of the hearing and conduct of the parties, hold informal conferences for the settlement or simplification of the issues by consent of the party or parties and dispose of procedural motions.

190—1.7(56) No change.

190—1.8(56) Employment of shorthand reporter. In connection with the hearings, the *state* commission may employ a person qualified to administer oaths and to act as shorthand reporter or stenographer to take down all testimony, mark exhibits, and to finalize the complete typewritten record. The *state* commission may use a mechanical recording device. A party may request a stenographer at its cost by agreeing to file an original copy of the transcript with the *state* commission.

190—1.9(56) Findings of fact and proposed orders. Upon completion of the receipt of testimony and documents, the hearing officer shall make the complete record available to the *state* commission together with the hearing officer's finding of fact and proposed orders. The *state* commission shall review the record and the proposed findings of fact and order and shall, by majority vote, affirm, modify or reverse the findings of fact and proposed order of the hearing officer. The final decision shall be made within ten days of the date that the hearing officer files the record, proposed findings and order with the *state* commission.

190—1.10(56) Waiver of hearing. Any person entitled to be present at the hearing so scheduled by the *state* commission may file a waiver of an opportunity for hearing or to participate in the hearing together with a written statement regarding ~~his the~~ *person's* position on the matters of fact and law involved in ~~such the~~ hearing. ~~Such The~~ statement shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to the matters of fact asserted therein.

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190—1.11(56) Failure to file or appear. If any person entitled to a hearing fails to file a waiver of the hearing and fails to appear, ~~he~~ *the person* shall be deemed to have waived ~~his~~ *the* opportunity for the hearing or to participate in the hearing unless ~~he~~ *she* shows good cause ~~is shown for such~~ *the* failure.

190—1.12(56) Closed hearings. Either party entitled to participate in the hearings may, at any time prior to the start of the hearing, request that the hearings be closed to the public. Upon request, timely made, the *state* commission or hearing officer shall close the hearing to the public.

190—1.13(56) Conditions for cancellation of hearing. If the complainant fails to appear or requests a dismissal prior to hearing, then the *state* commission shall forthwith cancel ~~said~~ *the* hearing and dismiss ~~said~~ *the* complaint.

190—1.14(56) Burden of proof. At any hearing scheduled by the *state* commission on verified complaint, the complainant shall have the burden of proving, by a preponderance of evidence, that the facts alleged therein constitute a violation of the financial disclosure law.

190—1.15(56) Informal disposition of complaints. Parties to a complaint filed with the *state* commission may informally dispose of the case by stipulation, agreed settlement, consent order, default, or by any other method agreed upon by the parties in writing, subject to approval by the *state* commission. A copy of the written proposal for the disposition of the case shall be filed with the *state* commission. If the *state* commission finds the proposal acceptable, it shall be temporarily approved and placed on file for public inspection. If within ~~thirty~~ *30* days no person with an interest in the matter files a written objection to the terms of the proposed disposition, then it shall become the final disposition of the case. If an objection is timely filed then the *state* commission shall meet to reconsider the matter within ~~thirty~~ *30* days. At that meeting the *state* commission shall make a final decision on whether to approve the proposal.

These rules are intended to implement *Iowa Code* chapter 56 of the Code.

ITEM 2. Amend 190—Chapter 2 as follows:

CHAPTER 2
IOWA ELECTION CAMPAIGN FUND

190—2.1(56) Interpretation of checkoff markings. For the purpose of implementing *Iowa Code* section 56.18 of the Code, the director of revenue and finance shall, wherever feasible, interpret the marking of a tax return so as to give effect to the taxpayer's intent, as follows:

2.1(1) In the case of a single taxpayer who marks the columns designated for "spouse" ~~said~~ *the* marking shall have the effect of making a ~~\$1.00~~ *\$1.50* contribution so designated if only one box is marked.

2.1(2) A single taxpayer marking the box "spouse" and then marking only one box for "yourself" shall be deemed to have contributed ~~\$1.00~~ *\$1.50* as indicated by the box marked for ~~himself/herself~~ *the single taxpayer*.

2.1(3) No change.

2.1(4) Taxpayers filing a joint or combined return who mark more than one box under "yourself" shall be deemed to have indicated their intention to contribute ~~\$1.00~~ *\$1.50* to the campaign fund to be divided among the eligible parties.

Taxpayers filing a joint or combined return who mark more than one box under "spouse" shall be deemed to have indicated their intention to contribute ~~\$1.00~~ *\$1.50* to the campaign fund to be divided among the eligible parties.

2.1(5) No change.

2.1(6) No change.

190—2.2(56) Director of revenue and finance—monthly reports. The director of revenue and finance shall submit a report to the *state* commission and each state party chairman on the twenty-fifth day of each month beginning in January of 1978 and each month thereafter on of the amount of money remitted to the Iowa election campaign fund that month and the total amount year-to-date during that taxable year. The report by the director of revenue and finance, for the month of November in the year in which the general election occurs, which certifies the amount of election campaign funds available to the parties, shall be the last funds available to the parties under the application submitted by the parties pursuant to subrule 2.3(1).

190—2.3(56) Funds—application and transfer. Iowa election campaign funds shall be applied for by and transferred to political parties eligible to receive such funds in a manner which substantially complies with the following:

2.3(1) Upon the ~~comptroller's~~ *director of revenue and finance's* receipt of the party's application for funds, the party may request the transfer of all or any part of the election campaign funds to which it is presently entitled. However, the last claim voucher for a year in which a general election occurs should be submitted to the ~~comptroller~~ *director of revenue and finance* no later than November 25. The last warrant written by the ~~comptroller~~ *director of revenue and finance* in a general election should be issued to the political party no later than December 1.

2.3(2) The ~~comptroller~~ *director of revenue and finance* shall, after making ~~such~~ *the* last payment, commence to accumulate any additional funds received by that office from the department of revenue and finance and shall hold them for distribution according to these rules for the next succeeding general election. ~~Such~~ *Accumulation* of funds shall not be construed to include any funds not utilized by a political party which according to *Iowa Code* section 56.24 revert to the general fund of the state.

2.3(3) Each year the treasurer of state shall submit to the ~~comptroller~~ *director of revenue and finance* and *state* commission a statement detailing the amount of interest income credited to the state account of each political party during the 12-month period ending November 30.

This rule is intended to implement *Iowa Code* section 56.22 of the Code.

190—2.4(56) No change.

190—2.5(56) No change.

190—2.6(56) Legitimate campaign expenses. All Iowa election campaign funds shall be used only for legitimate campaign expenses. "General election" as used in these rules shall be the same as defined in *Iowa Code* section 39.3; ~~The Code~~, or for any special election as defined in *Iowa Code* section 69.14; ~~The Code~~. Examples of legitimate expenses are as follows:

CAMPAIGN FINANCE DISCLOSURE COMMISSION[121] (cont'd)

2.6(1) No change.

2.6(2) No change.

2.6(3) Party staff and general election campaign staff salaries, fringe benefits and applicable payroll taxes. Each staff person must be listed by name and the amount paid as net salary, fringe benefits, applicable payroll taxes and the amount paid for expenses.

2.6(4) to 2.6(11) No change.

These rules are intended to implement *Iowa Code* section 56.23; ~~The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.~~

190—2.7(56) No change.

190—2.8(56) No change.

190—2.9(56) **Change not permitted.** A checkoff made on a return filed with the Iowa department of revenue and finance cannot be changed or revoked.

190—2.10(56) **Rescission not permitted.** A checkoff once certified shall not be rescinded if the taxpayer later amends his or her the return to reduce his or her the tax liability to zero.

190—2.11(56) No change.

190—2.12(56) **Party report forms.** The chairman of every political party receiving Iowa election campaign funds shall submit the annual report mandated by *Iowa Code* section 56.23; ~~The Code, on forms printed and distributed by the campaign finance disclosure commission.~~

2.12(1) Each time a party receiving Iowa election campaign funds disburses ~~such~~ the funds to a candidate, candidate's committee, or a political committee, the party shall complete the following form CFDC/TF (Transmittal Form) and transfer it with the funds.

Each person receiving Iowa election campaign funds and a partially completed form CFDC/TF shall complete the form and return it to the political party from which the Iowa election campaign funds were received.

All completed CFDC/TF forms shall be submitted along with the CFDC/PR report form mandated by subrule 2.12(2) of the state commission's administrative rules.

2.12(2) Each party required to file an annual report of its receipt and disbursement of Iowa election campaign funds shall complete and submit the following form CFDC/PR. (Report of Receipts and Disbursements of Iowa election campaign fund.)

The CFDC/PR shall be submitted along with the CFDC/TF forms mandated by subrule 2.12(1) of the state commission's administrative rules.

2.12(3) The completion and submission of forms CFDC/PR and CFDC/TF to the ~~comptroller~~ department of revenue and finance and the campaign finance disclosure commission shall constitute the annual report mandated by *Iowa Code* section 56.23; ~~The Code.~~

These rules are intended to implement *Iowa Code* sections 56.20 and 56.23 ; ~~The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.~~

Copies of the forms are available upon request from the Campaign Finance Disclosure Commission, 507 10th Street, Des Moines, Iowa 50309.

ITEM 3. Amend 190—Chapter 3 as follows:

CHAPTER 3

COUNTY COMMISSIONERS OF ELECTIONS

190—3.1(56) **Summary reports.** County commissioners of elections shall file a summary report of all candidates' committees and all other political committees ~~who~~ which have filed disclosure reports, statements of organization, or notices of dissolution. ~~Such~~ Summary reports from the county commissioners of elections shall be on forms approved by the state commission and shall be prepared and mailed to the state commission no later than the ~~fifteenth~~ fifth day after each reporting period as required by *Iowa Code* chapter 56; ~~The Code.~~

The county commissioners of elections shall also provide the state commission with copies of reports and information about delinquent filings when requested so that the state commission may make appropriate contacts with the committees to obtain reports and assess civil penalties.

This rule is intended to implement *Iowa Code* section 56.10; ~~The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.~~

190—3.2(56) **Costs of copies.** The county commissioners of elections may charge persons requesting copies of reports, statements, and notices the actual cost of the reproduction, but the rate charged shall not exceed 25 cents per page.

190—3.3(56) **Summary report form.** The summary report of all candidates' committees and all other political committees ~~who~~ that have filed disclosure reports, statements of organization, or notices of dissolution shall be forwarded to the state commission in reasonable conformance with the following example:

[The example form is being omitted from this publication. For copies of the form contact Campaign Finance Disclosure Commission, State Capitol Building, 507 10th Street, Des Moines, Iowa 50319 50309. ~~Blue~~ form CFDC/SR—Rev. 4/77 was substituted for yellow form CFDC/SR—Rev. 5/75, effective April 1, 1976] ~~The summary reports are forms CFDC/SR-O (quarterly) and CFDC/SR-M (monthly).]~~

This rule is intended to implement *Iowa Code* section 56.10.

190—3.4(56) **Ballot information provided.** Each time a county commissioner of elections prints a ballot for an election, the commissioner shall submit to the state commission either:

3.4(1) **Submit a** A copy of the sample ballot if it includes all candidates and ballot issues to be considered by the electorate in that particular election, or

3.4(2) **Submit a** A list of all candidates and offices sought and ballot issues to be considered by the electorate in that particular election, or

3.4(3) **Submit a** A copy of the ballot and election information as published by the county commissioner of elections pursuant to *Iowa Code* section 49.53; ~~The Code.~~

ITEM 4. Amend 190—Chapter 4 as follows:

CHAPTER 4

REPORTING REQUIREMENTS

190—4.1(56) **Report form.** The state commission may require committees to submit relevant information not specifically delineated in *Iowa Code* chapter 56; ~~The Code~~ on their disclosure report where the approved report

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form asks and leaves space for information not specified in chapter 56. All information shall be pertinent to the duties of the state commission.

4.1(1) The disclosure report form shall include a space for the date on which a ballot issue election is to be held. Committees supporting or opposing ballot issues shall be required to complete this section.

4.1(2) The disclosure report form for a committee supporting or opposing a candidate for a municipal or school elective office or a local ballot issue shall include a space to indicate the period covered by the disclosure report. These committees shall be required to complete this section.

4.1(3) The statement of organization and disclosure report forms for all committees shall disclose the telephone numbers of the officers of the committee.

4.1(4) A disclosure report of a candidate's committee is required to disclose the relationship of any relative of the candidate who makes a contribution to the candidate, provided the relative is within the third degree of consanguinity or affinity. For the purpose of these rules, the following definitions shall apply.

"Affinity" means a relative through a current marriage.

"Consanguinity" means a blood relative.

"Third degree" means three generations of ancestors (parents, grandparents, and great grandparents); three generations of descendants (children, grandchildren, and great grandchildren); lateral relationships of sisters, brothers, aunts, uncles, nieces, and nephews; and shall also include step and in-law relationships.

This rule is intended to implement Iowa Code sections 56.5 and 56.6; as amended by 1983 Iowa Acts, Senate File 457.

190—4.2(56) Disclosure reporting forms. The disclosure reporting forms DR-2F and DR-2Q provided by the state commission or county commissioner of elections shall be the official forms on which the disclosure reports shall be submitted. All disclosure reports filed to comply with the filing deadlines after January 25, 1982, covering reporting periods beginning January 1, 1982, or thereafter shall be submitted on the appropriately designated form. Machine copies of original campaign finance disclosure forms are acceptable. Computer-generated disclosure reports will be acceptable, subject to prior state commission approval.

4.2(1) The disclosure report Forms DR-1LC, DR-2FLC and DR-3 shall be the official forms for use by committees for municipal and school elective offices and local ballot issues. The letters "LC" in this form number stand for "local candidate."

4.2(2) The disclosure report Forms DR-1LPAC, DR-2QLPAC and DR-3 shall be the official forms for use by all committees except those for municipal and school elective offices and local ballot issues franchise utility election committees and local ballot issue committees. The letters "LPAC" in this form number stand for "local political action committee."

4.2(3) The disclosure report Forms DR-1E, DR-2E and DR-3 shall be the official forms for use by statewide and general assembly candidates in years they are standing for election. The letter "E" in this form number stands for "election year."

4.2(4) The disclosure report Forms DR-1C, DR-2C and DR-3 shall be the official forms for use by county candidates in years they are standing for election. The letter "C" in this form number stands for "county."

4.2(5) The disclosure report Forms DR-1N, DR-2N and DR-3 shall be the official forms for use by statewide, general assembly and county candidates in nonelection years. The letter "N" in this form number stands for "nonelection year."

4.2(6) The disclosure report Forms DR-1P, DR-2P and DR-3 shall be the official forms for use by recognized state political parties, and by county central committees of the recognized state political parties. The letter "P" in this form number stands for "partisan."

4.2(7) The disclosure report Forms DR-1PAC, DR-2PAC and DR-3 shall be the official forms for use by all other political committees required to file disclosure reports under this chapter, including but not limited to political action committees and statewide ballot issue committees. The letters "PAC" in this form number stand for "political action committee."

4.2(8) The disclosure report form entitled "14-Day Report" shall be the official form for use by candidates' committees of state officeholders when contributions are received from political committees and registered lobbyists while the general assembly is in session.

4.2(9) The organization statement of a committee is Form DR-1. The notice of dissolution of a committee is Form DR-3. The periodic full disclosure reports of committees required to file reports under Iowa Code chapter 56 shall consist of a Form DR-2 which is the disclosure summary page of the committee. This disclosure summary page shall be accompanied by the appropriate supporting schedules for the report, which are:

Schedule A - Monetary Receipts

Schedule B - Monetary Expenditures

Schedule C - Sale of Products at Fund-raising Events

Schedule D - Incurred Indebtedness

Schedule E - In Kind Contributions

Schedule F - Loans Received and Paid

Schedule G - Consultant Activity

Due to space limitations, copies of the forms will not be printed in this publication. Copies of the forms are available upon request from the Campaign Finance Disclosure Commission, 507 10th Street, Des Moines, Iowa 50309.

This rule is intended to implement Iowa Code section 56.6; The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.

Rule 190—4.3(56) is hereby rescinded and the following inserted in lieu thereof:

190—4.3(56) Deposit of funds, notification of treasurer of receipts and timely deposit. All funds of a committee shall be deposited in a separate banking account in a financial institution, and the name of that financial institution shall be disclosed on the statement of organization form. For the purpose of this rule, "financial institution" means a depository for the safekeeping and transmission of campaign funds, such as a bank, credit union, savings and loan association, etc. Any person who receives or collects a contribution in excess of \$100 in support of or opposition to a candidate for public office or a ballot issue shall transmit the contribution to the committee treasurer within 15 calendar days of receipt and provide necessary information for disclosure reports. Receipts of all committees shall be deposited by the treasurer in the committee's financial institution account within seven business days of receipt. For candidates' committees required to file supplemental reports prior to a primary, special or

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general election, receipts must be deposited current to correspond with the supplemental report's covered period.

This rule is intended to implement Iowa Code sections 56.3 and 56.6.

Rule 190—4.4(56) is hereby rescinded and the following inserted in lieu thereof:

190—4.4(56) Political advertising disclaimers (identification of sponsor). If published material subject to the disclaimer requirements of Iowa Code section 56.14 consists of more than one page, the disclaimer need only appear on one page of the published material, so long as its placement is conspicuous.

In determining the requirements for identification of the sponsor of political advertising, the final location of the advertising shall be considered.

This rule is intended to implement Iowa Code section 56.14.

Existing rules 190—4.5(56) to 190—4.7(56) are rescinded. Rules 190—4.8(56) to 190—4.15(56) are renumbered as 190—4.5(56) to 190—4.12(56) and amended to read as follows:

190—4.85(56) "Proceeds" defined. In Iowa Code section 56.6(3) "f"; ~~The Code~~, the word "proceeds" shall mean "the gross receipts from a fund-raising event."

This rule is intended to implement Iowa Code section 56.6; ~~The Code~~, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.

190—4.96(56) "Incidental expenses" defined. In Iowa Code section 56.13, unnumbered paragraph 2, ~~The Code~~, the term "incidental expenses" shall mean "such minor expenses absorbed by the volunteer which result from or arise out of his or her the volunteer work."

This rule is intended to implement Iowa Code section 56.13; ~~The Code~~, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.

190—4.107(56) Fair market value. "Fair market value" is defined as the price commonly charged for goods or services in the particular market area, without discount or special rate consideration.

This rule is intended to implement Iowa Code section 56.6; ~~as amended by 1983 Iowa Acts, Senate File 457.~~

190—4.118(56) Amendment—statements and notices. A committee may amend a previously filed statement of organization or notice of dissolution. To amend a previously filed statement or notice the committee shall file an amended document on the approved form and shall designate on the form in the space provided that the document being filed is an amendment to a previously filed statement or notice. The term "amended document" as used in this rule shall mean "a document on forms issued by the state commission which includes only the information which is being added, deleted or changed from a previously filed statement of organization or notice of dissolution."

This rule is intended to implement Iowa Code section 56.10(4); ~~The Code.~~

190—4.129(56) Amendment—disclosure report. A committee may amend a previously filed disclosure report. To amend a previously filed disclosure report the committee shall file an amendment to the document on the approved form and shall designate on the form in the space provided that the document being filed is an

amendment to a previously filed report. The term "amendment to the document" as used in this rule shall mean "a document on forms issued by the state commission which includes only that information which is being added, deleted, or changed from a previously submitted report."

190—4.130(56) Filing in error. A committee which is not subject to the Iowa campaign disclosure law but which mistakenly files a statement of organization, disclosure report, or notice of dissolution will not be required to comply with all subsequent filing deadlines. The documents filed by the committee shall be kept in the active committee files until such time as the state commission orders the committee's file to be removed from that file and placed in the inactive committee file.

A committee may request the state commission to take such that action by submitting a written request which details the reasons why the committee is not subject to the Iowa disclosure law. The state commission shall act upon such a request at its next regularly scheduled meeting following the date the request is received. Within ten days following the meeting in which the request is considered the committee shall be informed of the commission's action on the request.

The state commission may also order the file of a committee which is not subject to the Iowa campaign disclosure law but which has mistakenly filed a statement of organization, disclosure report, or notice of dissolution removed from the active committee file and placed in the inactive committee file either by acting upon the report and recommendation of the state commission staff or by acting upon its own motion.

Any committee file removed from the active committee file under the provisions of this rule shall contain a written copy of the order issued by the state commission directing the placement of the committee's file in the inactive committee file.

190—4.141(56) Filing in the wrong place. When a committee files a statement of organization, disclosure report, or notice of dissolution with the campaign finance disclosure commission which should actually have been filed with a county auditor, this shall not constitute a proper filing and does not eliminate a committee's responsibility to comply with the disclosure law. When such an improper filing is made with the state commission, the commission will forward the document to the appropriate county auditor, and inform the committee that the filing has been forwarded, if a return address is provided.

This rule is intended to implement Iowa Code sections 56.4 and 56.6; ~~The Code~~, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.

190—4.152(56) Freewill donations. The good faith collection of donations voluntarily made to a committee or a candidate, such as a "pass the hat" or a "can collection", shall not be construed to be an anonymous donation which a candidate or committee is prohibited from spending accepting by Iowa Code section 56.27, ~~The Code~~, provided the following requirements are met.

1. Attached to each collection container or prominently displayed in the immediate vicinity thereof, there must be a written statement to the effect that contributions in excess of \$10 are illegal unless the contributor's provides his or her name, address and the amount of the contribution; ~~and are provided.~~

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2. The name of the person organizing or coordinating the freewill donation as well as the name, the date, and location of the event must be recorded, and, if the total amount collected exceeds the reporting amount in *Iowa Code* section 56.6(3)"b," ~~The Code~~, then the freewill donation organizer or coordinator must be identified by name and address on the appropriate disclosure report.

This rule is intended to implement *Iowa Code* sections 56.6 and 56.27; ~~The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 26.~~

Existing rule 190—4.16(56) is rescinded and the following new rule is inserted:

190—4.13(56) Out-of-state contributions. Iowa candidates' committees and other political committees may receive contributions from committees outside Iowa, and committees outside Iowa may contribute to Iowa candidates' committees and other political committees provided one of two alternate procedures is followed.

4.13(1) In lieu of filing a statement of organization and regular disclosure reports as required by *Iowa Code* sections 56.5 and 56.6, the out-of-state committee shall provide the recipient committee with a verified (sworn) statement registration form (hereinafter referred to as registration form) to accompany the contribution, and shall also provide a copy of the registration form to the state commission or county commissioner of elections. The registration forms are available from the state commission or county commissioners of elections and shall contain the complete name, address and telephone number of the out-of-state committee; the name, address and telephone number of the out-of-state committee treasurer and other officers; the state or federal disclosure agency or jurisdiction under which the out-of-state committee is registered or operates; the identification of any and all parent entities or other affiliates or sponsors of the out-of-state committee; the purpose of the out-of-state committee; the name, address and telephone number of an Iowa resident authorized to receive service of original notice on behalf of the out-of-state committee; the name of the Iowa recipient committee; the date and amount of the contribution, including description if the contribution is in kind. This registration form must be signed by the treasurer of the out-of-state committee. A properly completed registration form shall relieve an out-of-state committee from other disclosure filing requirements of chapter 56.

4.13(2) Out-of-state committees which determine they will have continuous activity in Iowa may choose to comply with regular Iowa disclosure filing requirements in *Iowa Code* sections 56.5 and 56.6 by filing a statement of organization and periodic disclosure reports instead of filing a verified statement registration form with each contribution. They shall file reports which disclose only their expenditures to Iowa candidates' committees and other Iowa political committees and contributions received from Iowa contributors and the parent entity of the out-of-state committee. Reports shall not include expenditures to non-Iowa candidates or contributions from non-Iowa contributors other than the parent entity.

This rule is intended to implement *Iowa Code* section 56.5(5).

190—4.174(56) Verification of disclosure reports. The *state* commission will review and audit each disclosure report filed. The *state* commission may check with other parties to verify the accuracy and completeness of the

reports filed. The *state* commission may contact a representative of the committee and may check with other parties to determine the authenticity of information provided about filed reports.

This rule is intended to implement *Iowa Code* section 56.10 as amended by 1983 *Iowa Acts*, Senate File 457.

Renumber existing rules 190—4.18(56) to 190—4.24(56) as 190—4.15(56) to 190—4.21(56), respectively.

Add a new rule 190—4.22(56) as follows:

190—4.22(56) Contracts with and expenditures to consultants. A candidate's committee which enters into a contract with a consultant for future or continuing performance shall be required to report expenditures made to the consultant, and the nature of the performance of the consultant which is expected to be received by the candidate's committee. A candidate's committee is required to report in part 1 of Schedule G any contracts with consultants which it has negotiated, the complete name and address of the consultant, the period of time in which the contract is in effect, and estimates of performance to be derived from the contract. Expenditures made to the consultant during a reporting period shall be reported with all other expenditures on the Schedule B, and debts incurred with the consultant during the reporting period shall be reported with all other debts on Schedule D. Additionally, a detailed breakdown of the expenditures made by the consultant shall be reported by the candidate's committee in part 2 of Schedule G, and shall include the date of the expenditure, the purpose of the expenditure and the amount of the expenditure.

For purpose of this rule, "contract" means an oral or written agreement between two parties for the supply or delivery of specific services in the course of the campaign. "Performance" means the execution or fulfillment of the contractual agreement. "Nature of performance" means a clear description of the specific services received or benefit derived as the result of a contract with a consultant. "Estimate of performance" means a clear description of the expected services the candidate reasonably expects to be received or benefit to be derived during the period of the contract.

This rule is intended to implement *Iowa Code* sections 56.2 and 56.6.

ITEM 5. Amend 190—Chapter 5 as follows:

CHAPTER 5
CAMPAIGN FINANCE
DISCLOSURE COMMISSION

190—5.1(56) General agency description. The *state* campaign finance disclosure commission consists of five members appointed by the governor and confirmed by the senate. At the first meeting in each calendar year the members elect a chair and a vice chair, each to serve a one-year term. The *state* commission administers the provisions of the Campaign Disclosure-Income Tax Checkoff Act. Major policy decisions are made at periodic meetings. Meetings of the *state* commission are held, usually in alternate months, at the call of the chair at the time, place and date set by the chair. Meetings may occasionally be conducted by electronic means. Meetings are announced at least one week in advance by public notice to the media and also posted in the lobby of the Colony Building, 507 10th Street, Des Moines, Iowa and in the office of the Governor, Statehouse, Des Moines,

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Iowa. The notice contains the tentative agenda of the meeting. Four commission members constitute a quorum for conducting business of the commission. Any interested party may attend and observe commission meetings except for the portion that may be closed in accordance with *Iowa Code* section 28A.5, subsection 1, paragraph "g" of the Iowa Open Meetings Law. Observers may use cameras or recording devices during the course of a meeting so long as they do not materially hinder the proceedings. All proceedings shall be electronically recorded by the *state* commission and minutes of meetings are available for viewing ~~within two weeks following the meeting at the offices of the state commission.~~ Copies may also be obtained at the cost of actual reproduction not to exceed 25 cents per page. Duties of the *state* commission include the receipt, examination, and the preservation of documents required to be filed at the state level, the receipt and processing of complaints alleging violations of the Act, the holding of administrative hearings, and the development and dissemination of information and educational materials related to the disclosure law. The *state* commission jointly administers the income tax checkoff with the Iowa ~~state comptroller~~ *department of management* and the director of the Iowa state department of revenue and finance. The *state* commission employs an executive secretary and ~~such~~ other staff as it deems necessary to carry out the provisions of the Act and the policies of the *state* commission. The executive secretary is responsible to the *state* commission and is responsible for administrative matters and general supervision of *state* commission staff.

This rule is intended to implement Iowa Code sections 56.8, 56.9 and 56.10; as amended by 1983 Iowa Acts, Senate File 457.

190—5.2(56) Petition for adoption, amendment, or repeal of rule. Any person may petition the *state* commission for the adoption, amendment or repeal of a rule. ~~Such~~The petitions shall be in writing filed with the *state* commission office and shall include:

5.2(1) The name and address of the person requesting the adoption, amendment or repeal of the rule;

5.2(2) A statement of the proposed rule, amendment or identification of the rule to be repealed;

5.2(3) A statement of why the rule is being proposed for adoption, amendment or repealed. Within 60 days of the *state* commission's receipt of the proposed rule, amendment or request for repeal of an existing rule, the *state* commission shall either deny the petition in writing, stating its reasons for the denial or shall initiate rule-making proceedings in accordance with *Iowa Code* chapter 17A of the Code.

190—5.3(56,68A) Location and methods of obtaining information. The *state* commission office is located at 507 10th Street in Des Moines, Iowa. All available information may be obtained by personally viewing the records during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays, or by written request mailed to the commission at the following address: Campaign Finance Disclosure Commission, 507 10th Street, Des Moines, Iowa 50309. Persons requesting copies of reports or statements filed with the *state* commission must pay for the costs of the copies before they will be mailed unless other mutually agreeable arrangements are made. Telephone requests for information to be mailed will be accepted subject

to the prepayment of any fees involved or suitable payment arrangements. All information requests which amount to request for declaratory rulings will be subject to compliance with *administrative rule* 5.5(56).

This rule is intended to implement *Iowa Code* sections 56.10.; ~~The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35 and sections 68A.2 and 68A.3; The Code.~~

190—5.4(56,68A) Procedures for filing information. Persons who have information concerning a suspected violation of the law and who do not have standing to file a complaint may bring this information to the attention of the *state* commission by filing an affidavit detailing the circumstances of the violation alleged. A person without standing to file a complaint is a person who is not an eligible elector of the state of Iowa.

This rule is intended to implement *Iowa Code* sections 56.11.; ~~The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35, and sections 68A.2, 68A.3 and 68A.7; The Code.~~

190—5.5(56) Declaratory rulings. A person or committee desiring a declaratory ruling as to the applicability of any statutory provision, rule or other written statement of law or policy, decision or order of the *state* commission shall submit a written petition to the *state* commission office. The written petition shall include:

5.5(1) All pertinent facts and background information on the question presented;

5.5(2) The question to be answered; and

5.5(3) The name and address of the person or committee requesting the declaratory ruling.

Within 45 days of receipt, the *state* commission shall consider the petition. If, upon consideration of the petition, the *state* commission determines additional facts and information are required, it shall, within one week, make a written request of the person or committee to supply the needed information. The *state* commission shall make a declaratory ruling within 45 days of receiving ~~such the~~ additional information. The declaratory ruling shall be mailed to the person or committee requesting it within five days of its issuance.

190—5.6(56) Informal settlements prior to the filing of a complaint. When a person or committee has not complied with the campaign disclosure law and ~~such the~~ noncompliance could be the basis for a complaint though no complaint has been filed, that person or committee may, after taking whatever action necessary to come into compliance, make a written request to the *state* commission for a temporary extension. A temporary extension shall mean that the person or committee admits it has failed to timely comply with the law by failing to do specific acts, that the *state* commission acknowledges the person or committee's subsequent compliance with the law, and further, that the *state* commission will not entertain a complaint against the person or committee based upon the person or committee's failure to timely comply with the law with regard to the acts specified in the request. The *state* commission may grant ~~such a~~ temporary extension when it believes the person or committee has unavoidably, unintentionally, or for good cause shown, failed to comply with the disclosure law, and the public interest in accurate and timely disclosure is not an overriding consideration.

190—5.7(56) Subpoena power during investigations. If the *state* commission determines that books, papers,

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records or any other real evidence would be of assistance in an investigation to determine whether a complaint should be filed, the *state* commission shall have the ~~power~~ *authority* to issue a subpoena for ~~such~~ *the* evidence. The service of the subpoena shall be made in accordance with Iowa rules of civil procedure.

190—5.8(56) Commission's agenda. A person who wishes to be placed upon the *state* commission's agenda for its next meeting should file a verbal or written request with the commission office at least ~~twenty-four~~ *48* hours prior to the meeting. ~~The commission may take up matters not included on its agenda.~~

190—5.9(56) Treasurer receives forms. The *state* commission and county commissioners of elections shall provide report forms as mandated by *Iowa Code* section 56.30; ~~The Code~~, to the treasurer of record of each active committee on or about April 25 of each year. The "treasurer of record" is the person designated on the statement of organization most recently filed with the *state* commission or county commissioners of elections.

This rule is intended to implement *Iowa Code* section 56.30; ~~The Code~~, as amended by Acts of the ~~Sixty-ninth~~ *Sixty-ninth* General Assembly, 1981 Session, chapter 36.

190—5.10(56) Costs of copies. The *state* commission may charge persons requesting copies of statements, reports and notices, the basic cost of the reproduction as set by the printing division of the department of general services, and a handling charge, but the rate charged shall not exceed 25 cents per page. Persons who make their own copies on the agency copy machine shall be charged the basic rate of 10 cents per page. Persons who request copies by telephone or mail will be charged the basic rate plus 15 cents per page for handling and postage costs.

This rule shall be effective immediately upon filing with the secretary of state.

ITEM 6. Amend 190—Chapter 6 as follows:

CHAPTER 6
CIVIL PENALTIES

190—6.1(56) Delinquent reports. Reports from all committees, except those for municipal and school elective offices and for local ballot issues, are delinquent if not received by the twentieth day of January, May, July or October, or, if mailed, if they do not bear a United States postal service postmark dated on or before the nineteenth day of January, May, July or October.

Statewide, *county* and general assembly candidates' committees off-election year reports are delinquent if not received by the twentieth day of January and October, or, if mailed, if they do not bear a United States postal service postmark dated on or before the nineteenth day of January or October.

Special election reports of candidates to fill vacancies are delinquent if not received 14 calendar days prior to the special election date, or, if mailed, if they do not bear a United States postal service postmark dated on or before 15 calendar days prior to the election date.

In addition, supplemental reports of statewide candidates and candidates for general assembly are delinquent if not received by the Friday immediately preceding the primary, special or general election day, or, if mailed, if they do not bear a United States postal service postmark dated on or before the Thursday before the election day.

Municipal and school election candidates' committees and local ballot issue committees are delinquent if reports are not received five days prior to the local election, and on the first day of the month following the election, and on the first day of each month thereafter until dissolved. Postmarks for municipal, school and local ballot issue committees are proof of timely filing if the mark is a United States postal service postmark dated the calendar day before the report deadline date.

In the case of mailed reports, Private postage meter marks are not proof of timely filing for any committee covered by the campaign finance disclosure law.

For all committees required to report under this chapter, If the reporting deadline falls on a Saturday or Sunday or holiday on which the office of the *state* commission or county commissioner of elections *where the report is required to be filed* is closed, the filing deadline shall be extended to the first working day following, and reports ~~filed~~ *received* on that day will not be considered delinquent. *This extension does not apply to the required United States postal service postmark date.*

This rule is intended to implement Iowa Code sections 56.6 and 56.10; as amended by 1983 Iowa Acts, Senate File 457.

190—6.2(56) Penalty schedule. Delinquent committees, except for supplemental and special election reports, shall be required to pay fines for late filed reports in accordance with the following schedules:

Date report received	First time delinquency	Repeat delinquency by same treasurer of a committee in 12-month period
1 to 14 consecutive days delinquent	\$ 10	\$ 25
15 to 30 consecutive days delinquent	\$ 25	\$ 50
31 to 45 consecutive days delinquent	\$ 50	\$100

Reports received more than 45 days delinquent or a third time or more delinquency shall be referred to as extreme delinquencies and shall be subject to review of the *state* commission at a scheduled meeting. The *state* commission may initiate action on its own motion by filing a complaint as provided in Iowa Code section 56.11. The commission shall determine at a hearing if the extreme delinquency constitutes a willful and wanton violation of Iowa Code chapter 56, and if the violation should be referred to prosecution as provided in Iowa Code sections 56.11 and 56.16.

Statewide candidates' committees required to file supplemental disclosure reports shall be required to pay a \$200 fine for filing a supplemental report one or more days delinquent.

General assembly candidates' committees required to file supplemental disclosure reports shall be required to pay a \$100 fine for filing a supplemental report one or more days delinquent.

The committees of candidates to fill vacancies in special elections shall be required to pay a \$100 fine for filing the special election report one or more days delinquent.

CAMPAIGN FINANCE DISCLOSURE COMMISSION[121] (cont'd)

This rule is intended to implement Iowa Code sections 56.6, 56.10, 56.11 and 56.15, as amended by 1983 Iowa Acts, Senate File 457.

190—6.3(56) Penalties assessed. The state commission shall assess and collect monetary penalties for both statewide committees whose reports are filed with the state commission and for committees whose reports are filed with the county commissioners of elections. After a delinquent committee has filed, the state commission shall notify delinquent filing committees by regular United States mail to the address on file with the state commission, of the amount of the assessment. In the case of committees who have a reporting responsibility to both the state commission and the county commissioners of elections, the penalty shall be applicable to failure to file at the primary depository where the report is delinquent.

This rule is intended to implement Iowa Code sections 56.6 and 56.10, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.

190—6.4(56) Payment of penalty. The remittance shall be made payable and forwarded to: Iowa Campaign Finance Disclosure Commission, Colony Building, First Floor, 507 10th Street, Des Moines, Iowa 50309.

After recording, the remittance shall be deposited in the general fund of the state of Iowa, and a receipt will be issued by the campaign finance disclosure state commission to the committee.

Payment may be made at the discretion of the delinquent committee, from the funds of the committee or from personal funds of an officer of the committee, or, in the case of a candidate, from the candidate's personal funds.

This rule is intended to implement Iowa Code section 56.10, The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.

190—6.5(56) Nonpayment of penalty. If a committee who which has been notified of delinquency does not remit the appropriate assessed monetary penalty to the campaign finance disclosure commission within 20 days of notification, the state commission shall notify the committee that the unpaid monetary penalty will increase in accordance with the following schedule:

Original penalty assessed	After 30 days	After 60 days	After 90 days
\$ 10	\$ 20	\$ 30	\$ 40
25	50	75	100
50	100	150	200
100	200	300	400

If fines remain unpaid 90 days after assessment, the commission may institute action in small claims court for collection, or may take action on its own motion to file a complaint against the committee in accordance with the provisions of Iowa Code section 56.11, The Code.

This rule is intended to implement Iowa Code sections 56.10 and, 56.11, The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 35, and 56.16, Iowa Code.

190—6.6(56) Waiver of penalty. Penalties for late filings will be automatically assessed to all delinquent committees. If a committee feels there are mitigating circumstances which prevented its timely filing, it may make written request to the state commission for waiver

of the penalty. *Waivers may be granted under only exceptional or very unusual circumstances.* The state commission will review the request and issue either a waiver or denial of the request. If a waiver is granted, the state commission will determine how many penalty days may be waived based on the circumstances. If a denial is issued, the committee shall promptly pay the incurred penalty.

This rule is intended to implement Iowa Code section 56.10, The Code, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Chapter 35.

ITEM 7. Adopt new 190—Chapter 7 as follows:

CHAPTER 7
CAMPAIGN CONTRIBUTIONS TO
STATE OFFICEHOLDERS
AND CANDIDATES FOR STATE OFFICE

190—7.1(56) Additional reports required. Committees of state officeholders subject to reporting requirements of Iowa Code chapter 56 must additionally report any contributions from political committees and registered lobbyists during the period in which the Iowa General Assembly is in session to the campaign finance disclosure commission within 14 calendar days of receipt of the contribution.

7.1(1) A "state officeholder" is the incumbent in any of the following public offices: governor, lieutenant governor, secretary of state, treasurer of state, auditor of state, secretary of agriculture, attorney general, state senator or state representative.

7.1(2) A "registered lobbyist" is an individual who has registered in accordance with the rules of the general assembly.

7.1(3) The date of "receipt of the contribution" means the date on which the contribution was first physically received by the candidate or committee treasurer, or the date on which it was deposited to the recipient's account, whichever occurs first.

7.1(4) "While the general assembly is in session" means the continuous period of time from the official convening of the general assembly in regular or special session until adjournment of both chambers.

This rule is intended to implement Iowa Code section 56.6.

190—7.2(56) Fourteen-day reports. The report of receipt of a contribution by a state officeholder from a political committee or registered lobbyist shall be either by letter or on a 14-day form provided by the state commission for this purpose and shall be signed by the state officeholder or by the designated committee treasurer. The form or letter shall disclose the date the contribution was received, the amount or value of the contribution, and the full name and complete address of the contributor. In the case of a lobbyist contribution, if the lobbyist is a relative of the officeholder, the relationship shall also be disclosed. In the event the contribution was received as the result of a fund-raising event for the officeholder, the letter or 14-day report shall disclose the type of fund-raising event, the location of the event and the name of the sponsor of the event. The report shall be received in the office of the state campaign finance disclosure commission within 14 days of receipt of the contribution or bear a United States postal service postmark within 13 days of receipt of the contribution.

This rule is intended to implement Iowa Code section 56.6.

CAMPAIGN FINANCE DISCLOSURE COMMISSION[121] (cont'd)

190—7.3(56) Regular disclosure reports. All contributions reported in accordance with rule 7.2(56) on 14-day report form shall also be reported on appropriate schedules of the next regular disclosure report, along with all other contributions received during the respective period.

This rule is intended to implement Iowa Code section 56.6.

190—7.4(56) Civil penalties. If a state officeholder fails to report a contribution or files a 14-day report of a contribution from a political committee or a registered lobbyist more than 14 calendar days after receipt of the contribution, the officeholder will be subject to the civil penalties set out in the first paragraph of rules 190—6.2(56) and 190—6.5(56).

This rule is intended to implement Iowa Code sections 56.6 and 56.10.

ITEM 8. In accordance with the reassignment of agency identification numbers, delete the number "190" wherever it appears and replace it with the number "121".

[Filed 8/21/87, effective 10/14/87]
[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7885

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104, and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 5, "Iowa Industrial New Jobs Training Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 1987, as ARC 7713. The Department of Economic Development Board adopted these amendments on August 13, 1987.

A public hearing was held on July 21, 1987, and approximately 31 people attended. Representatives from community colleges, state agencies, and private business and industry were in attendance. Written and oral comments on the proposed changes were offered to the Department. In response to these public comments the following changes were made to the proposed amendments:

Subrule 5.3(3) was revised based on a comment from Dean Spina with the law firm of Bradley and Riley. His written recommendation was to clarify whether the intent of the proposed amendment was to focus only on the industry entering into the agreement or on any activity within the state by all industries. The current definition of "industry" in the rules states that "an industry is a business engaged in activities described as eligible in the Act rather than the generic definition encompassing all businesses in the state doing the same activities." The intent of the revision is to focus only on

the industry entering into the training agreement. Accordingly, the phrasing in subrule 5.3(3) was modified to state that an expanding industry may include "...a new process used or new product produced for the first time by the industry in Iowa will require the addition of new jobs which did not exist in the industry in Iowa..."

Subrule 5.8(1) has been modified in response to a written comment from Lance Coppock with the law firm of Ahlers, Cooney, Dorweiler, Haynie, Smith and Allbee. He indicated that the proposal as drafted is not consistent with Iowa Code chapter 280B and job training certificates would not be marketable if a standby property tax levy could only be collected if actual default occurs. The subrule was revised to include the recommended language to comply with chapter 280B and to avoid any risk of jeopardizing the marketability of the certificates.

The notice requirements stated in subrule 5.4(1) have been revised to require verbal notification to the Department at least ten days prior to the signing of an agreement and written notice within 30 days of signing an agreement. The proposed amendment would have deleted the ten-day prior notice requirement and added a 30-day time limit to the only requirement for written notification after the signing of the agreement. One IDED Board member expressed a concern that elimination of the advance notice provision would reduce the Department's knowledge of pending training agreements. In response to this concern, the adopted rule retains a requirement of verbal notice to the Department of pending agreements and also includes, for Department recordkeeping purposes, the requirement of written notice within 30 days of signing an agreement.

The other comments received by the Department were supportive of each of the proposed amendments. Private business and industry representatives and community college economic development officials were particularly supportive of the revision of the "expanding industry" definition. The amendment is perceived as a positive step to create a favorable business and job creation environment. The amendment encourages Iowa companies to diversify their product lines, thereby creating new job opportunities for Iowans. The definition provides an incentive to businesses to expand through the development of a new product line and create new jobs which would be nonexistent otherwise.

These amendments are intended to implement Iowa Code chapter 280B.

The amendments will become effective October 14, 1987.

The following amendments are adopted.

ITEM 1. Amend rule 5.3(280B) as follows:

Amend subrule 5.3(3) as follows:

5.3(3) Expanding industry. An expanding industry is one in which an increase in production will require the addition of new jobs which did not exist in that industry in Iowa prior to the signing of an agreement for training and which exceeds the level of employment in that industry six months prior to the date of the agreement or for which the implementation of a new process used or new product produced for the first time by the industry in Iowa will require the addition of new jobs which did not exist in the industry in Iowa prior to the signing of an agreement for training even though the total level of employment in the industry in Iowa does not exceed the employment level prior to signing an agreement for training.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261] (cont'd)

Amend subrule 5.3(5) as follows:

5.3(5) Formerly existing jobs. Jobs which formerly existed do not qualify for training under the provisions of Iowa Code section 280B.2, subsection 15. A job is considered to have "formerly existed" if it was part of the payroll of the industry within the state any of the time during the six months prior to the *signing of an agreement for training, start of a new operation or reopening of a former plant.*

Amend subrule 5.3(6) as follows:

5.3(6) Department. Any reference to department shall mean the Iowa department of economic development. Contacts with the department regarding activities referenced in this chapter shall be through the business and industry ~~training coordinator~~ *bureau chief.*

ITEM 2. Amend rule 5.4(280B) as follows:

261—5.4(280B) Agreements.

5.4(1) Notification. At least ten days prior to the signing of an agreement, the area school shall *verbally* notify the department *of their intent to enter into an agreement for training. The area school shall notify the department and the department of revenue and finance in writing within 30 days of signing an agreement of their intent to enter into an agreement* for training under the provisions of this Act. *Written notification may* shall be *by telephone with written follow-up* on forms provided by the department.

5.4(2) Additional agreement items. In addition to the provisions of an agreement described in Iowa Code section 280B.3, subsections 1 to 5, the agreement shall include the following items:

1. The date the training will begin.
2. The length of time each new job category will be provided training.
3. The ending date of the training.

5.4(3) Compliance with department of revenue and finance requirements. When an agreement to ~~participate in a new jobs for training project~~ is entered into, the area school and the employer shall notify the department and the department of revenue and finance within ~~ten~~ *30 days of the date of signing the agreement. Notification must be in writing and must contain the following information on forms provided by the department of economic development and is considered complete when response has been received on each item.*

1. ~~The date training is scheduled to commence and the anticipated costs of the training project.~~
2. ~~An estimate of the time required to pay the program costs for the project.~~
3. ~~The amount of the expected annual gross payroll costs for up to one year of the new jobs.~~
4. ~~The expected amount of new jobs withholding credit to be applied against the costs of the project.~~

A copy of the agreement shall accompany the notification. If, at any time after notification, the ~~above~~ estimates are revised, or if changes are made in the agreement that would affect the above reporting requirements, the department of revenue and finance and the department shall be notified within 30 days.

5.4(4) Coordination with relevant agencies. Before a project is implemented, the area school shall investigate the applicability of other training programs such as those provided by the Job Training Partnership Act, job service, the department of education and other state and federal agencies. Evidence of coordination of effort shall

be provided to the department on the notification *form of intent* as described in 5.4(1) above.

5.4(5) Training required. *Allowable costs. No costs may be incurred for a new jobs training program unless a training contract is actually provided by the merged area school. An area school may pay for reasonable administrative costs and legal fees incurred prior to the date of the preliminary agreement from certificate proceeds. Training costs may not be reimbursed if incurred prior to the date of the preliminary agreement.*

5.4(6) Cost standards. The standard vocational preparation guide, as provided in the Dictionary of Occupational Titles for determining classification of jobs and the length of allowable training periods, shall be used by an area school in estimating the cost of on-the-job training. Where ~~these such~~ standards have not been ~~determined are not appropriate~~, reasonable time periods for on-the-job training shall be based on the standard vocational preparation guide for similar classifications.

5.4(7) Indirect cost rate. *The area schools may be reimbursed indirect costs at a rate to be determined annually. The rate will be determined by the Iowa department of economic development and the Iowa department of education. The indirect cost rate and procedures will be communicated to the area schools by the department of economic development. The rate will be based on function five and nine expenditures of the Iowa area community college uniform accounting system. The indirect cost rate shall be applied against the total issuance. Acceptable accounting procedures, as determined by the area school with the department of education and the state auditor, shall be followed in claiming indirect costs.*

5.4(7) 5.4(8) Equipment. Equipment required for training will be an allowable provision in a training project as described in Iowa Code chapter 280B. The cost of equipment used in training, ~~which is subsequently used in production~~, shall be prorated to the project in that proportion chargeable to the training program, and the remainder of the cost of such equipment will be the responsibility of the employer. *Proceeds of the certificates shall not be used directly or indirectly to finance land facilities or depreciable property to be owned by the employer or other private person.*

5.4(8) Letter of credit. It is recommended that a letter of credit be obtained by the employer and made a part of an agreement.

ITEM 3. Amend rule 5.5(280B), introductory paragraph, as follows:

261—5.5(280B) Resolution on incremental property tax. A copy of the resolution by the board of directors of the area school, as described in Iowa Code section 280B.4, shall be forwarded to the department ~~within ten days of its adoption~~ *with a copy of the final agreement.* A copy of the resolution shall also be forwarded to the county auditor(s) affected by it within the merged area.

ITEM 4. Amend rule 5.6(280B) as follows:

261—5.6(280B) New jobs withholding credit.

5.6(1) Notification of payments and claims for credit. Withholding credit for payments to area schools shall be claimed by an employer on the last withholding deposit *form* made for the calendar quarter in which payment is made to a school. No credit may be claimed until payment has been made to a school. The area school shall notify the department of revenue and finance within 30

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261] (cont'd)

days following the end of a calendar quarter/month of payments covering withholding credit that have been received during that quarter/month. If a credit is claimed by an employer and payment is not made to the area school, the amount of credit will be considered to be a delinquent withholding liability and will be subject to assessment of tax, penalty and interest according to the provisions of Iowa Code section 422.16(10).

5.6(2) Notification of termination of credit. Area schools shall notify the department of revenue and finance and the department of economic development within 30 days when it is determined that payments for job training withholding credits will no longer be applied against the costs of a project.

ITEM 5. Amend subrule 5.7(2) as follows:

5.7(2) Resolution of issuance. A copy of the resolution authorizing the issuance of certificates to pay for a project over a period of time shall be forwarded to the department ~~within ten days of its adoption by the area school board of directors, whether for a single project or as part of a multiple project. and the department of revenue and finance with a copy of the final agreement.~~

ITEM 6. Amend rule 5.8(280B) as follows:

261—5.8(280B) Standby property tax levy.

~~5.8(1) A standby property tax levy may not shall be collected at any time; unless actual default occurs, according to other funds are insufficient as provided in Iowa Code section 280B.6, subsection 4. The county auditor shall be notified by the area school board of directors on an annual basis to adjust the annual standby tax. when to levy the tax.~~

~~5.8(2) The area school board of directors shall establish a separate account from which payments for certificates shall be made in the event of default.~~

ITEM 7. Amend rule 5.9(280B) as follows:

261—5.9(280B) Reporting. For purposes of reporting the progress and success of the new jobs training Act, an annual report shall be completed by the area school for the period ending June 30 each year on or before ~~July 30 August 15~~ of that year to the department which shall include ~~but not be limited to the number of new jobs for which training was provided; the cost of such training; the sources from which the costs were paid and the type of work for which training was provided be in writing on forms provided by the department.~~

ITEM 8. Amend 261—Chapter 5 by adding the following new rules:

261—5.10(280B) Monitoring. Monitoring by the area community colleges will be required as specified by the department.

261—5.11(280B) State administration. The "Iowa Business-Industry Information and Training Network" as established in Iowa Code sections 15.251 to 15.257 contains a provision for up to 1 percent of the gross sale amount of the certificates issued to be used for management of Iowa Code chapter 280B and for the development of this network. Administrative rules for the network are located in 261—Chapter 13.

These rules are intended to implement Iowa Code chapter 280B.

[Filed 8/14/87, effective 10/14/87]

[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7918

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby adopts amendments to Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code, by revising the sulfur dioxide emission standards for solid fuel (coal) burning stationary sources (principally coal-fired industrial and utility boilers and cement kilns) that are not subject to the federal new source performance standards.

BACKGROUND

In 1972, the state of Iowa first submitted to the United States Environmental Protection Agency (EPA) a state implementation plan for meeting federal ambient air quality standards for sulfur dioxide (SO₂). That plan contained an SO₂ emission limit of 6 lbs. of SO₂ per million British thermal units (Btu) of heat input for all solid fuel burning sources in Iowa. The plan also provided for the reduction from 6 lbs. to 5 lbs. per million Btu from all sources by January 1975. These limits were approved by the EPA on May 31, 1972 (37 FR 10865).

In 1974, the state adopted new rules providing for a delay of the reduction to 5 lbs. per million Btu from January 1975 to July 1978. This proposal was submitted to the EPA on July 17, 1975. On October 1, 1976, EPA published notice that no approval or disapproval action would be taken on the July 1975 submittal because the state had adopted subsequent revisions to the affected rules.

The existing subrule 23.3(3), Iowa Administrative Code, was adopted on April 15, 1976, and became effective July 19, 1976. This subrule provides that for ten eastern Iowa counties, the eight bordering Illinois plus Black Hawk and Linn Counties, all solid fuel-burning sources are limited to 6 lbs. per million Btu. (This is unchanged from the original 1972 plan.) In the remaining 89 counties, no emission limits are specified for existing sources with less than 500 million Btu heat input per hour. In these 89 counties, emissions from existing sources with more than 500 million Btu of heat input per hour are limited to 8 lbs. per million Btu. Throughout the state, new sources of less than 250 million Btu are limited to 6 lbs. per million Btu; for new fossil fuel-burning sources greater than 250 million Btu input the new source performance standards apply.

On June 1, 1977 (42 Fed. Reg. 27892), the Environmental Protection Agency formally determined that the proposed revisions to the SO₂ emission limits, other than the 6-lb. limit for the ten eastern counties and the new sources which have a capacity of 250 million Btu or less per hour heat input, were inadequate to maintain the National Ambient Air Quality Standards for sulfur dioxide. The approval of only a portion of the emission limitations adopted by Iowa resulted in a dual set of standards. The state and federal standards for the ten eastern counties and for new sources with capacities of 250 million Btu or less are consistent. However, the state and federal standards for the remaining 89 counties are significantly different. As they currently exist, the state standard for sources over 500 million Btu is 8 lbs. per million Btu and for those sources of 500 million Btu or less, there is no limit prescribed. The federal standard

ENVIRONMENTAL PROTECTION COMMISSION[567] (cont'd)

limits SO₂ emissions to 5 lbs. per million Btu for all solid fuel-burning sources located in these 89 counties. (A more complete history of this rule is found in the Iowa Administrative Bulletin, Volume V, Number 26, published on June 22, 1983, as ARC 3813.)

The present rules were promulgated by the Iowa Department of Environmental Quality on April 15, 1976, and have only been approved in part by the Federal Environmental Protection Agency. In order to eliminate the dual standards which presently exist because of this EPA action, to provide a clear direction for Iowa industries and utilities, and to provide for the minimum short-term impact to Iowa's economy while preserving the existing air quality, the Commission revises the rules as follows:

1. To simplify and clarify this subrule, former subparagraph 23.3(3)"a"(2) is revised and is renumbered as 23.3(3)"a"(1). The emission limitation set by this subrule for the ten eastern Iowa counties specifically listed was approved by the Environmental Protection Agency on June 2, 1977, and remains in its entirety.

2. Subparagraph 23.3(3)"a"(1) is renumbered as 23.3(3)"a"(2) and is revised to set new emission limitations for the existing solid fuel-burning units in the remaining 89 counties in Iowa. The rule which was promulgated by the DEQ limiting these sources to 8 lbs. of SO₂ per million Btu was not approved by the EPA. To conform to the existing federally approved standard, a previously proposed DEQ emission limitation of 5 lbs. per million Btu for existing sources is now adopted. The standards for new sources with a capacity of 250 million Btu or less per hour heat input are not affected by this revision.

3. Subparagraph 23.3(3)"a"(5) is repealed in its entirety. The Environmental Protection Agency refused to approve this standard because it failed to provide for compliance with the National Ambient Air Quality Standards.

The rule which is adopted at this time is nearly identical to the rule making that was proposed in 1983. The Notice of Intended Action was published in the June 22, 1983, Iowa Administrative Bulletin as ARC 3813.

The Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on June 17, 1987, as ARC 7680. Hearings were held in Iowa City, Des Moines, and Council Bluffs to receive comment on the proposal. Two commenters wrote statements in support of the proposed amendments. One commenter, an affected utility, submitted adverse comments. The utility has a large supply of coal on hand that may not meet the 5-lb. SO₂/mm Btu heat input emission standard. The commenter contends that the cost of purchasing additional low sulfur coal for blending is unjustifiable. The commenter requested special allowance for their plants until their higher sulfur coal is consumed.

Since all existing sources in the 89 counties are subject to federal enforcement of the 5 lb. SO₂ standard, an exclusion in the state rule for certain sources would have little meaning or effect. In addition, the purpose of the rule amendment is to reconcile state rules with those which have already been approved by EPA. To adopt exclusions in the final rule would be contrary to the elimination of dual standards in the 89 counties. There are no changes from the Notice of Intended Action.

This rule amendment is intended to implement Iowa Code section 455B.133, and will become effective October 14, 1987.

The following amendment is adopted:

Subrule 23.3(3), paragraph "a," is amended by striking subparagraphs (1) and (2) and inserting in lieu thereof the following:

(1) No person shall allow, cause, or permit the emission of sulfur dioxide into the atmosphere from an existing solid fuel-burning unit, (i.e., a unit which was in operation or for which components had been purchased, or which was under construction prior to September 23, 1970), in an amount greater than 6 pounds, replicated maximum two-hour average, per million Btu of heat input if such unit is located within the following counties: Black Hawk, Clinton, Des Moines, Dubuque, Jackson, Lee, Linn, Louisa, Muscatine, and Scott.

(2) No person shall allow, cause, or permit the emission of sulfur dioxide into the atmosphere from an existing solid fuel-burning unit, (i.e., a unit which was in operation or for which components had been purchased, or which was under construction prior to September 23, 1970), in an amount greater than 5 pounds, replicated maximum two-hour average, per million Btu of heat input if such unit is located within the remaining 89 counties of the state not listed in subparagraph 23.3(3)"a"(1).

Further amend subrule 23.3(3), paragraph "a," by striking subparagraph (5).

[Filed 8/21/87, effective 10/14/87]

[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7912

ENVIRONMENTAL PROTECTION COMMISSION [567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission of the Department of Natural Resources amends 567 — Chapters 40 and 41, Iowa Administrative Code, pertaining to the maximum contaminant level of fluoride in community drinking water systems.

The Notice of Intended Action was published in the June 17, 1987, Iowa Administrative Bulletin, as ARC 7681. Public hearings were held on July 7, 1987; July 8, 1987; and July 10, 1987. The amendments were adopted on August 20, 1987. Four minor changes to the amendments to Chapters 40 and 41 proposed in the Notice of Intended Action have been made as a result of input from departmental staff and the Administrative Rules Review Committee. The words "such as" in 41.4(3)"f"(3)4, have been replaced with the word "include" and the word "such" in 41.4(3)"f"(4) has been replaced with the word "this" to improve the readability of the rules. A minor wording modification has been made to 41.4(3)"f"(5) to clarify that the laboratory must be certified as prescribed in 41.4(1). A typing error was noted in 41.4(3)"f"(5). The figure "+10 percent" was changed to "+10 percent."

No oral comments were made at the public hearings, and no written comments were received.

These rules are intended to implement Iowa Code chapter 455B, division III, part I. These rules are intended to become effective October 14, 1987, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

ITEM 1. Amend rule 40.2(455B) by adding in alphabetical sequence the following definition:

"Performance evaluation sample" means a reference sample provided to a laboratory for the purpose of demonstrating that a laboratory can successfully analyze the sample within limits of performance specified by the department. The true value of the concentration of the reference material is unknown to the laboratory at the time of analysis.

ITEM 2. Amend subrule 41.3(1), paragraph "b," "*Fluoride," as follows:

*Fluoride 2-2 4.0

ITEM 3. Amend subrule 41.4(3), by adding a new paragraph "f" as follows:

f. Fluoride. In addition to complying with paragraphs "a" through "e" of this subrule, systems monitoring for fluoride must comply with the requirements of this paragraph.

(1) Where the system draws water from more than one source, the system must sample each source at the entry points to the distribution system.

(2) If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods representative of the maximum fluoride levels occurring under normal operation conditions.

(3) The department may alter the frequencies for fluoride monitoring as set out in paragraph "a" of this subrule. Any increase or decrease in monitoring under this subparagraph will be designated in an operation permit or administrative order. To increase or decrease such frequency, consider the following factors:

1. Reported concentrations from previously required monitoring,
2. The degree of variation in reported concentrations,
3. Blending or treatment processes conducted for the purpose of complying with the MCL, and
4. Other factors which may affect fluoride concentrations include changes in pumping rates in groundwater supplies or significant changes in the system's configuration, operating procedures, source of water and changes in stream flows.

(4) Monitoring may be decreased from the frequencies specified in paragraph "a" of this subrule upon application in writing by water systems, if the state determines the system is unlikely to exceed the MCL, considering the factors listed in subparagraph (3) of paragraph "f" of this subrule. This determination shall be in writing and set forth the basis for the determination. In no case shall monitoring be reduced to less than one sample every ten years. For systems monitoring once every ten years, the state shall review the monitoring results every ten years to determine whether more frequent monitoring is necessary.

(5) Effective October 2, 1987, analysis for fluoride under this subrule shall only be used for determining compliance if conducted by a certified laboratory as

prescribed in 41.4(1) that has analyzed Performance Evaluation samples to within ± 10 percent of the reference value at fluoride concentrations from 1.0 mg/1 to 10.0 mg/1 within the last 12 months.

(6) Compliance with the MCL shall be determined based on each sampling point. If any sampling point is determined to be out of compliance, the system is deemed to be out of compliance.

[Filed 8/21/87, effective 10/14/87]

[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7924

GENERAL SERVICES DEPARTMENT[450]

Adopted and Filed

Pursuant to the authority of Iowa Code section 18.4, the Iowa Department of General Services adopts an amendment to Chapter 1, "Organization and Operation," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin, March 11, 1987, as ARC 7411.

This rule is identical to that published as Notice of Intended Action.

This rule will become effective on October 14, 1987.

Amend subrule 1.6(5) to read as follows:

1.6(5) Consumption of alcoholic beverages is not permitted on the capitol complex *except for special events in the new State Historical Building located between East 6th Street and Pennsylvania Avenue and Locust Street and Grand Avenue with the prior written approval of the director of the department of general services and the director of the department of cultural affairs.*

[Filed 8/24/87, effective 10/14/87]

[Published 9/9/87]

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ARC 7921

GENERAL SERVICES DEPARTMENT[450]

Adopted and Filed

Pursuant to the authority of Iowa Code section 18.4, the Iowa Department of General Services adopts amendments to Chapter 6, "Centralized Purchasing," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin, May 20, 1987, as ARC 7615.

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

This rule is intended to implement Iowa Code sections 18.3, 18.4, 18.6, 73.16, 73.19, and 73.20.

This rule will become effective on October 14, 1987.

GENERAL SERVICES DEPARTMENT[450] (cont'd)

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, page 485, the text of this rule [6.8(18)] is being omitted. This rule is identical to that published under Notice as ARC 7615, IAB 5/20/87.

[Filed 8/24/87, effective 10/14/87]
[Published 9/9/87]

[For replacement pages for IAC, see IAC Supplement, 9/9/87.]

ITEM 2. Amend subrule 2.1(3) to read as follows:

2.1(3) Has a valid driver's or chauffeur's license issued by the state of Iowa. *Railway special agents, who are approved by the commissioner of public safety as special agents of the department, shall be exempt from the requirement that they possess a valid driver's or chauffeur's license issued by the state of Iowa.*

These rules are intended to implement Iowa Code section 80B.11.

[Filed 8/17/87, effective 10/14/87]
[Published 9/9/87]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 9/9/87.

ARC 7887**LAW ENFORCEMENT
ACADEMY[501]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 80B.11, the Iowa Law Enforcement Academy hereby adopts an amendment to Chapter 2, "Minimum Standards for Iowa Law Enforcement Officers," Iowa Administrative Code.

The academy adopted these rules in final form after considering all oral and written comments on April 7, 1987.

These amendments change certain minimum standards for law enforcement officers, namely, railway special agents who have been approved by the commissioner of public safety as special agents of the department of public safety.

The Notice of Intended Action was published in the Iowa Administrative Bulletin, March 11, 1987, as ARC 7441.

These rules shall become effective October 14, 1987.

These rules are intended to implement Iowa Code section 80B.11.

ITEM 1. Amend subrule 2.1(1) to read as follows:

2.1(1) Is a citizen of the United States and a resident of Iowa or intends to become a resident upon being employed. *Railway special agents, who are approved by the commissioner of public safety as special agents of the department, shall be exempt from the Iowa residency requirement.*

ARC 7902**RACING AND GAMING
DIVISION[195]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 99B.13, the Division of Racing and Gaming adopts Chapter 18, "Practice and Procedure Before the Department of Commerce, Division of Racing and Gaming," and Chapter 19, "Agency Procedure for Rule Making," Iowa Administrative Code.

The Administrator of the Racing and Gaming Division adopted the Uniform Administrative Rules which are printed in Volume I of the Iowa Administrative Code, with the exception of amendments contained herein.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 1987, as ARC 7497.

There were no public comments received and there are no changes from the Notice of Intended Action.

These rules implement Iowa Code chapter 99B and shall become effective October 14, 1987.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, page 485, the text of these rules [chs 18 and 19] is being omitted. These rules are identical to those published under Notice as ARC 7497, IAB 4/8/87.

[Filed 8/21/87, effective 10/14/87]
[Published 9/9/87]

[For replacement pages for IAC, see IAC Supplement, 9/9/87.]

EFFECTIVE DATE DELAY

[Pursuant to §17A.4(5)]

AGENCY	RULE	EFFECTIVE DATE DELAYED
Fair Board [430]	1.5(173)	Seventy days from effective date of September 2, 1987.



State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER THIRTY TWO

- WHEREAS, alcohol and other drug abuse are of concern to communities throughout Iowa, and substance abuse-related problems impact the quality of life in the home, school and workplace; and
- WHEREAS, statistical evidence indicates that several thousand high school students in Iowa will continue to abuse or become chemically dependent to alcohol or other drugs during the coming year; and
- WHEREAS, the responsibility for reducing future alcohol and drug related problems among youth is shared between families, schools, local communities and government; and
- WHEREAS, combined efforts of the citizens in communities throughout Iowa can create greater awareness of the dangers of alcohol and drug abuse and promote healthy lifestyle decisions; and
- WHEREAS, the support and cooperation of substance abuse programs, community groups and the criminal justice system is needed to combat alcohol and other drug abuse; and
- NOW THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in me by the laws and Constitution of the State of Iowa do hereby create the Governor's Alliance on Substance Abuse within the Department of Public Health to promote the development of a comprehensive and coordinated state effort in the implementation of services for alcohol and drug abuse prevention.

intervention and treatment, and to promote the development of programs which enhance the justice system's response to the drug-involved offender.

The Alliance shall be composed of not more than 20 members, appointed by the Governor, who will represent: the criminal and juvenile justice system, treatment programs, prevention programs, mental health programs, parent and community groups, a designee from the Departments of Public Health, Public Safety, Corrections, Human Services, Education and Personnel and the Commission on Children, Youth and Families. The chairperson shall be appointed by the Governor for a term of one year. All members shall serve a two-year term and will meet at least once each quarter of each year. The director of the Department of Public Health shall be the chief administrative officer of the Alliance. The Governor shall appoint the administrator of the Alliance. The administrator will provide assistance to the Alliance including the preparation of federal grant applications for specific programs under the Anti-Drug Abuse Act of 1986. The administrator will make determinations regarding grant applications under the Anti-Drug Abuse Act of 1986, which may be appealed to the director of the Department of Public Health.

The Alliance is created to assist the director of the Department of Public Health and the administrator of the Alliance in the following areas:

- I. To facilitate interagency and community planning.
- II. To develop a statewide strategy for drug law enforcement and for addressing the needs of high-risk youth and to encourage the development of programs appropriate to implementing the strategy.
- III. To consult with the Governor, the Commission on Substance Abuse and community groups on drug abuse prevention and treatment policies.
- IV. To work with the Department of Public Health to increase awareness of the cost of substance abuse to business, government and families.

- V. To stimulate a comprehensive, coordinated approach to alcohol and drug abuse prevention, intervention and treatment services in Iowa.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 7th day of July in the year of our Lord one thousand nine hundred and eighty-seven.

Terry E. Branstad
Governor

ATTACHED:

Elaine Baxter
Secretary of State



State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER 33

- WHEREAS,** the composition of the Telecommunication and Information Management Council (TIM Council), as constituted by Executive Order Number Eighteen, dated July 9, 1985, requires change as a result of State Government reorganization; and
- WHEREAS,** the TIM Council has achieved the primary purpose of Executive Order Number Eighteen, that being to "...develop a coordinated, cost effective, statewide telecommunications and information management plan for the State of Iowa"; and
- WHEREAS,** the plan has been implemented by establishing the Iowa Telecommunication Network (ITN); and
- WHEREAS,** a continuing need exists to further investigate the possibility of state agencies sharing information and applications; and
- WHEREAS,** a continuing need exists to further integrate a statewide video system into the overall system; and
- WHEREAS,** the TIM Council must continue to serve as a consultant, a resource, and a facilitator.
- NOW, THEREFORE,** I, Terry E. Branstad, Governor of the State of Iowa, by the authority vested in me by the laws and Constitution of the State of Iowa do hereby order that:

- I. The Telecommunication and Information Management Council shall continue to coordinate, further develop, and oversee a statewide network of all types of communication and search for further means of saving funds currently devoted to communications.

- II. The TIM Council shall consist of the following voting members:
- A. the Director of the Department of Management
 - B. the Director of the Department of General Services
 - C. the Commissioner of the Department of Public Safety
 - D. the Director of the Department of Transportation
 - E. the Executive Secretary of the Board of Regents
 - F. the Executive Director of the Public Broadcasting Division
 - G. the Commissioner of the Department of Education
 - H. the Commissioner of the Department of Human Services
 - I. the Adjutant General
 - J. the Commissioner of the Division of Lottery
 - K. the Director of the Department of Employment Services
- III. The TIM Council shall include the following non-voting members:
- A. a representative of the Office of the Governor
 - B. a representative of the Utilities Division of the Department of Commerce
 - C. a representative of the Judicial Department
 - D. one representative each from the University of Iowa, Iowa State University, University of Northern Iowa, and the University of Iowa Hospitals and Clinics

- IV. The TIM Council shall assist and coordinate the merger of existing and planned communications and data networks and facilities where feasible and economically justified. The Council shall coordinate policies, planning, and direction of statewide networks and shall determine the method for managing and operating a shared system. The TIM Council through appropriate sub-committees shall direct the management of the Iowa Telecommunications Network (ITN).

- V. The TIM Council shall coordinate planning, financing, and implementation of telecommunications and information management improvements which affect statewide or multi-agency plans and operations.

- VI. Agencies shall submit any plans which have an impact upon the state telecommunications and information management plan to the TIM Council for review and recommendation based upon determination of capability of system designs, operations, and equipment.

- VII. Each agency represented on the TIM Council shall cooperate in promoting the principles and objectives contained in this order.

- VIII. The TIM Council shall serve as a consultant, a resource and a facilitator to all state agencies. The TIM Council shall serve agencies to combine the state's buying power in procurement of resources and negotiation of contracts, to coordinate equipment maintenance, software development, research of technologies, hardware and software, and training programs where appropriate and cost effective.

IX. Executive Order Number Eighteen, dated July 9, 1985, is no longer in effect.



ATTEST:

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 21st day of August in the year of our Lord ~~one~~ thousand nine hundred eighty-seven.

Terry E. Branstad
GOVERNOR

Levine Barty
SECRETARY OF STATE

SUMMARY OF DECISIONS - THE SUPREME COURT OF IOWAFILED - August 19, 1987

NOTE: Copies of these opinions may be obtained from the Supreme Court Clerk, State Capitol Building, Des Moines, IA 50319, for a fee of 40 cents per page.

No. 86-835. STATE v. CAMERON.

Appeal from the Iowa District Court for Lee County, William S. Cahill and David B. Hendrickson, Judges. Affirmed. Considered en banc. Per Curiam. (4 pages \$1.60)

The defendant challenges his conviction on seven counts of second-degree kidnapping, Iowa Code §§ 710.1, .3 (1985), one count of insurrection, Iowa Code § 718.1 (1985), and one count of assault while participating in a felony, Iowa Code §§ 708.1, .3 (1985). Cameron raises four issues:

(1) mistrial should have been granted when the original trial judge was unable to continue due to illness; (2) trial court erred in refusing to grant change of venue;

(3) judgment of acquittal should have been granted on all seven counts of second-degree kidnapping; and

(4) insufficient evidence was presented to support the charge of insurrection. OPINION HOLDS: I. Cameron's first three issues were raised and rejected by this court in the appeal of Tomie Lee Misner, Cameron's codefendant. We have considered these issues carefully and again find them to be without merit for the reasons stated in State v. Misner,

 N.W.2d , (Iowa 1987). II. Because Cameron's counsel expressly withdrew the final issue from our consideration at oral argument, we need consider it no further. Regardless, we believe the State presented substantial evidence that Cameron or his cohorts used "physical violence against persons or property" during the uprising. See Iowa Code § 718.1 (1985). Thus, even if it had not been specifically withdrawn by counsel, we would reject Cameron's final challenge to the judgment entered in the district court.

No. 86-207. WRIGHT v. SCOTT.

Appeal from the Iowa District Court for Johnson County, Thomas L. Koehler and L. Vern Robinson, Judges. Reversed and remanded with directions. Considered en banc. Per curiam. (9 pages \$3.60)

The plaintiffs sued several defendants as the result of an auto accident. Prior to trial Scott and the other two defendants separately negotiated settlements with the plaintiffs. However, the plaintiffs later sought to withdraw from the settlement agreement on the ground they had misunderstood the law of comparative negligence and had not realized that their settlement with Scott might affect their claims against the other defendants. The district

court declined to enforce the settlement agreement, and the case proceeded to trial. A jury returned a verdict against defendant Scott, and he has appealed from the resulting judgment. OPINION HOLDS: I. Ordinarily a party who has accepted a settlement cannot later rescind that agreement based on that party's unilateral mistake of law. We do not have in this case the exceptional circumstance of a mistake of law procured by fraud or misrepresentation that may be a ground for invalidating a settlement agreement. We conclude that as a matter of law the plaintiffs had no right to withdraw from the settlement agreement they made with Scott. II. The time constraint governing offers to confess judgment, provided in Iowa Code sections 677.8 and 677.9, runs in favor of parties like Scott who make the offer to confess judgment, not persons like plaintiffs who wish to accept it. Scott had the authority to waive the time limit and did so. No time restraints or procedural irregularities stood in the way of the parties' authority to reach a settlement.

No. 86-348. FEDERAL LAND BANK v. GIBBS.

Appeal from the Iowa District Court for Adams County, Richard D. Morr, Judge. Reversed and remanded with directions. Considered en banc. Per curiam.

(8 pages \$3.20)

Defendant mortgagors appeal from a decree foreclosing a real estate mortgage. Forty days after commencing the action, plaintiff mortgagee moved for summary judgment. Defendants requested a continuance to permit discovery of facts in the possession of plaintiff and other persons. The district court denied the request, granted summary judgment, then entered a decree for foreclosure. OPINION HOLDS: The district court abused its discretion in denying the request for continuance. Defendants were not given the opportunity to know whether facts in the possession of other parties would generate a genuine issue for trial.

NO. 86-826. BRUNER v. VARLEY.

Appeal from the Iowa District Court for Polk County, Rodney J. Ryan and James P. Denato, Judges. Reversed and remanded. Considered en banc. Opinion by Neuman, J.

(17 pages \$6.80)

In an earlier ratemaking case, a consumer research report commissioned by Northwestern Bell was admitted into evidence but accorded confidential status by the Iowa State Commerce Commission (ISCC). When the petitioners' subsequent request to release this report was denied by the ISCC, they filed a petition in district court claiming a violation of the public record disclosure requirements of Iowa Code chapter 22. In an order adjudicating points of law under Iowa Rule of Civil Procedure 105, the district court held that section 22.10 provides an additional remedy to any available under Iowa Code section 17A.19 and that the petitioners were not barred by res judicata from pursuing

this independent action. The court further held that the petitioners were required to show that ISCC's actions were arbitrary and capricious or unsupported by substantial evidence. The case was then assigned to a different judge, who heard the case on briefs and a stipulated record submitted by the parties. The new judge found that the initial judge had applied an erroneous standard of review and ruled that the report did not meet chapter 22's confidentiality exception for trade secrets or competitive disadvantage. However, on reconsideration the district court ruled that it was bound by the previously established standard of review and dismissed the petitioners' action. OPINION HOLDS: I. We summarily reject respondents' appellate challenge to the district court's res judicata ruling. II. We concur in the district court's analysis that the plain language of chapter 22 abrogated the exclusivity of the administrative procedure act remedy in this area. III. We also conclude that the district court incorrectly applied a section 17A.19 standard of review to this original action in equity. IV. Nevertheless, our prior decisions interpreting the effect of adjudications under rule 105 lead us to conclude that the parties were entitled to rely upon the standard of review established by the first district court judge. Even though our scope of review is de novo, we face a record limited by the evidentiary constraints erroneously imposed by the district court. In fairness to the parties we are persuaded that they should be given the opportunity to develop and try their case as they choose under the appropriate standard of review in a new trial.

NO. 86-530. STATE v. TRUCKE.

Appeal from the Iowa District Court for Monona County, Richard J. Vipond, Judge. Reversed and remanded. Considered en banc. Opinion by Neuman, J. Dissent by Harris, J. (14 pages \$5.60)

We granted discretionary review to defendants Greg and Karen Trucke to consider their challenges to Iowa's compulsory education law. Each defendant has been charged and convicted on two counts of the simple misdemeanor offense of failure to cause their children to attend public school or, in the alternative, to obtain equivalent instruction by a certified teacher. See §§ 299.1, 299.6. OPINION HOLDS: Complaints filed October 1, 1985, charged that "on the 30th day of September, 1985" the Truckes violated sections 299.1 and 299.6. These statutes, which we assume arguendo require 120 days of instruction by a certified teacher, could not have been complied with by these defendants or any parents by September 30, since only 30 days of the school year had passed. Penal statutes must be strictly construed against the State. Notwithstanding

our concern for education, where criminal sanctions are invoked to enforce school attendance, the State cannot dispense with adherence to fundamental rules of criminal procedure. Where, as here, elements such as time and the means by which an offense is committed are material ingredients of the offense, the charging document must so state. The complaints here do not meet that standard and erroneously led to convictions based on crimes not yet committed. DISSENT ASSERTS: I have no idea how many children will be denied minimum educational requirements by the majority's conclusion, but for them the tragedy is incalculable. Upon the majority's gratuitous interpretation of Iowa Code section 299.1 criminal responsibility for parents of a truant will be withheld each year until that whole year's education has become lost to the child. In other words, because there can be no violation of the statute until less than 120 days remain in the school year, the child necessarily will be unable to attend school the 120 days required to allow him or her to progress to the next grade. The compulsory attendance law is thus completely gutted. It is preposterous to suggest the legislature intended to call for compulsory school attendance, and in the same provision withheld enforcement until there were less than 120 calendar days left in the school year. I would address the merits of defendants' constitutional challenge.

NO. 86-169. HALSEY v. COCA-COLA BOTTLING COMPANY.

On review from the Iowa Court of Appeals. Appeal from the Iowa District Court for Scott County, James E. Kelley, Judge. Decision of court of appeals vacated; district court judgment affirmed. Considered en banc. Opinion by Carter, J. (8 pages \$3.20)

The court of appeals reversed the district court's decision in a disability discrimination action and concluded that defendant had failed to make a reasonable accommodation with respect to plaintiff's handicap. We granted further review. OPINION HOLDS: I. Since plaintiff's action was filed, docketed and tried in equity in the district court, our review is de novo. II. Lack of sufficient vision to obtain a driver's license is a condition which prevents plaintiff from adequately performing the requirements of his job description. III. We agree with the court of appeals that an employer's obligation of reasonable accommodation extends to substantial physical impairment affecting an employee's ability to perform on the job. However, since one of plaintiff's responsibilities was to pick up and deliver vending equipment owned by defendant for purposes of in-house repair, we are unable to find from the evidence presented that other means of reasonable accommodation were available at the time defendant's services were terminated which would have permitted him to be retained in defendant's employment.

NO. 86-747. PRODUCTION CREDIT ASSOCIATION v. GIBBS.

Appeal from the Iowa District Court for Wayne County, Arthur E. Gamble, Judge. Judgment vacated and case remanded. Considered en banc. Per curiam. (4 pages \$1.60)

Defendant borrowers appeal from an adverse judgment in this replevin action to recover property embraced by a security agreement. The security agreement provided that plaintiff lender could declare defendants in default if a judgment were entered against them in any court in any jurisdiction. Plaintiff alleged that defendants were in default based on a mortgage foreclosure decree entered against them in another action. That judgment has now been reversed. OPINION HOLDS: At the time the action was tried, the district court was correct in permitting the jury to find a default based upon the Federal Land Bank judgment; it was not required to await the result of the appeal in that case. We have previously recognized, however, that where a judgment in a former action is used to establish some condition material in a subsequent action and the former action is thereafter reversed on appeal, a procedural remedy should be made available to the adversely affected litigant. Accordingly, we vacate the district court judgment and remand the case to the district court for a new trial.

NO. 87-566. COMMITTEE ON PROFESSIONAL ETHICS AND CONDUCT OF THE IOWA STATE BAR ASSOCIATION v. PAULOS.

On review of the report of the Grievance Commission. License suspended. Considered en banc. Opinion by Neuman, J. (6 pages \$2.40)

The complaint against respondent Richard V. Paulos centers on his inaction after receiving delinquency notices in four probate matters. Equally troublesome is respondent's failure to respond in any fashion to inquiries by the Committee on Professional Ethics and Conduct of the Iowa State Bar Association concerning these delinquencies. OPINION HOLDS: We have routinely imposed sanctions on lawyers for the kind of inattention to probate administration exemplified by this record. Moreover, we will not excuse such unsatisfactory performance because of an attorney's ill health, emotional problems, or the general stress of a busy law practice. We therefore suspend respondent's license to practice law in the courts of this state indefinitely, with no possibility of reinstatement for six months. Any application for reinstatement shall be accompanied by satisfactory evidence that respondent is no longer suffering from any physical or emotional illness that would interfere with the timely completion of legal business entrusted to him.

NO. 86-894. FIRST NATIONAL BANK OF OELWEIN v.
WESTGATE ELEVATOR, CO.

Appeal from the Iowa District Court for Fayette County, George L. Stigler, Judge. Affirmed. Considered by Reynoldson, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Per curiam. (5 pages \$2.00)

Plaintiff bank appeals from dismissal of its action for conversion against Westgate Elevator Co., pertaining to grain purchased by the elevator from one of the bank's borrowers. The district court held that a course of dealing established between the bank and its customer operated as a waiver of the bank's security interest in the grain as collateral. OPINION HOLDS: There is ample evidence in this record to support the district court's finding that the new conditions imposed by the bank in 1984 were not intended to restrict the debtor from selling collateral as he had since 1976. It is clear that the bank persisted in relying on debtor's personal obligation, and not the collateral, as security for its indebtedness. Finding no merit in the bank's alleged grounds for reversal, we hereby affirm the trial court.

NO. 85-1014. STATE v. FLORIE.

On review from the Iowa Court of Appeals. Appeal from the Iowa District Court for Des Moines County, D. B. Hendrickson, Judge. Decision of court of appeals and judgment of district court affirmed. Considered by Harris, P.J., and McGiverin, Larson, Schultz, and Carter, JJ. Opinion by Carter, J. (23 pages \$9.20)

The defendant appeals from his conviction, following a jury trial, for the offense of murder in the second degree as proscribed by Iowa Code section 619.3 (1977). OPINION HOLDS: I. The defendant was originally charged by information in 1977, the year the crime occurred. However, that information was dismissed without prejudice by the State, and the defendant was not charged again until 1984. This delay did not violate the defendant's speedy trial rights under the federal or state constitutions. We believe the 1977 dismissal was undertaken in good faith to permit full investigation and gathering of evidence. II. The evidence was sufficient to permit a jury of rational persons to return a verdict of guilty. III. The 1984 information was timely filed under the applicable pre-1978 law. IV. The record supports the trial court's determination that the defendant and two others were co-conspirators in carrying out the crime. Therefore, statements to third persons uttered by the other two individuals were admissible under an exception to the hearsay rule. V. The district court did not abuse its discretion by permitting certain witnesses to testify, even though they had not been listed in the minutes of evidence. The district court granted the defendant a continuance to let him investigate and prepare for the testimony of these witnesses. This continuance was adequate to protect the defendant's rights. VI. The

district court did not err by refusing to give the defendant's requested instructions on circumstantial evidence, on aiding and abetting, and on the effect of the lapse of time on the credibility of witnesses. The court's instructions adequately addressed each of these matters. VII. The district court did not err by admitting the testimony of a witness who acknowledged he had committed perjury causing an earlier mistrial. The facts surrounding the earlier perjury were fully developed before the jury, and the witness' credibility was an issue for the jury. The issues relating to this perjury did not require the prosecutor in the earlier mistrial to testify in the second trial. VIII. There is no merit to any of the defendant's other challenges to evidentiary rulings.

NO. 86-385. JOHN DEERE DUBUQUE WORKS OF DEERE & COMPANY
v. MEYERS.

On review from the Iowa Court of Appeals. Appeal from the Iowa District Court for Dubuque County, Thomas H. Nelson, Judge. Decision of court of appeals and judgment of district court affirmed. Considered en banc. Opinion by Neuman, J. (10 pages \$4.00)

Claimant was assigned to repair bulldozers from 1973 to 1981, which exposed him to excessive noise during the eight-year period. On March 7, 1984, claimant petitioned the industrial commissioner seeking workers' compensation benefits for occupational hearing loss. The industrial commissioner awarded benefits; both the district court and the court of appeals affirmed the award. The employer has applied for further review. OPINION HOLDS: I. A claim brought under the occupational hearing loss statute must be filed within two years of the "date of occurrence", as defined in Iowa Code section 85B.8. That statute does not expressly incorporate a "discovery rule". However, we believe the industrial commissioner was correct in applying a discovery rule. We hold that if an employee exercising the diligence of a reasonable person does not discover an occupational hearing loss until after leaving a noisy work environment, the employee should have the full two-year period after discovery of the injury to file a claim for workers' compensation benefits. II. The industrial commissioner, district court and court of appeals all found Meyers successfully bore his burden of proving that his hearing loss was directly related to years of excessive noise exposure at the Deere plant. Reviewing the record as a whole, we find substantial evidence to support that factual conclusion. Such findings are binding on this court on appeal.

No. 86-1188. ROSDAIL v. CIVIL SERVICE COMMISSION.

Appeal from the Iowa District Court for Linn County,
Thomas M. Horan, Judge. Affirmed. Considered en banc.
Opinion by Harris, J. (4 pages \$1.60)

Two police officers were suspended for misconduct and brought this action to claim seniority rights for sixty of the sixty-five day suspension. The police officers appeal from a district ruling affirming the civil service commission's rejection of their claim that Iowa Code section 400.12 (1985) requires granting them seniority rights for the first sixty days of their suspension. OPINION HOLDS: Based on the legislative purpose of protecting the public from police misconduct, we conclude that Iowa Code section 400.12 (1985) should be interpreted to read that the commission is prohibited from giving civil service employees seniority rights for any part of an absence which exceeds sixty days, but in its discretion can either allow or disallow seniority rights for the first sixty days.

No. 86-819. STATE v. IOWA DISTRICT COURT.

Appeal from the Iowa District Court for Pocahontas County, Newt Draheim, Judge. Affirmed. Considered by Reynoldson, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by Reynoldson, C.J. (11 pages \$4.40)

Prior to July 1, 1984, Iowa Code section 602.6405 gave magistrates limited jurisdiction over first offenses of operating a motor vehicle while intoxicated or drugged. House File 2472, which became effective on July 1, 1984, included a number of provisions relating to the broad subject of alcohol. One of these provisions eliminated the limited jurisdiction of magistrates over first offenses of operating a motor vehicle while intoxicated or drugged. Subsequently the State asked the defendant magistrate to approve a trial information in a prosecution for first offense driving while intoxicated. The magistrate refused to approve the trial information on the ground he no longer had jurisdiction to do so. The State then initiated the present declaratory judgment action challenging the constitutionality of portions of House File 2472. The district court concluded that the relevant portion of House File 2472 violated the single subject, sufficiency of title provision of the Iowa Constitution. The defendant magistrate has appealed. OPINION HOLDS: I. Article III, section 29, of the Iowa Constitution has two distinct yet inseparable components, the requirement that an act embrace a single subject, and the requirement that the subject be expressed in the title. II. House File 2472 complies with the requirement that an act embrace a single subject. Although the provisions of House File 2472 cover various topics, each provision broadly deals directly or indirectly

with the regulation of alcohol. We conclude these provisions, although perhaps more naturally separated into several different acts, are rationally related to the regulation of alcohol and its consumption or possession. III. However, the title of House File 2472 does not give adequate notice that the act includes a restriction on the jurisdiction of magistrates over first offense OWI charges. Therefore that portion of the act restricting magistrates' jurisdiction must be declared unconstitutional as a violation of the sufficiency of title requirement of article III, section 29. The other provisions of House File 2472 remain unaffected by this decision.

No. 86-895. STATE v. IOWA DISTRICT COURT.

Appeal from the Iowa District Court for Wright County, Newt Draheim, Judge. Appeal dismissed. Considered by Reynoldson, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Per Curiam. (3 pages \$1.20)

Defendant magistrate challenges district court decision holding unconstitutional a portion of House File 2472, enacted by the legislature in 1984. OPINION HOLDS: The defendant magistrate failed to file a timely appeal. Thus, we have no jurisdiction over the appeal and must dismiss it.

NO. 86-309. STILLIANS v. IOWA STATE ARTS COUNCIL.

Appeal from the Iowa District Court for Polk County, Joel D. Novak, Judge. Affirmed. Considered en banc. Opinion by Carter, J. (4 pages \$1.60)

Petitioner, Nancy Stillians, a candidate for the position of director of the Iowa State Arts Council (the council), appeals from an order rejecting her challenge to the nomination process for filling a vacancy in that position. OPINION HOLDS: There is no merit to petitioner's contention that the nomination process was invalid because the council improperly delegated duties mandated by statute to a search committee which it did not appoint or control.

NO. 86-845. ZIMMERMAN v. KILE.

Appeal from the Iowa District Court for Muscatine County, J. L. Burns, Judge. Reversed and remanded. Considered en banc. Opinion by Carter, J. (8 pages \$3.20)

Plaintiff appeals from the district court's determination following a nonjury trial that he was not the real party in interest for purposes of bringing an action for damages resulting from conversion of grain which was allegedly subject to a statutory landlord's lien under Iowa Code section 570.1. The written lease in question names the plaintiff as landlord. The demised premises were owned during the period of the lease by plaintiff's daughter and son-in-law and a family corporation of which plaintiff was the president. OPINION HOLDS: Iowa Rule of Civil Procedure

2 allows a party with whom or in whose name a contract is made for another's benefit to sue in his own name without joining the party for whose benefit the action is prosecuted. We find no evidence in the present record which would support a finding that plaintiff is not acting to enforce a contract made in his name and which implicitly, if not expressly, was for the benefit of the owners of the property. The real party in interest rule is designed to protect an obligor from double recovery on the same claim. The rule should not be applied in a hypertechnical fashion so as to absolve an obligor from having to pay at all. Plaintiff's case was incorrectly dismissed.

No. 86-485. CATERPILLAR TRACTOR CO. v. MEJORADO.

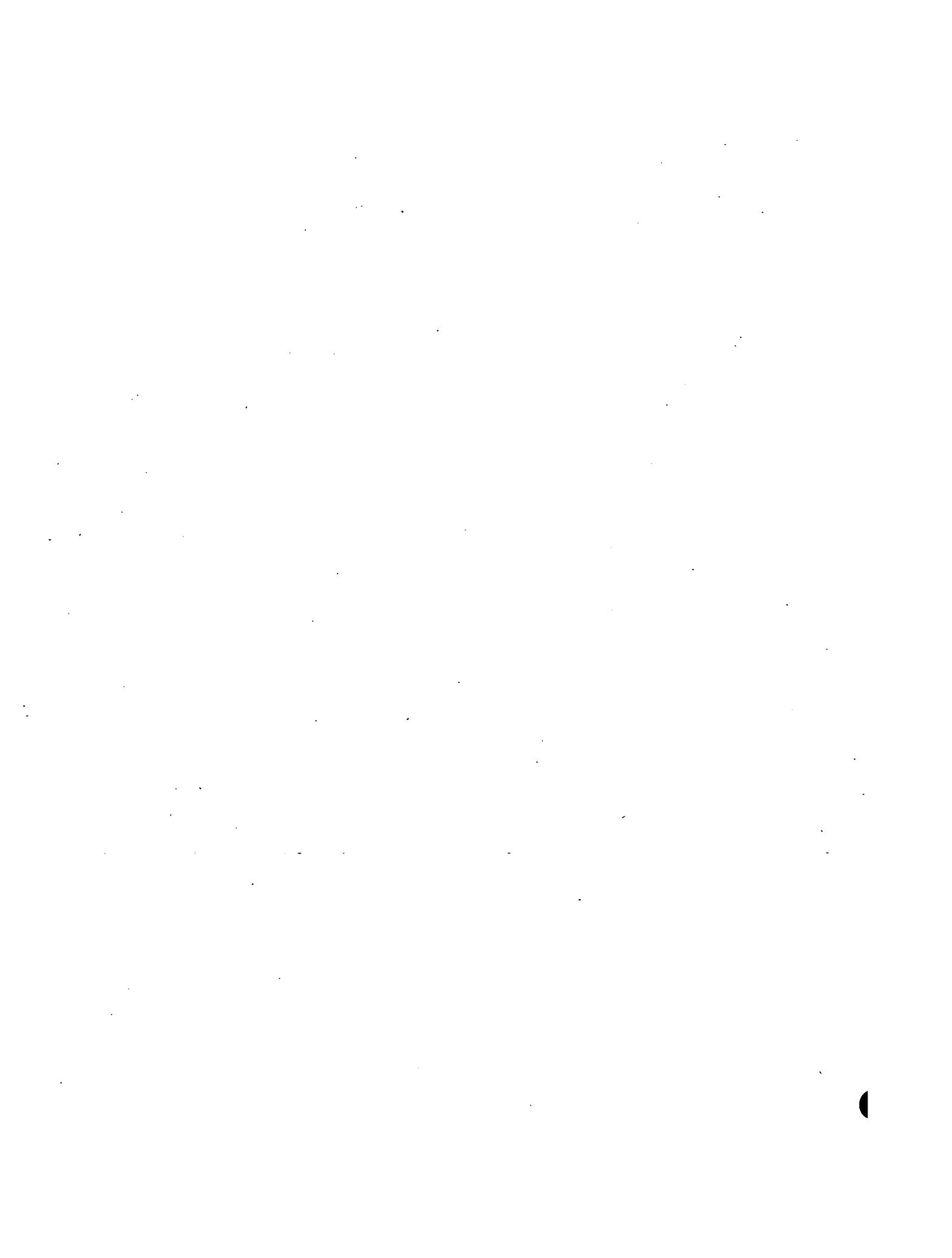
On review from the Iowa Court of Appeals. Appeal from the Iowa District Court for Scott County, Margaret S. Briles, Judge. Decision of court of appeals vacated; district court judgment reversed. Considered en banc. Per curiam. (9 pages \$3.60)

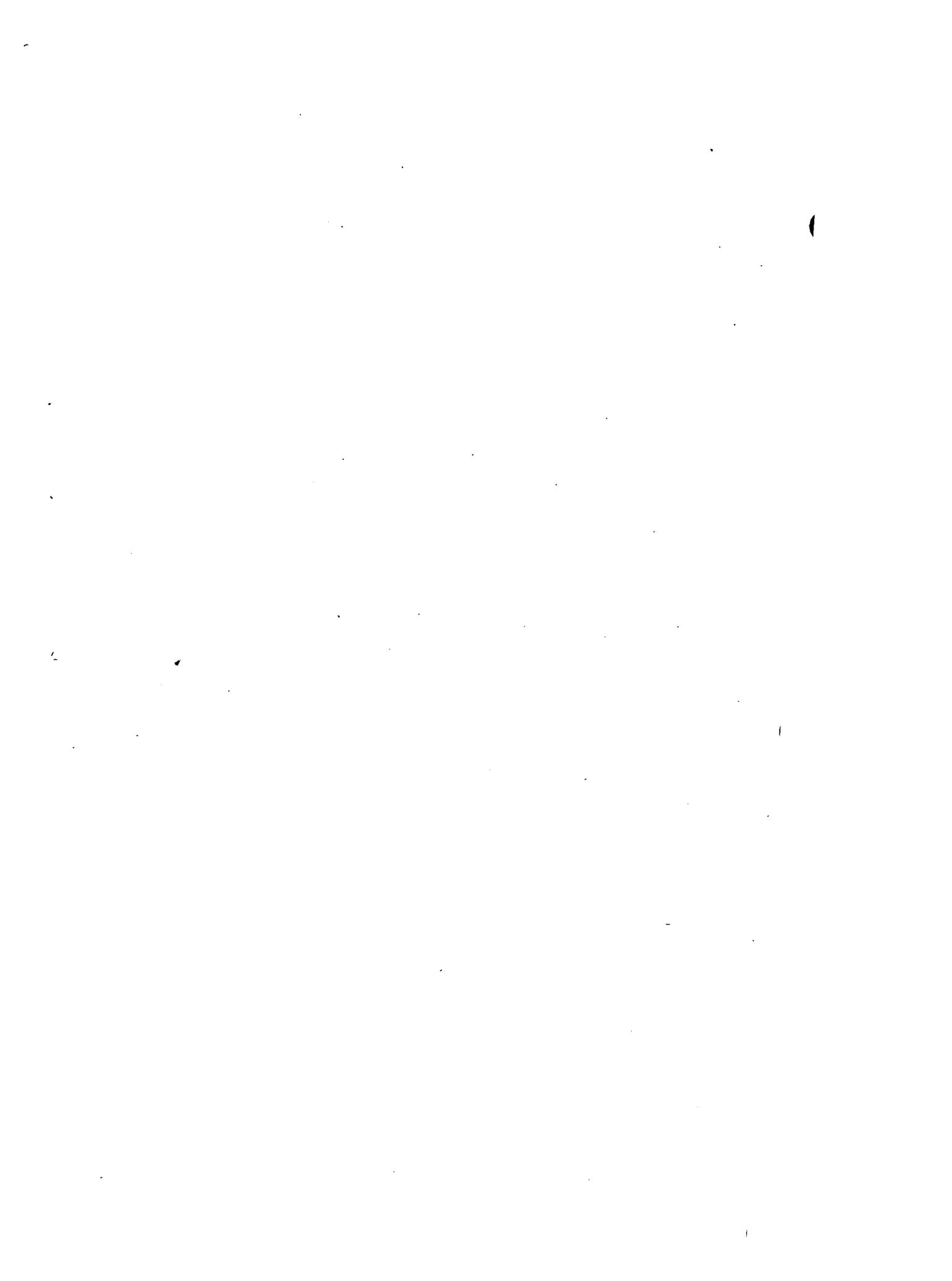
Mejorado was injured at the job site where he was employed by plaintiff Caterpillar Tractor Company. Caterpillar subsequently filed a memorandum of agreement with the commissioner. In his request for a review-reopening hearing Mejorado contended he had sustained greater permanent partial disability to the body as a whole than had been thought. The industrial commissioner awarded increased benefits, but the district court and the court of appeals overturned the commissioner's award. Mejorado has applied for further review. OPINION HOLDS: Review-reopening is a procedure through which the commissioner may modify the amount of worker's compensation benefits paid pursuant to an initial award or agreement for settlement. We do not give retroactive effect to the 1982 amendments to Iowa Code section 86.13. II. The memorandum of agreement filed by Caterpillar, which Mejorado neither approved nor executed, was not the equivalent of a formal settlement agreement or award of compensation following an evidentiary hearing. When a worker's compensation award has not been commuted, the filing of a memorandum of agreement leaves open for adjustment in a review-reopening proceeding the extent of disability. The memorandum of agreement settled only (1) the Caterpillar-Mejorado employment relationship and (2) the fact that Mejorado's injury arose out of and in the course of his employment. Mejorado was not required to prove a change in his condition after filing the memorandum of agreement, but he was required to prove that increased disability for which no compensation had been paid was proximately caused by the injury.

No. 86-521. SCHREINER v. SCOVILLE.

Appeal from the Iowa District Court for Woodbury County, Phillip S. Dandos, Judge. Reversed and remanded. Considered by Reynoldson, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by Reynoldson, C.J. (13 pages \$5.20)

The defendant attorney drafted a will for Mary Eickholt; at Eickholt's direction, this will left Eickholt's interest in a certain farm to the plaintiff. While the defendant attorney was representing Eickholt in another matter involving the same farm, the defendant caused the farm to be sold in a partition sale. Therefore Eickholt no longer owned the farm at her death. Since the plaintiff was not a beneficiary of Eickholt's residuary estate, he received nothing from the will. The plaintiff later filed the present negligence action against the defendant attorney. The district court dismissed this action for failure to state a claim on which relief could be granted, concluding the attorney owed the plaintiff no duty of due care under the circumstances alleged. The plaintiff has appealed. OPINION HOLDS: I. We conclude a lawyer representing a testator owes a duty of care to the direct, intended, and specifically identifiable beneficiaries of the testator as expressed in the testator's testamentary instruments. Ordinarily, a cause of action under this duty will arise only when as a direct result of the lawyer's professional negligence the testator's intent as expressed in the testamentary instruments is frustrated in whole or in part and the beneficiary's interest in the state is either lost, diminished, or unrealized. II. In the present case the plaintiff has alleged sufficient facts to avoid dismissal of his petition for failure to state a claim.





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