



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

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

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

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

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

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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 19, 1988	September 7, 1988
6	Friday, September 2, 1988	September 21, 1988
7	Friday, September 16, 1988	October 5, 1988

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## 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:

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Iowa State Printing Division  
Grimes State Office Building  
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. 8	Jan. 27	Feb. 16	Mar. 2	Mar. 23	Apr. 27	July 25
Jan. 22	Feb. 10	Mar. 1	Mar. 16	Apr. 6	May 11	Aug. 8
Feb. 5	Feb. 24	Mar. 15	Mar. 30	Apr. 20	May 25	Aug. 22
Feb. 19	Mar. 9	Mar. 29	Apr. 13	May 4	June 8	Sep. 5
Mar. 4	Mar. 23	Apr. 12	Apr. 27	May 18	June 22	Sep. 19
Mar. 18	Apr. 6	Apr. 26	May 11	June 1	July 6	Oct. 3
Apr. 1	Apr. 20	May 10	May 25	June 15	July 20	Oct. 17
Apr. 15	May 4	May 24	June 8	June 29	Aug. 3	Oct. 31
Apr. 29	May 18	June 7	June 22	July 13	Aug. 17	Nov. 14
May 13	June 1	June 21	July 6	July 27	Aug. 31	Nov. 28
May 27	June 15	July 5	July 20	Aug. 10	Sep. 14	Dec. 12
June 10	June 29	July 19	Aug. 3	Aug. 24	Sep. 28	Dec. 26
June 24	July 13	Aug. 2	Aug. 17	Sep. 7	Oct. 12	Jan. 9 '89
July 8	July 27	Aug. 16	Aug. 31	Sep. 21	Oct. 26	Jan. 23 '89
July 22	Aug. 10	Aug. 30	Sep. 14	Oct. 5	Nov. 9	Feb. 6 '89
Aug. 5	Aug. 24	Sep. 13	Sep. 28	Oct. 19	Nov. 23	Feb. 20 '89
Aug. 19	Sep. 7	Sep. 27	Oct. 12	Nov. 2	Dec. 7	Mar. 6 '89
Sep. 2	Sep. 21	Oct. 11	Oct. 26	Nov. 16	Dec. 21	Mar. 20 '89
Sep. 16	Oct. 5	Oct. 25	Nov. 9	Nov. 30	Jan. 4 '89	Apr. 3 '89
Sep. 30	Oct. 19	Nov. 8	Nov. 23	Dec. 14	Jan. 18 '89	Apr. 17 '89
Oct. 14	Nov. 2	Nov. 22	Dec. 7	Dec. 28	Feb. 1 '89	May 1 '89
Oct. 28	Nov. 16	Dec. 6	Dec. 21	Jan. 11 '89	Feb. 15 '89	May 15 '89
Nov. 11	Nov. 30	Dec. 20	Jan. 4 '89	Jan. 25 '89	Mar. 1 '89	May 29 '89
Nov. 25	Dec. 14	Jan. 3 '89	Jan. 18 '89	Feb. 8 '89	Mar. 15 '89	June 12 '89
Dec. 9	Dec. 28	Jan. 17 '89	Feb. 1 '89	Feb. 22 '89	Mar. 29 '89	June 26 '89
Dec. 23	Jan. 11 '89	Jan. 31 '89	Feb. 15 '89	Mar. 8 '89	Apr. 12 '89	July 10 '89

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

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]

The Administrative Rules Review Committee will hold its regular statutory meeting Tuesday, September 13, 1988, 10 a.m. and will continue on Tuesday, September 27, 1988, at 10 a.m. in Committee Room 24, State Capitol. The following rules will be reviewed:

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<b>CHILDREN, YOUTH AND FAMILIES DIVISION[425]</b>		
<b>HUMAN RIGHTS DEPARTMENT[421] "umbrella"</b>		
Juvenile justice advisory council, ch 7, <b>ARC 9125</b> , also filed emergency <b>ARC 9124</b> .....		8/24/88
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COMMERCE DEPARTMENT[181] "umbrella"	
Public records and fair information practices, ch 25 ARC 9154 .....	8/24/88
<b>EDUCATION DEPARTMENT[281]</b>	
Special education, 670—12.3, 12.5(6)"a" and "b," 12.8(1), 12.8(3) to 12.8(5), 12.10(9), 12.17(1)"b," 12.17(2), 12.17(8), 12.20(2)"b," 12.21, 12.25(3)"n," 12.31(7), 12.32 ARC 9050 .....	8/10/88
School buses, ch 44; rescind 670—ch 23 ARC 9053 .....	8/10/88
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b>	
NATURAL RESOURCES DEPARTMENT[561] "umbrella"	
Controlling pollution, 22.1(2)"d" ARC 9073 .....	8/10/88
Water supply, 40.2, 41.3(2), 41.4(4)"d" to "f," 41.4(5) to 41.4(17), 41.5(1)"c," 41.5(2)"b," 41.5(4), 41.6(5)"c," 41.12(10), 41.15, 41.16 ARC 9072 .....	8/10/88
Floodplain development, 70.4(2)"b" ARC 9070 .....	8/10/88
<b>FAIR BOARD[371]</b>	
Liability insurance, 1.7 ARC 9100 .....	8/24/88
Public records and fair information practices, ch 9 ARC 9101 .....	8/24/88
<b>GENERAL SERVICES DEPARTMENT[450]</b>	
Cost of publication — sample ballot, 5.20 ARC 9096 .....	8/24/88
<b>HUMAN SERVICES DEPARTMENT[441]</b>	
Food stamp employment and training policies and procedures, 65.28(3), 65.28(6)"b" and "c," 65.28(7) to 65.28(9), 65.28(11), 65.28(12), 65.28(14) ARC 9110 .....	8/24/88
Conditions of eligibility, nonassistance child support recovery program, 75.1(2)"d," 75.1(11), 75.1(11)"d" and "f," 75.1(14)"c" and "f," 75.1(15)"e," 75.1(19), 75.1(21), 75.1(26), 75.14, 96.1, 96.2, 96.4, 96.10, 96.12 ARC 9111 .....	8/24/88
Standards for individual case management services, chs 24 and 25 ARC 8958 .....	Special Review 7/13/88
<b>INSPECTIONS AND APPEALS DEPARTMENT[481]</b>	
Food establishments, 30.2 to 30.4, 30.6 to 30.8, 30.10, 30.12, 31.1, 32.1, 33.2 ARC 9115 .....	8/24/88
Home food establishments, ch 34 ARC 9116 .....	8/24/88
<b>JOB SERVICE DIVISION[345]</b>	
EMPLOYMENT SERVICES DEPARTMENT[341] "umbrella"	
Employer's contribution and charges, claims and benefits, 3.3(2)"h," 4.1(48), 4.2(1)"a"(1), 4.2(2)"e," 4.5(2)"h," 4.8(9), 4.19(2), 4.19(3), 4.22(1)"v"(2), 4.34(8), 4.37(1)"d"(2) ARC 9123 .....	8/24/88
<b>NATURAL RESOURCE COMMISSION[571]</b>	
NATURAL RESOURCES DEPARTMENT[561] "umbrella"	
Boating speed and distance zoning, 40.29, 40.30 ARC 9143 .....	8/24/88
Boat motor regulations, 45.4(2)"b" ARC 9147 .....	8/24/88
<b>NATURAL RESOURCES DEPARTMENT[561]</b>	
Contracts for public improvements and professional services, ch 8 ARC 9075 .....	8/10/88
<b>NURSING BOARD[655]</b>	
PUBLIC HEALTH DEPARTMENT[641] "umbrella"	
Administrative and regulatory authority, 1.3(6)"b" to "d" ARC 9104 .....	8/24/88
Nursing education programs, 2.3(2)"d," 2.6(2)"c" ARC 9105 .....	8/24/88
Licensure to practice — RN/LPN, 3.2(2)"c" ARC 9108 .....	8/24/88
English language proficiency exams, 3.4(6)"a"(2), 3.5(2)"d" and "e" ARC 9106 .....	8/24/88
Continuing education, 5.3(3)"b" ARC 9107 .....	8/24/88
<b>PHARMACY EXAMINERS BOARD[657]</b>	
PUBLIC HEALTH DEPARTMENT[641] "umbrella"	
Discipline, 9.1(4)"v" ARC 9134 .....	8/24/88
<b>PROFESSIONAL LICENSURE DIVISION[645]</b>	
PUBLIC HEALTH DEPARTMENT[641] "umbrella"	
Nursing home administrators examiners, amend and transfer 600—chs 1 to 3 to 645—chs 140 to 142 ARC 9129 .....	8/24/88
Psychology examiners, amend and transfer 470—ch 140 to 645—ch 240 ARC 9126 .....	8/24/88
Respiratory care practitioners; public records and fair information practices, chs 260, 269 ARC 9057 .....	8/10/88
Speech pathology and audiology examiners, amend and transfer 470—chs 155 and 157 to 645—chs 300 and 302 ARC 9099 .....	8/24/88

**PUBLIC BROADCASTING DIVISION[225]****CULTURAL AFFAIRS DEPARTMENT[221] "umbrella"**Rescind 340—chs 1 to 10, 16 and 645—ch 1; adopt 225—chs 1 to 3 **ARC 9064** ..... 8/10/88**PUBLIC HEALTH DEPARTMENT[641]**Health facilities construction review program, rescind ch 201 **ARC 9051** ..... 8/10/88**REVENUE AND FINANCE DEPARTMENT[701]**Mobile home tax, 74.1 to 74.4, 74.4(1), 74.4(5), 74.5, 74.8, 74.8(1), 74.8(2) **ARC 9148** ..... 8/24/88**SECRETARY OF STATE[721]**Central counting procedures for electronic voting systems, 22.6 **ARC 9093** ..... 8/10/88**TRANSPORTATION DEPARTMENT[761]**Aircraft registration, ch 750 **ARC 9094** ..... 8/24/88**UTILITIES DIVISION[199]****COMMERCE DEPARTMENT[181] "umbrella"**Directory listings, 22.3(2)"i" **ARC 9060** ..... 8/10/88Telephone outages, rescind 22.6(1)"b" **ARC 9062** ..... 8/10/88Telephone rates — shared tenant service, 22.17(1)"b" **ARC 9112** ..... 8/24/88

## To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>CHILDREN, YOUTH AND FAMILIES DIVISION[425]</b> Juvenile justice advisory council, ch 7 IAB 8/24/88 ARC 9125 (See also ARC 9124 herein)	Conference Room Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	September 13, 1988 10 a.m.
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b> Community economic betterment account program, ch 22 IAB 8/10/88 ARC 9091	Conference Room Second Floor 200 East Grand Avenue Des Moines, Iowa	August 31, 1988 1:30 p.m.
<b>ELDER AFFAIRS DEPARTMENT[321]</b> Nutrition services, 7.3(9), 7.3(16) IAB 8/10/88 ARC 9059	Conference Room 914 Grand Avenue Suite 236 Des Moines, Iowa	August 31, 1988 10 a.m.
<b>EMPLOYMENT SERVICES DEPARTMENT[341]</b> Public records and fair information practices, 2.9(2)"f" IAB 8/24/88 ARC 9122	Department Offices 1000 East Grand Avenue Des Moines, Iowa	September 14, 1988 9:30 a.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b> Scope of title, ch 20; Controlling pollution, ch 22; Prevention of air pollution emergency episodes, ch 26; Ambient air quality standards, ch 28 IAB 7/27/88 ARC 9033	Linn County Department Conference Room 751 Center Point Rd. N.E. Cedar Rapids, Iowa City Hall Conference Room - 1st Floor 19 S. Delaware Mason City, Iowa	August 30, 1988 10:30 a.m.  September 1, 1988 1 p.m.
<b>HEALTH DATA COMMISSION[411]</b> Uniform hospital billing form, ch 5; Submission of data, ch 6 IAB 8/10/88 ARC 9081	Conference Room Third Floor Lucas State Office Bldg. Des Moines, Iowa	August 30, 1988 10 a.m. to 11:30 a.m.
<b>HUMAN SERVICES DEPARTMENT[441]</b> Options for curtailing Medicaid expenditures IAB 8/10/88 ARC 9078	Cedar Rapids District Office Conference Room - 6th Floor 221 4th Ave., S.E. Cedar Rapids, Iowa Council Bluffs District Office 417 E. Kanesville Blvd. Lower Level Council Bluffs, Iowa Davenport District Office Conference Room - 5th Floor 428 Western Davenport, Iowa Des Moines District Office City View Plaza Conference Room 102 1200 University Des Moines, Iowa	September 1, 1988 10 a.m.  September 1, 1988 10 a.m.  September 1, 1988 10 a.m.  August 31, 1988 10 a.m.

## HUMAN SERVICES DEPARTMENT[441] (cont'd)

	Mason City District Office Mohawk Square 22 North Georgia Ave. Mason City, Iowa	September 1, 1988 10 a.m.
	Ottumwa District Office Conference Room - 1st Floor 226 West Main Ottumwa, Iowa	August 31, 1988 10 a.m.
	Sioux City District Office Suite 615-617 507 7th Street Sioux City, Iowa	September 1, 1988 9 a.m.
	Waterloo District Office Black Hawk County Conference Room 2nd Floor - KWWL Bldg. 500 East 4th Waterloo, Iowa	September 1, 1988 10 a.m.
Payments for foster care and foster parent training, ch 156; Foster care services, ch 202 IAB 8/10/88 ARC 9079	Cedar Rapids District Office Conference Room - 6th Floor 221 4th Ave., S.E. Cedar Rapids, Iowa	August 31, 1988 10 a.m.
	Council Bluffs District Office 417 E. Kaneshville Blvd. Lower Level Council Bluffs, Iowa	September 1, 1988 10 a.m.
	Davenport District Office Conference Room - 5th Floor 428 Western Davenport, Iowa	August 31, 1988 10 a.m.
	Des Moines District Office City View Plaza Conference Room 102 1200 University Des Moines, Iowa	September 1, 1988 9 a.m.
	Mason City District Office Mohawk Square 22 North Georgia Ave. Mason City, Iowa	September 1, 1988 1 p.m.
	Ottumwa District Office Conference Room - 1st Floor 226 West Main Ottumwa, Iowa	August 31, 1988 1 p.m.
	Sioux City District Office Suite 615-617 507 7th Street Sioux City, Iowa	August 31, 1988 9 a.m.
	Waterloo District Office Black Hawk County Conference Room 2nd Floor - KWWL Bldg. 500 East 4th Waterloo, Iowa	August 31, 1988 2 p.m.

## INSPECTIONS AND APPEALS DEPARTMENT[481]

Infection control in health care facilities, amendments to chs 57, 58, 59, 62, 63, and 64 IAB 8/24/88 ARC 9121	Hearing Room A Second Floor Lucas State Office Bldg. Des Moines, Iowa	September 15, 1988 2 p.m.
Alzheimer's disease and related disorders unit, 58.54 IAB 8/24/88 ARC 9120	Hearing Room A Second Floor Lucas State Office Bldg. Des Moines, Iowa	September 15, 1988 2 p.m.

**JOB SERVICE DIVISION[345]**

Employer's contribution and charges, ch 3; Claims and benefits, ch 4; Benefit payment control, ch 5; Placement, ch 7; Public records and fair information practices, ch 8; Forms, ch 10  
IAB 8/24/88 ARC 9128

Division of Job Service  
1000 East Grand Avenue  
Des Moines, Iowa

September 14, 1988  
9:30 a.m.

**LOTTERY DIVISION[705]**

General operation of the lottery, ch 1; Licensing, ch 2; Licensed retailers, ch 3; Purchasing, ch 4; Scratch ticket general, ch 8; Iowa lotto, ch 10; Lotto America, ch 12  
IAB 8/10/88 ARC 9046

Lotto Offices  
2015 Grand Avenue  
Des Moines, Iowa

August 30, 1988  
1:30 p.m.

**NATURAL RESOURCE COMMISSION[571]**

Forfeited property, disposition of weapons, 8.6  
IAB 8/24/88 ARC 9145

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

September 13, 1988  
10 a.m.

Boat motor regulations, Swan Lake, 45.4(2)"b"  
IAB 8/24/88 ARC 9146

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

September 13, 1988  
2 p.m.

Endangered or threatened plant and animal species, ch 77  
IAB 8/24/88 ARC 9140

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

September 13, 1988  
10 a.m.

Fishing regulations, 81.2(4), 81.2(6)"d"  
IAB 8/24/88 ARC 9141

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

September 20, 1988  
10 a.m.

Fishing tournaments, ch 88  
IAB 8/24/88 ARC 9142

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

September 20, 1988  
10:30 a.m.

Student Life Center  
Scott Community College  
Bettendorf, Iowa

September 21, 1988  
7 p.m.

**PERSONNEL DEPARTMENT[581]**

Classification, ch 3; Pay, ch 4; Recruitment, application and examination, ch 5; Certification and selection, ch 7; Separation, disciplinary actions and reduction in force, ch 11; Grievances and appeals, ch 12; Leave, ch 14; Equal employment opportunity and affirmative action, ch 20  
IAB 6/29/88 ARC 8935

Conference Room South  
Grimes State Office Bldg.  
Des Moines, Iowa

August 25, 1988  
10 a.m.

IPERS, amendments to ch 21  
IAB 7/27/88 ARC 9007  
(See also ARC 9000)

IPERS Conference Room  
600 East Court Ave.  
Des Moines, Iowa

August 24, 1988  
10 a.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Acquired immune deficiency  
syndrome (AIDS), ch 11  
IAB 8/10/88 ARC 9048

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

August 31, 1988  
1 p.m.

General provisions, 38.13(8);  
Minimum requirements for radon  
testing and analysis, ch 43  
IAB 8/10/88 ARC 9045

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

September 2, 1988  
1 p.m.

**RACING AND GAMING DIVISION[491]**

Thoroughbred racing, ch 10;  
Application for tax credit by  
horse racing licensees, ch 11  
IAB 8/10/88 ARC 9068

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

August 30, 1988  
9 a.m.

**REGENTS BOARD[681]**

Regents employees—charitable  
organizations—contributions solicited,  
12.7(3), 13.7(3), 14.2, 15.8(1), 16.9  
IAB 8/10/88 ARC 9088

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

September 10, 1988  
9 a.m.

**SOIL CONSERVATION DIVISION[780]**

Financial incentives program  
for soil erosion control, 5.58  
IAB 8/10/88 ARC 9055

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

August 30, 1988  
10 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Traffic safety improvement  
program, ch 164  
IAB 8/10/88 ARC 9054

Department of Transportation  
Complex  
800 Lincoln Way  
Ames, Iowa

September 20, 1988

Salvage, ch 405  
IAB 7/13/88 ARC 8962

Department of Transportation  
Complex  
800 Lincoln Way  
Ames, Iowa

October 4, 1988

**UTILITIES DIVISION[199]**

Deregulation of interLATA  
interchange message  
telecommunications service,  
WATS and private line, and  
custom network services  
IAB 8/10/88 ARC 9061

Hearing Room  
First Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

October 24, 1988  
10 a.m.

## 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:

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

### ATTORNEY GENERAL[61]

### AUDITOR OF STATE[81]

Beef Industry Council, Iowa[101]

Blind, Department for the[111]

### CAMPAIGN FINANCE DISCLOSURE COMMISSION[121]

### CITIZENS' AIDE[141]

### CIVIL RIGHTS COMMISSION[161]

### COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Savings and Loan Division[197]

Utilities Division[199]

### CORRECTIONS DEPARTMENT[201]

Parole Board[205]

### CULTURAL AFFAIRS DEPARTMENT[221]

Historical Division[223]

Public Broadcasting Division[225]

### ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Iowa Finance Authority[265]

High Technology Council[267]

### EDUCATION DEPARTMENT[281]

College Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Professional Teaching Practices Commission[287]

School Budget Review Committee[289]

Egg Council[301]

### ELDER AFFAIRS DEPARTMENT[321]

### EMPLOYMENT SERVICES DEPARTMENT[341]

Industrial Services Division[343]

Job Service Division[345]

Labor Services Division[347]

### EXECUTIVE COUNCIL[361]

Fair Board[371]

### GENERAL SERVICES DEPARTMENT[401]

Health Data Commission[411]

HUMAN RIGHTS DEPARTMENT[421]  
Children, Youth, and Families Division[425]  
Community Action Agencies Division[427]  
Deaf Services, Division of[429]  
Persons With Disabilities Division[431]  
Spanish-Speaking People Division[433]  
Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]  
Employment Appeal Board[486]  
Foster Care Review Board[489]  
Racing and Gaming Division[491]

LAW ENFORCEMENT ACADEMY[501]  
Livestock Health Advisory Council[521]

MANAGEMENT DEPARTMENT[541]  
Appeal Board, State[543]  
City Finance Committee[545]  
County Finance Committee[547]

NATURAL RESOURCES DEPARTMENT[561]  
Energy and Geological Resources[565]  
Environmental Protection Commission[567]  
Natural Resource Commission[571]  
Preserves, State Advisory Board[575]

PERSONNEL DEPARTMENT[581]

PUBLIC DEFENSE DEPARTMENT[601]

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

PUBLIC HEALTH DEPARTMENT[641]  
Substance Abuse Commission[643]  
Professional Licensure Division[645]  
Dental Examiners[650]  
Medical Examiners[653]  
Nursing Board[655]  
Pharmacy Examiners[657]

PUBLIC SAFETY DEPARTMENT[661]

REGENTS BOARD[681]  
Archaeologist[685]

REVENUE AND FINANCE DEPARTMENT[701]  
Lottery Division[705]

SECRETARY OF STATE[721]  
Sheep and Wool Promotion Board, Iowa[741]

TRANSPORTATION DEPARTMENT[761]  
Railway Finance Authority, Iowa[765]

TREASURER OF STATE[781]  
Veterinary Medicine Board[811]  
Voter Registration Commission[821]

## NOTICE — AGRICULTURAL CREDIT CORPORATION MAXIMUM LOAN RATE

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

October 1, 1986 — October 31, 1986	11.20%
November 1, 1986 — November 30, 1986	11.20%
December 1, 1986 — December 31, 1986	11.20%
January 1, 1987 — January 31, 1987	10.90%
February 1, 1987 — February 28, 1987	10.90%
March 1, 1987 — March 31, 1987	10.90%
April 1, 1987 — April 30, 1987	10.90%
May 1, 1987 — May 31, 1987	10.90%
June 1, 1987 — June 30, 1987	10.90%
July 1, 1987 — July 31, 1987	10.90%
August 1, 1987 — August 31, 1987	10.90%
September 1, 1987 — September 30, 1987	10.90%
October 1, 1987 — October 31, 1987	10.90%
November 1, 1987 — November 30, 1987	10.90%
December 1, 1987 — December 31, 1987	10.90%
January 1, 1988 — January 31, 1988	10.90%
February 1, 1988 — February 29, 1988	10.90%
March 1, 1988 — March 31, 1988	10.90%
April 1, 1988 — April 30, 1988	10.90%
May 1, 1988 — May 31, 1988	9.75%
June 1, 1988 — June 30, 1988	9.75%
July 1, 1988 — July 31, 1988	9.75%
August 1, 1988 — August 31, 1988	9.75%

Any interested person may make written or oral comments or suggestions on these rules on or before September 13, 1988, to Ann Thompson, Division Administrator, Children, Youth and Families, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319.

A public hearing will be held on September 13, 1988, at 10 a.m. in the sixth floor conference room, east side of the Lucas State Office Building. Persons wishing to present oral comments at the public hearing should contact Ann Thompson at the above address or by calling (515)281-3974 no later than September 12, 1988, at 4:30 p.m. to be placed on the hearing agenda.

These rules were also adopted and filed emergency and are published herein as **ARC 9124**. The content of that filing is incorporated here by reference.

These rules are intended to implement Iowa Code section 601K.38.

## ARC 9125

### CHILDREN, YOUTH AND FAMILIES DIVISION[425]

#### 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)<sup>b</sup>.

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 601K.35, the Division on Children, Youth and Families gives Notice of Intended Action to adopt a new Chapter 7, "Juvenile Justice Advisory Council," Iowa Administrative Code.

The Juvenile Justice Advisory Council administers the Juvenile Justice and Delinquency Prevention federal grants which are operational beginning October 1 of each year. Grant announcements, review, and awards take place a couple of months prior to this date. These rules describe the composition of the Council and the procedures in awarding and administering these grants.

## ARC 9086

### COLLEGE AID COMMISSION[283]

#### Notice Correction

**EDITOR'S NOTE:** The following three charts which were proposed in **ARC 9086** are being reproduced herein. Two of those charts were inadvertently omitted from the 8/10/88 Iowa Administrative Bulletin:

## COLLEGE AID COMMISSION[283] (cont'd)

RETROSPECTIVE DUE DILIGENCE CURES  
(For violations occurring before May 1, 1988)

<u>Missed Due Diligence Activity</u>	<u>Lender Action Required</u>	<u>Effect on Lender</u>
Gap no greater than 45 days regardless of the number of omissions (for transfers, no greater than 60 days)	None	No penalty
o Gap of 46 days through 60 days, regardless of the number of omissions (for transfers, 61 days-75 days)	None	Interest and special allowance amounts accruing through the date of default.
o Gap of 61 days or greater regardless of the number of omissions (for transfers, 76 days or greater)	<p>Locate Borrower (retain acceptable evidence*), and</p> <p>Step 1. Within 15 days of location, send a new repayment agreement to the borrower <u>and</u> a strongly worded collection letter to the borrower.</p> <p>Step 2. If the borrower does not respond within 15-20 days of Step 1, attempt to contact the borrower by phone.</p> <p>Step 3. If the borrower does not respond within 5-10 days of Step 2, again attempt to contact the borrower by telephone.</p> <p>Step 4. If the borrower does not respond within 5-10 days of Step 3, send a forceful collection letter (final demand) requesting the entire balance of the loan.</p> <p>Step 5. If the borrower does not respond within 30 days of Step 4, file the claim within 60 days of Step 4. (Must be accompanied by acceptable evidence of location of borrower.*)</p>	<p>Loan's guarantee is canceled as of the date of the earliest unexcused violation. Lender must take prescribed action.</p> <p>If the borrower returns the signed repayment agreement or sends a full payment within the next 30 days, consider the borrower current. Guarantee is reinstated and lender should resume normal loan activity. (Lender may wish to capitalize the interest that has accrued from the date of the first unexcused violation through the date guarantee is reinstated, but will not receive reimbursement for this interest if the borrower subsequently defaults).</p> <p>Principal will be paid. Interest and special allowance will be paid only to the date of the first unexcused violation.</p>
o More than 3 activities omitted or performed more than 5 days late (for transfers, more than 20 days) or a gap of more than 45 days and at least one violation (for transfers, no more than 60 days.)	<p>Step 1. Locate the Borrower.</p> <p>Step 2. Obtain a Repayment Agreement (Refinance)</p> <p style="text-align: center;">OR</p> <p>Obtain 1 Full Payment. (Evidence Must Be Retained)</p>	<p>If borrower signs the repayment agreement or sends a payment, grant forbearance, consider the borrower current. Resume normal loan activity.</p> <p>If lender fails to obtain a new Repayment Agreement or one payment, principal or interest will not be repaid.</p>

COLLEGE AID COMMISSION[283] (cont'd)

PROSPECTIVE DUE DILIGENCE CURES  
(For violations occurring on or after May 1, 1988)

<u>Missed Due Diligence Activity</u>	<u>Lender Activity Required</u>	<u>Effect on Lender</u>
<p>o Activity occurring no more than 5 days late (for transfers, no more than 20 days late)</p>	<p>Lender must complete all required activities before the claim filing deadline (270 days) and the LRA before the 240th day.</p>	<p>Interest and special allowance limited to date of default. If the lender fails to file the LRA by the 240th day, interest and special allowance will not be paid for the most recent 180 days prior to default. Interest and special allowance will be limited to 90 days if missed activities are not performed before day 270.</p>
<p>o 1 or 2 activities omitted or performed more than 5 days late (for transfers, more than 20 days) and gap no greater than 45 days (for transfers, no greater than 60 days)</p>	<p>Locate borrower (retain acceptable evidence*) and</p> <p>Step 1. Within 15 days of location, send a new repayment agreement and a strongly worded collection letter.</p> <p>Step 2. If the borrower does not respond within 15-20 days of Step 1, diligently attempt to contact the borrower by phone.</p> <p>Step 3. If the borrower does not respond within 5-10 days of Step 2, again diligently attempt to contact the borrower by phone.</p> <p>Step 4. If the borrower does not respond within 5-10 days of Step 3, send a forceful collection letter (final demand) requesting the entire balance of the loan.</p>	<p>Loan guarantee is canceled as of the date of the earliest unexcused violation. Bank must take prescribed action.</p>
<p>o 3 activities omitted or performed more than 5 days late (for transfers, more than 20 days) and gap no greater than 45 days (for transfers, no greater than 60 days)</p>	<p>Step 5. If the borrower does not respond within 30 days of Step 4, file the claim within 60 days of Step 4. Must be accompanied by acceptable evidence of location of borrower.*)</p>	<p>If the borrower returns the signed repayment agreement or sends a payment within the next 30 days, consider the borrower current. Guarantee is reinstated and lender should resume normal loan activity. (Lender may wish to capitalize the interest that has accrued from the date of the first unexcused violation through the date guarantee is reinstated, but will not receive reimbursement for this interest if the borrower subsequently defaults.)</p> <p>Principal will be paid. Interest and Special Allowance will be paid only through the date of the first unexcused violation.</p>

COLLEGE AID COMMISSION[283] (cont'd)

TIMELY FILING CURE

<u>Violation</u>	<u>Lender Action Required</u>	<u>Effect on Lender</u>
o Claim filed after the 270th day of delinquency	<p>Locate borrower* and</p> <p>Step 1. Within 15 days of location send a new repayment agreement to the borrower and a strongly worded collection letter.</p> <p>Step 2. If the borrower does not respond within 15-20 days of Step 1, diligently attempt to contact the borrower by phone.</p> <p>Step 3. If the borrower does not respond within 5-10 days of Step 2, again diligently attempt to contact the borrower by phone.</p> <p>Step 4. If the borrower does not respond within 5-10 days of Step 3, send a forceful collection letter requesting the entire balance of the loan.</p> <p>Step 5. If the borrower does not respond within 30 days of Step 4, file the claim within 60 days of Step 4. (Must be accompanied by acceptable evidence of location of the borrower.*)</p>	<p>Loan guarantee canceled as of the date of default. Lender must take prescribed action.</p> <p>If the borrower returns the signed repayment agreement or sends a full payment within the next 30 days, consider the borrower current. Guarantee is reinstated and lender should resume normal activity. (Lender may wish to capitalize the interest that has accrued from the date of the first unexcused violation through the date guarantee is reinstated, but will not receive reimbursement for this interest if the borrower subsequently defaults.)</p> <p>Principal will be paid. Interest and special allowance will be paid only through the 270th day of delinquency.</p>

**ARC 9122**  
**EMPLOYMENT SERVICES**  
**DEPARTMENT[341]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 17A.3, the Director of the Department of Employment Services hereby gives Notice of Intended Action to amend Chapter 2, “Public Records and Fair Information Practices,” Iowa Administrative Code.

New paragraph 2.9(2)“f” is added to allow Citizens’ Aide to examine any and all records and documents of

the Department of Employment Services without the consent of the subject of the record or document.

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendment not later than 4:30 p.m., September 14, 1988, to Paul H. Moran, Department of Employment Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., September 14, 1988, at the above address. The proposed amendments are subject to revision after the Department considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. Moran at 515/281-4986 or at the above address.

These rules are intended to implement Iowa Code section 601G.9(3) as amended by 1988 Iowa Acts, House File 2406.

Amend subrule 2.9(2) by adding the following new paragraph:

f. To the citizens’ aide under Iowa Code section 601G.9(3) as amended by 1988 Iowa Acts, House File 2406.

**ARC 9097**  
**GENERAL SERVICES**  
**DEPARTMENT[450]**

**Notice Terminated**

Pursuant to the authority of Iowa Code section 17A.4(1)"b," the Iowa Department of General Services terminates the rule-making proceedings initiated by its Notice of Intended Action published in the June 29, 1988, Iowa Administrative Bulletin as **ARC 8899**.

The subject of the Notice was an amendment to Chapter 1, "Organization and Operation." This Notice was published to solicit public comments, and a hearing was held for this purpose on July 20, 1988. No one appeared at the hearing, and no oral or written comments have been received regarding this amendment. This rule-making proceeding is being terminated as this amendment was adopted and implemented by emergency procedure, published on June 29, 1988, as **ARC 8898**.

Family Size	Poverty Guideline	150 Percent Guideline
1	\$ 481	\$ 721
2	644	966
3	807	1211
4	971	1456
5	1134	1701
6	1297	1946
7	1461	2191
8	1624	2436

The maximum payment rate for intermediate care facilities is changed from the sixty-fourth percentile of all facility per diems as calculated from the June 30, 1988, data (\$35.23) to the seventy-fourth percentile of all facility per diems as calculated from the June 30, 1988, data (\$36.81).

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 14, 1988.

These rules are intended to implement Iowa Code section 249A.4 and 1988 Iowa Acts, House File 2447, section 3.

The following amendments are proposed:

ITEM 1. Amend rule 441—75.1(249A) by adding the following new subrule:

**75.1(28)** Pregnant women, infants and children. Medicaid shall be available to all pregnant women, infants (under one year of age) and children up to the age of two if the following criteria are met:

a. Income shall not exceed 150 percent of the federal nonfarm poverty level for pregnant women and infants. Income shall not exceed 100 percent of the federal nonfarm poverty level for children. Income for pregnant women, infants and children shall be considered according to aid to families with dependent children (ADC) program methodologies.

b. Resources shall not exceed \$5000 for a one-member household and \$7500 for a household of two or more persons. Pregnant women shall have resources considered according to supplemental security income (SSI) program methodologies. Infants and children shall have resources considered according to ADC program methodologies. Where the resource is jointly owned by SSI-related persons and ADC-related persons, the resource shall be treated according to SSI policies for the SSI-related persons and according to ADC policies for the ADC-related persons.

c. The pregnancy shall be verified, in writing, by a medical professional who is authorized under state law to make such determinations. 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 provider shall be authorized to make the examination and submit the claim for payment.

d. Eligibility for pregnant women under this rule shall begin no earlier than the first day of the month in which conception occurred and in accordance with rule 441—76.5(249A).

e. The unborn child (children if more than one fetus exists) shall be considered when determining the number of persons in the household.

**ARC 9102**  
**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.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," and Chapter 81, "Intermediate Care Facilities," appearing in the Iowa Administrative Code.

These amendments provide for a new Medicaid coverage group for certain pregnant women and infants and children up to the age of two and increase the maximum medical assistance rate for intermediate care facilities as mandated by the General Assembly.

Pregnant women and infants (under one year of age) whose income does not exceed 150 percent of the federal nonfarm poverty level and children up to the age of two whose income does not exceed 100 percent of the federal nonfarm poverty level and whose resources do not exceed \$5000 for a one-person household and \$7500 for a family of two or more will be eligible for Medicaid coverage. Phased-in coverage for children up to the age of five shall be continued through January 1, 1992.

The current federal nonfarm poverty levels are as follows: These guidelines are revised each year in February.

## HUMAN SERVICES DEPARTMENT[441] (cont'd)

f. An infant shall be eligible through the month of the first birthday unless the birthday falls on the first day of the month. A child shall be eligible through the month of the second birthday unless the birthday falls on the first day of the month.

g. Persons eligible under this rule shall not be required to participate in the work incentive program.

h. Eligibility under this rule is not dependent upon the deprivation of a child.

i. Persons eligible under this rule are not eligible for extended Medicaid as provided in subrules 75.1(11) and 75.1(19).

ITEM 2. Amend subrule 81.6(16), paragraph "e," as follows:

e. Beginning ~~July 1, 1988~~ *January 1, 1989*, the basis for establishing the maximum reimbursement rate for intermediate care facilities shall be the ~~sixty-fourth~~ *seventy-fourth* percentile of participating facilities' per diem rates as calculated from the June 30, 1988, report of "unaudited compilation of various costs and statistical data."

**ARC 9103****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.4, the Department of Human Services proposes to amend Chapter 86, "Medically Needy," appearing in the Iowa Administrative Code.

These amendments provide for three changes in the Medically Needy program mandated by the General Assembly:

1. The certification period is increased from two months to six months for those persons without a spenddown requirement. This change will mean that those persons affected will no longer have to complete a new application every two months.

2. At the current time the bills of caretaker relatives of children in families (parents, grandparents, aunts, uncles, etc.) may be applied to the spenddown amount, but their medical expenses are not covered by the Medically Needy program. This change will provide Medicaid coverage through the Medically Needy program to caretaker relatives.

3. The resource limitations for the Medically Needy program are increased for single persons from \$1,900 to \$5,000 and for a household of two or more persons from \$2,850 to \$7,500. These resource limitations will correspond to the resource limitations of the new Medicaid coverage group for pregnant women and infants whose income does not exceed 150 percent of the federal poverty level and children whose income does not exceed 100 percent of the federal poverty level.

The Department has received notification from the Department of Health and Human Services that medical expenses paid by a public agency, other than Medicaid, shall be considered towards spenddown. These amendments also implement that change which was mandated by section 4118 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

The Department has chosen to establish a time limit for the consideration of the expenses paid by a public agency. They must be paid within the certification period. This limit is consistent with the treatment of client payments and the effect is that medical bills that are paid in full prior to the certification period either by the client or by a third party are not allowed as a medical deduction because they no longer represent an obligation. This change, however, may have an adverse effect upon persons who have medical expenses paid by Hill-Burton funds. There are currently no time limits on applying medical expenses paid by Hill-Burton towards spenddown.

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 14, 1988.

These rules are intended to implement Iowa Code section 249A.4 and 1988 Iowa Acts, House File 2447, section 3.

The following amendments are proposed:

ITEM 1. Amend rule 441—86.1(249A), definition of "certification period," as follows:

"Certification period" shall mean the period of time *not to exceed six consecutive months in which a person is eligible without a spenddown obligation, or not to exceed two (2) consecutive months in which an individual a person is eligible or conditionally eligible for Medicaid as medically needy.*

ITEM 2. Amend rule 441—86.8(249A) by adding the following new subrule:

**86.8(5)** Caretaker relatives. Medicaid shall be available to caretaker relatives who would be eligible for ADC except for income and resources. A caretaker relative is a person who would be eligible for ADC as a specified relative as defined in subrule 41.2(3), except for income or resources.

ITEM 3. Amend subrules 86.10(1) and 86.10(2) as follows:

**86.10(1)** The resource limitation for a household that contains a single individual shall be ~~\$1,900~~ *\$5000*.

**86.10(2)** The resource limitation for a household of two or more persons shall be ~~\$2,850~~ *\$7500*.

ITEM 4. Amend rule 441—86.14(249A) as follows:

Amend subrule 86.14(2), introductory paragraph, as follows:

**86.14(2)** Incurred medical expenses ~~which are not subject to payment by a third party, including those reimbursed by a state public program or political subdivision thereof, but excluding those otherwise subject to payment by a third party,~~ shall be deducted in the following order:

Further amend rule 441—86.14(249A) by adding the following new subrule:

**86.14(5)** Medical expenses reimbursed by a public program other than Medicaid prior to the certification period shall not be considered a medical deduction.

**ARC 9117****ARC 9121****INSPECTIONS AND APPEALS  
DEPARTMENT[481]****INSPECTIONS AND APPEALS  
DEPARTMENT[481]****Notice of Intended Action****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".

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.

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 10A.104(5) and 135C.14, the Department of Inspections and Appeals gives Notice of Intended Action to amend Chapter 57, "Residential Care Facilities," Chapter 62, "Residential Care Facilities for Persons with Mental Illness," and Chapter 63, "Residential Care Facilities for the Mentally Retarded," Iowa Administrative Code.

The amendment proposes to rescind paragraphs 57.19(3)"c," 62.15(2)"d," and 63.19(3)"c" governing the administration of insulin and to adopt in lieu thereof a clarified paragraph.

The proposed change stipulates that when a physician gives written certification, a resident may self-administer insulin.

Written comment will be considered by the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, if it is received by September 13, 1988.

These rules are intended to implement Iowa Code section 135C.14.

The following amendments are proposed:

**ITEM 1.** Adopt the following definitions to appear alphabetically in rules 57.1(135C), 62.1(135C), and 63.1(135C):

"Licensed nurse" means a person who holds a current Iowa license as a registered nurse or a license as a practical nurse. The license shall be issued by the Iowa board of nursing.

"Prescriber" means a person authorized by law to prescribe medication.

**ITEM 2.** Rescind paragraphs 57.19(3)"c," 62.15(3)"d," and 63.19(3)"c" and insert in lieu thereof the following new paragraph:

Injectable medications shall not be administered by anyone other than a prescriber or licensed nurse except when a resident has been certified by a physician as capable of self-administering insulin. When a resident has been certified as capable of self-administering insulin, the resident may prepare and inject the insulin.

These rules are intended to implement Iowa Code section 135C.14.

Pursuant to the authority of Iowa Code sections 10A.104 and 135C.14, the Iowa Department of Inspections and Appeals gives Notice of Intended Action to amend Chapter 57, "Residential Care Facilities"; Chapter 58, "Intermediate Care Facilities"; Chapter 59, "Skilled Nursing Facilities"; Chapter 62, "Residential Care Facilities for Persons with Mental Illness"; Chapter 63, "Residential Care Facilities for the Mentally Retarded"; and Chapter 64, "Intermediate Care Facilities for the Mentally Retarded," Iowa Administrative Code.

Proposed rules set standards for infection control in Iowa health care facilities. These proposed rules are intended to protect residents, staff, and visitors from communicable diseases. The Center for Disease Control has established workable techniques for controlling infection in care facilities, and Iowa facilities are expected to be consistent with Center for Disease Control Standards.

The proposed rules require use of disposable items with exceptions cited.

Requirements for health maintenance physical examinations for staff are updated.

There are conditions which preclude providing service in a care facility. People who may transmit a disease which can harm others through normal working contact may not work in a facility while they are ill. Guidelines of the Center for Disease Control are used to assess specific situations.

The proposed rules provide for an infection control committee. In each facility this committee will help maintain control by reviewing policies annually and suggesting revisions.

Written comment will be considered by the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, if it is received by September 13, 1988.

Oral comment may be made at a public hearing on September 15, 1988, at 2 p.m., in Hearing Room A, on the second floor of the Lucas State Office Building, Des Moines, Iowa.

These rules are intended to implement Iowa Code sections 135C.14(3), 135C.14(5), and 135C.14(8).

**ITEM 1.** Rescind subrules 57.11(3), 58.10(3), 59.10(3), 62.9(2), 63.9(3), and 64.13(5) and insert the following in lieu thereof:

There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

- a. Employees shall have a physical examination and tuberculin test before employment,
- b. Employees shall have a physical examination at least every four years.

## INSPECTIONS AND APPEALS DEPARTMENT[481] (cont'd)

ITEM 2. Rescind subrules **58.38(3)**, **59.43(3)**, and **64.26(8)**, paragraph "d," and insert the following in lieu thereof:

There shall be disposable or one-time use items available with provisions for proper disposal to prevent reuse except as allowed by subrule 58.10(8)"h," 59.12(10)"h," or 64.12(14)"h."

ITEM 3. Rescind subrules **57.12(3)**, paragraphs "c" and "d," **58.11(1)**, paragraphs "c" and "d," **59.13(1)**, paragraphs "c" and "d," **63.11(1)**, paragraphs "c" and "d," and insert the following in lieu thereof:

c. No person shall be allowed to provide services in a facility if the person has a disease:

(1) Which is transmissible through required workplace contact,

(2) Which presents a significant risk of infecting others,

(3) Which presents a substantial possibility of harming others, and

(4) For which no reasonable accommodation can eliminate the risk.

Refer to 1983 CDC Guidelines PN85-923401-LL to determine 1, 2, and 3 above.

d. Reserved.

ITEM 4. Rescind subrule **64.13(12)** and insert the following in lieu thereof and also as subrule **62.9(2)"c."**

No person shall be allowed to provide services in a facility if the person has a disease:

(1) Which is transmissible through required workplace contact,

(2) Which presents a significant risk of infecting others,

(3) Which presents a substantial possibility of harming others, and

(4) For which no reasonable accommodation can eliminate the risk.

Refer to 1983 CDC Guidelines PN85-923401-LL to determine 1, 2, and 3 above.

ITEM 5. Delete the word "transportation" in subrules **57.11(10)**, **58.10(10)**, **59.12(10)**, and **64.12(13)** and insert "transmission" in lieu thereof.

ITEM 6. Renumber subrule **63.9(10)** as **63.9(12)** and insert the word "transmission" in lieu of the word "transportation."

ITEM 7. Rescind subrules **57.11(5)**, **58.10(5)**, **63.9(5)**, and **64.13(16)**.

ITEM 8. Rescind subrule **58.10(8)** and insert the following in lieu thereof and also as new subrules **59.12(11)** and **64.12(14)**:

Infection control program. Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with 1985 Center for Disease Control (CDC) Guidelines;

b. Techniques for handling of blood, body fluids, and body wastes consistent with 1987 C.D.C. Guidelines;

c. Decubitus care;

d. Infection identification;

e. Resident care procedures consistent with 1987 C.D.C. Guidelines to be used when there is an infection present;

f. Sanitation techniques for resident care equipment;

g. Techniques for sanitary use and reuse of enteral feeding bags, feeding syringes and urine collection bags;

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with 1987 C.D.C.

Guidelines and 567—100.3(2) and 102.14(455B), Iowa Administrative Code.

i. Aseptic techniques when using:

(1) Intravenous or central line catheter,

(2) Urinary catheter,

(3) Respiratory suction, oxygen or humidification,

(4) Dressings, soaks, or packs,

(5) Tracheostomy,

(6) Nasogastric or gastrostomy tubes.

C.D.C. Guidelines may be obtained at cost from the Department of Inspections and Appeals, Health Facilities Division, Lucas State Office Building, Des Moines, Iowa 50319, (515) 281-4081.

ITEM 9. Rescind subrule **62.19(4)** and insert the following in lieu thereof and also as new subrules **57.11(11)** and **63.9(10)**.

Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with 1985 Center for Disease Control (CDC) Guidelines;

b. Techniques for handling of blood, body fluids, and body wastes consistent with 1987 C.D.C. Guidelines;

c. Decubitus care;

d. Infection identification;

e. Resident care procedures consistent with 1987 C.D.C. Guidelines to be used when there is an infection present;

f. Sanitation techniques for resident care equipment;

g. Techniques for sanitary use and reuse of enteral feeding bags, feeding syringes and urine collection bags;

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with 1987 C.D.C. Guidelines.

ITEM 10. Add new subrules **57.11(12)**, **62.19(5)**, and **63.9(11)** as follows:

Aseptic techniques. If a resident needs any of the treatments or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

1. Intravenous or central line catheter,

2. Urinary catheter,

3. Respiratory suction, oxygen or humidification,

4. Dressings, soaks, or packs,

5. Tracheostomy,

6. Nasogastric or gastrostomy tubes.

ITEM 11. Amend rule 58.10(135C) by adding the following as subrule **58.10(9)** and renumbering subsequent subrules and also add a new subrule **64.18(4)**.

Infection control committee. Each facility shall establish an infection control committee of representative professional staff responsible for overall infection control in the facility. (III)

a. The committee shall annually review and revise the infection control policies and procedures to monitor effectiveness and suggest improvement. (III)

b. The committee shall meet at least quarterly, submit reports to the administrator, and maintain minutes in sufficient detail to document its proceedings and actions. (III)

c. The committee shall monitor the health aspect and the environment of the facility. (III)

These rules are intended to implement Iowa Code sections 135C.14(3), 135C.14(5), and 135C.14(8).

**ARC 9119**  
**INSPECTIONS AND APPEALS**  
**DEPARTMENT[481]**

**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 10A.104(5) and 135C.14, the Iowa Department of Inspections and Appeals gives Notice of Intended Action to amend Chapter 58, "Intermediate Care Facilities"; Chapter 59, "Skilled Nursing Facilities"; and Chapter 64, "Intermediate Care Facilities for the Mentally Retarded," Iowa Administrative Code.

The proposed subrules resolve a conflict between state and federal law and clearly divide responsibility for care of people who are involved in a Medicare hospice program and live in an intermediate care or skilled nursing facility.

Written comment will be considered by the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, if it is received by September 13, 1988.

The proposed subrules are intended to implement 1988 Iowa Acts, Senate File 2159.

The following amendments are proposed:

ITEM 1. Amend subrule 58.14(1) as follows:

**58.14(1)** Each resident in an intermediate care facility shall ~~designate~~ ~~have a designated~~ licensed physician; who may be called when needed. *Professional management of a resident's care shall be the responsibility of the hospice program when:*

- a. *The resident is terminally ill, and*
- b. *The resident has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, and*
- c. *The facility and the hospice program have entered into a written agreement under which the hospice program takes full responsibility for the professional management of hospice care.*

ITEM 2. Amend rule 481—59.17(135C) by adding the following new subrule:

**59.17(8)** Each resident in an intermediate care facility shall designate a licensed physician who may be called when needed. Professional management of a resident's care shall be the responsibility of the hospice program when:

- a. The resident is terminally ill, and
- b. The resident has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, and
- c. The facility and the hospice program have entered into a written agreement under which the hospice program takes full responsibility for the professional management of hospice care.

ITEM 3. Amend rule 481—64.19(135C) by adding the following new subrule:

**64.19(9)** Each resident in an intermediate care facility shall designate a licensed physician who may be called when needed. Professional management of a resident's

care shall be the responsibility of the hospice program when:

- a. The resident is terminally ill, and
- b. The resident has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, and
- c. The facility and the hospice program have entered into a written agreement under which the hospice program takes full responsibility for the professional management of hospice care.

These rules are intended to implement 1988 Iowa Acts, Senate File 2159.

**ARC 9120**

**INSPECTIONS AND APPEALS**  
**DEPARTMENT[481]**

**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 10A.104(5) and 135C.14, the Iowa Department of Inspections and Appeals gives Notice of Intended Action to amend Chapter 58, "Intermediate Care Facilities," Iowa Administrative Code, by adding standards for licensing special units for people with Alzheimer's disease or related disorders.

These standards will apply only when a facility requests that an Alzheimer's Disease and Related Disorders unit be licensed. A facility need not license a separate unit in order to care for people afflicted with Alzheimer's or related disorders. However, facilities which advertise a licensed unit must meet the proposed new standards.

The purpose of the proposed rule is to assure that personnel in a special unit are educated and that appropriate special programming is provided. The proposed rule takes into consideration the need for increased security to ensure safety for residents.

Written comment will be considered by the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, if it is received by September 13, 1988.

Oral comment may be made at a public hearing on September 15, 1988, at 2 p.m., in Hearing Room A, on the second floor of the Lucas State Office Building, Des Moines, Iowa.

The proposed rule is intended to implement Iowa Code section 135C.14(8).

The following new rule is proposed:

**481—58.54(135C) Alzheimer's disease and related disorders.**

**58.54(1)** An intermediate care facility which chooses to care for residents in a distinct part may request a license for an Alzheimer's disease and related disorders unit. This license will be in addition to its ICF license. The license shall state the number of beds in the unit.

## INSPECTIONS AND APPEALS DEPARTMENT[481] (cont'd)

a. Application for this category of care shall be submitted on a form provided by the department.

b. Plans to modify the physical environment shall be submitted to the department. The plans shall be reviewed based on requirements of 481—Chapter 61.

**58.54(2)** A statement of philosophy shall be developed for each unit which states the beliefs upon which decisions will be made regarding a licensed unit. Objectives shall be developed for each unit as a whole. The objectives shall be stated in terms of expected results.

**58.54(3)** A program of care shall be submitted to the department for approval 60 days before a separate Alzheimer's disease and related disorders (ARD) unit is opened in a long-term care facility. A new program of care shall be submitted when services are substantially changed.

The program of care shall:

- a. Describe the population to be served,
- b. State philosophy and objectives,
- c. List admission and discharge criteria,
- d. Include a copy of the floor plan,
- e. List the titles of policies and procedures developed for the unit,
- f. Propose a staffing pattern,
- g. Set out a plan for specialized staff training,
- h. State visitor, volunteer, and safety policies,
- i. Describe programs for activities, social services and families, and
- j. Describe the interdisciplinary care planning team.

**58.54(4)** The policies and procedures for the facility shall be followed except as defined in separate written policies and procedures which shall be implemented in each ARD unit. There shall be:

a. Admission and discharge policies and procedures which state the criteria to be used to admit residents and the evaluation process which will be used. These policies shall require a statement from the attending physician agreeing to the placement before a resident can be moved into a unit.

b. Safety policies and procedures which state the actions to be taken by staff in the event of a fire, natural disaster, emergency medical or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit and when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit. The facility shall identify its method for security of the unit and the manner in which the effectiveness of the security system will be monitored.

c. Program and service policies and procedures which explain programs and services offered in the unit including the rationale.

d. Policies and procedures concerning staff which state minimum numbers, types, and qualifications of staff in the unit.

e. Policies about visiting which suggest times and assure the residents' rights to free access to visitors.

f. Quality assurance policies and procedures which list the process and criteria which will be used to monitor and to respond to risks specific to the residents. This shall include but not be limited to drug use, restraint use, infections, incidents, and acute behavioral events.

**58.54(5)** Preadmission assessment of physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by a registered nurse and a staff social worker or social work

consultant and shall become part of the permanent record upon admission of the resident.

**58.54(6)** All staff working in an Alzheimer's disease and related disorders unit shall have training appropriate to the needs of the people who will live there.

a. Everyone working in this unit shall be oriented to the needs of people with Alzheimer's disease and related disorders upon assignment to the unit. They shall have special training appropriate to their job description within 30 days of assignment to the unit. The orientation shall be at least six hours. The following topics shall be covered:

1. Explanation of the disease or related disorder,
2. Symptoms and behaviors of memory-impaired people,
3. Progression of the disease,
4. Communication with ARD unit residents,
5. Adjustment to care facility residency by the ARD unit residents, victims and their families,
6. Inappropriate and problem behavior of ARD unit residents and how to deal with them,
7. Activities of daily living for ARD residents,
8. Handling combative behavior, and
9. Stress reduction for staff and residents.

b. Licensed nurses, certified aides, certified medication aides, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually. This training shall be related to the needs of ARD residents. The six-hour training shall count toward the required annual in-service training.

**58.54(7)** The ratio of staff to residents shall be two hours' nursing staff per resident per day computed on a seven-day week. The staff on this unit shall be counted separately. There shall be at least one nursing staff person on the unit at all times.

**58.54(8)** The Alzheimer's disease and related disorders unit license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50, Iowa Administrative Code.

**ARC 9118**

**INSPECTIONS AND APPEALS  
DEPARTMENT[481]**

**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 10A.104(5) and 135C.14, the Department of Inspections and Appeals gives Notice of Intended Action to amend Chapter 63, "Residential Care Facilities for the Mentally Retarded," Iowa Administrative Code.

The proposed amendments expand the population eligible for the demonstration waiver project to include people aged 60 and older.

## INSPECTIONS AND APPEALS DEPARTMENT[481] (cont'd)

Written comment will be considered by the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, if it is received by September 13, 1988.

These proposed amendments are intended to implement 1988 Iowa Acts, House File 2466.

The following amendments are proposed:

ITEM 1. Amend rule 481—63.47(135C), introductory paragraph, first sentence, as follows:

**481—63.47(135C) Demonstration waiver project.** The demonstration waiver project is for residential care facilities which serve persons with mental retardation, chronic mental illness, and other developmental disabilities or who are aged 60 or over, having five (5) or fewer residents for persons as specified in Iowa Code section 225C.26.

ITEM 2. Amend subrule 63.47(1), paragraph "f," as follows:

f. Unless documented as appropriate within the residents' individual program plans, the two (2) populations with primary diagnosis of chronic mental illness or mental retardation/developmental disability or people aged 60 and over may not be residents of the same demonstration waiver facility.

These rules are intended to implement 1988 Iowa Acts, House File 2466.

## ARC 9128

### JOB SERVICE DIVISION [345]

#### 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 96.11, the Commissioner of the Division of Job Service hereby gives Notice of Intended Action to amend Chapter 3, "Employer's Contribution and Charges," Chapter 4, "Claims and Benefits," Chapter 5, "Benefit Payment Control," Chapter 7, "Placement," Chapter 8, "Public Records and Fair Information Practices," and Chapter 10, "Forms," Iowa Administrative Code.

Subrules 3.13(5), paragraph "a," 3.14(1), 3.31(1), paragraph "b," and 3.39(1) are amended to replace former Iowa Employment Security Commission and the state of Iowa form numbers with the current form numbers from the Department of Employment Services form numbering and forms control system.

Subrule 3.43(4) is amended as it deals with the charging of benefits when an individual becomes unemployed from the individual's regular employer while continuing to work for the individual's part-time, base period employer; when an individual voluntarily quits without good cause part-time, base period employment and subsequently becomes unemployed from the individual's regular employer before the individual requalifies by earning ten times the individ-

ual's weekly benefit amount; and when an individual voluntarily quits without good cause part-time employment which commences subsequent to the individual's base period of the individual's current claim for benefits.

Subrule 3.43(8) is amended as back pay awards can be used as requalification wages in cases involving voluntary quit, misconduct, job refusal and second benefit year requalification issues.

Rule 3.65(96) is amended to consolidate all provisions regarding liens into one rule.

Rule 3.68(96) is rescinded and consolidated into rule 3.65(96) regarding liens.

Rule 3.69(96) is rescinded and consolidated into rule 3.65(96) regarding liens and a new rule 3.69(96) is added as the division may apply to District Court to obtain an injunction to enjoin the continuance of the employing unit until the delinquent contributions are paid, or other satisfactory arrangements are made.

Subrule 4.2(1), paragraph "e," is amended to specifically describe the method by which an individual must biweekly report to the division for the purposes of receiving the individual's payment of benefits.

Subrule 4.2(3) is amended to include the Employment Training Administration of the U. S. Department of Labor form number along with the Department of Employment Services form number.

Subrule 4.6(8) is amended with the form number of the form received by the public with the number of the forms' work sheet which is not received by the public. The sentence construction is corrected by providing the subject and the action of the initial intent.

Subrule 4.10(1) is amended to replace former Iowa Employment Security Commission and the state of Iowa form numbers with the current form numbers from the Department of Employment Services form numbering and forms control system.

Subrules 4.11(2), 4.11(3), 4.11(4), 4.11(5), and 4.11(6) are amended to include both the Department of Employment Services and the Employment Training Administration of the U. S. Department of Labor form numbers on interstate claims. Iowa claimants are given specific instruction on the return of the eligibility review form.

Subrule 4.11(8) is amended to consolidate form numbers for more information and functions. Also the job service office designation has replaced the former area claims office title.

Subrule 4.11(10) is amended to substitute form numbers and the job service office designation has replaced the former area claims office title.

Subrule 4.17(1) is amended to show the form numbers now used in the various claim programs to notify the employer of claims filing and to obtain vacation pay, holiday pay and other separation information for appropriate action.

Rule 4.22(96) is rescinded and rewritten in its entirety to provide that an individual is eligible for benefits when the division of job service finds that the individual is able to work, available for work, and earnestly and actively seeking work.

Rule 4.24(96) and subrule 4.24(2) are amended because back pay awards can be used as requalification wages in cases involving voluntary quit, misconduct, job refusal and second benefit year requalification issues.

Subrule 4.26(15) is rescinded as it is merged with similar content in rule 4.27(96) which deals with

## JOB SERVICE DIVISION[345] (cont'd)

processing of a claim for benefits when an individual voluntarily quits without good cause a part-time, base period employer and then becomes unemployed with the individual's regular employer before the individual requalifies by earning ten times the individual's weekly benefit amount following the voluntary quit of the part-time, base period employer.

Rule 4.27(96) is amended as this rule deals with the situation in which an individual voluntarily quits without good cause the individual's part-time, base period employment and subsequently becomes unemployed with the individual's regular employer before the individual can requalify by earning ten times the individual's weekly benefit amount. This rule also deals with the situation in which the individual voluntarily quits without good cause part-time employment which commences following the base period of the individual's current claim for benefits.

Subrules 4.28(1) and 4.28(2) are amended as back pay awards can be used as requalification wages in cases involving voluntary quit, misconduct, job refusal and second benefit year requalification issues.

New rule 4.29(96) is added to clarify that an individual may only have the duration of benefits redetermined due a business closing if the business closes during the current benefit year of the individual. This rule also affirms that a business is not to be considered closed for the purposes of this rule when the employer sells or otherwise transfers the business to a succeeding employer who continues to operate the business. This rule also prescribes a procedure to more conclusively verify a business closing.

Rule 4.31(96) is amended as back pay awards can be used as requalification wages in cases involving voluntary quit, misconduct, job refusal and second benefit year requalification issues.

Subrule 4.32(1), paragraph "b," is amended as back pay awards can be used as requalification wages in cases involving voluntary quit, misconduct, job refusal and second benefit year requalification issues.

Subrule 5.8(1) is amended because the United States Department of Labor procedures allow an offset against state unemployment insurance benefits to recover any form of federally funded unemployment compensation overpaid to a claimant within three years after the instance of the overpayment. An administrative record of the overpayment will be maintained for an additional three years, at which time the overpayment record will be disposed of.

Subrule 5.13(2) is amended to replace former Iowa Employment Security Commission and the state of Iowa form numbers with the current form numbers from the Department of Employment Services form numbering and forms control system.

Subrule 7.2(8) is amended to replace former Iowa Employment Security Commission and the state of Iowa form numbers with the current form numbers from the Department of Employment Services form numbering and forms control system.

Subrules 7.2(10) and 7.2(11) are amended to include the Employment Training Administration of the U. S. Department of Labor form number along with the Department of Employment Services form number.

Subrule 7.3(1) is amended to replace form number with correct form number.

Subrules 7.3(4) and 7.3(5) are amended to change the prefixes of the form numbers from MA to ETA prefix

and without a hyphen in the numeric part of the forms identification.

Subrule 7.4(4) is amended to replace former Iowa Employment Security Commission and the state of Iowa form numbers with the current form numbers from the Department of Employment Services form numbering and forms control system.

Subrule 7.4(5) is rescinded in its entirety as this procedure is no longer used.

Subrule 7.4(10) is amended to replace form number with correct form number.

Subrule 7.5(4) is amended to replace former Iowa Employment Security Commission and the state of Iowa form numbers with the current form numbers from the Department of Employment Services form numbering and forms control system.

Subrules 7.7(1) and 7.7(2) are amended to replace former Iowa Employment Security Commission and the state of Iowa form numbers with the current form numbers from the Department of Employment Services form numbering and forms control system.

New subrule 8.9(2), paragraph "g," is added to allow the Citizens' Aide to examine any and all records and documents of the Job Service Division without the consent of the subject of the record or document.

Rescind subrule 8.10(2), paragraph "d," subparagraph (9), as this subparagraph would no longer allow the release of confidential information supplied to the Job Service Division to a designated representative of a business of labor organization having more than 100 members.

Chapter 10 is rescinded in its entirety and new Chapter 10 inserted in lieu thereof with one primary numerical sequence on forms and one on informational materials replacing the former 16 or more subgroups with numerical sequencing within each of those units. The form numbers reflect the current Department of Employment Services form numbering system. Also includes a cross-reference to the U. S. Department of Labor form number along with the Department of Employment Services form number.

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m., September 14, 1988, to Paul H. Moran, Department of Employment Services, Division of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., September 14, 1988, at the above address. The proposed amendments are subject to revision after the Department considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. Moran at 515/281-4986 or at the above address.

These rules are intended to implement Iowa Code sections 96.3(1), 96.3(5), 96.3(7), 96.4(1), 96.4(3), 96.4(4), 96.5(1), 96.5(1)"g," 96.5(2), 96.5(3), 96.6(1), 96.11(1), 96.14(3), 96.14(6), 96.14(16), and 96.7 and 96.7(3)"b" as amended by the 1987 Iowa Acts, Senate File 507, section 4, 601G.9(3) as amended by the 1988 Iowa Acts, House File 2406 and 96.11(7) as amended by the 1988 Iowa Acts, Senate File 2060, section 4.

The amendments are as follows:

ITEM 1. Amend subrule 3.13(5), paragraph "a," by striking "309—1042" and inserting "68—0601".

ITEM 2. Amend subrule 3.14(1) by striking "309—1035" and inserting "68—0598".

## JOB SERVICE DIVISION[345] (cont'd)

ITEM 3. Amend subrule 3.31(1), paragraph "b," subparagraphs (1) and (5) by striking "309—1025" and inserting "68—0068".

ITEM 4. Amend subrule 3.39(1) by striking "309—1059" where it appears twice and inserting "68—0602".

ITEM 5. Amend subrule 3.43(4) as follows:

**3.43(4) Supplemental employment.**

a. An eligible claimant individual, who has been separated from a with cause attributable to the regular employer and who remains in the employ of the claimant's supplemental individual's part-time, base period employer will continue, continues to be eligible for payments benefits as long as the claimant individual is receiving the same employment from the part-time employer that the claimant individual received during the base period. The supplemental part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges for benefits paid. On a second benefit year claim where the claimant has continued to individual work worked only for supplemental employment only the part-time employer during the base period and the lag quarter, supplemental employment the part-time employer shall not be an issue considered for relief of benefit charges with the onset of the second benefit year. It is the supplemental part-time employer's responsibility to notify the division of the supplemental part-time employment situation so the division may render a decision as to the availability of the individual and benefit charges. The claimant individual is required to report gross wages earned from in the supplemental part-time employment for each week claimed and the wages shall be deducted from the benefit payment any benefits paid in accordance with Iowa Code section 96.3(3).

b. A claimant An individual who voluntarily quits without good cause supplemental part-time, base period employment while remaining in a regular job employment and is subsequently laid off from the regular job employment before meeting the requalification provisions of section 96.5(1), will shall not have the wages earned from in the supplemental part-time employment used for benefit payment or charging purposes. Once the wages paid by the part-time employer are removed, benefits may be paid which are based on the remaining wages paid by the regular or other base period employers. Payment will be made if the claimant individual is otherwise eligible after the removal of the supplemental wage credits. The supplemental part-time employer will shall be notified that the payment will not be made on such earnings benefits shall neither be paid nor will charges be assessed to charged against the supplemental part-time employer's account. (See subrule 4.26(15).) Once the individual meets the requalification requirements following the voluntary quit without good cause of the part-time employment, the part-time employer shall be notified on the Form 65-5323 or 60-0186, decision of the job service representative, that the wages paid in the part-time employment shall be restored for benefit payment and charging purposes as determined by applicable requalification requirements.

Further amend 3.43(4) by rescinding paragraph "c" and inserting in lieu thereof:

c. An individual who voluntarily quits without good cause part-time employment, which commenced subsequent to the base period of the individual's current claim for benefits, and who is otherwise eligible for benefits based

on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting without good cause the part-time employer. However, the part-time employer which was voluntarily quit without good cause shall be notified on the Form 65-5323 and 60-0186, decision of the job service representative, that benefit payments shall not be made which are based on the wages paid by the part-time employer since the part-time employer is not a base period employer, and benefit charges shall not be assessed against the part-time employer's account. Once the individual meets the requalification requirements following the voluntary quit without good cause of the part-time employer, the part-time employer shall be notified on the Form 65-5323 or 60-0186, decision of the job service representative, that once the wages paid in the part-time employment become base period wages, then they shall be restored for benefit payment and charging purposes as determined by applicable requalification requirements.

ITEM 6. Amend subrule 3.43(8), paragraphs "a" and "b," as follows:

**3.43(8) Ten (10) times the weekly benefit amount in insured work requalification.**

a. In order to meet the ten (10) times the weekly benefit amount in insured work requalification provision, the following criteria must be met:

Subsequent to leaving, the individual shall have worked in (except in back pay awards) and been paid wages for equal to ten (10) times the claimant's weekly benefit amount.

b. An employer's account shall not be charged with benefit payments to an eligible claimant who quit such employment but shall be charged to the account of the next succeeding covered employer with whom the individual worked in (except in back pay awards) and received wages in insured employment equal to ten (10) times the claimant's weekly benefit amount.

ITEM 7. Amend rule 3.65(96) by adding the following new subrules:

**3.65(5) Liens against out-of-state employers and resident employers who remove themselves from the state of Iowa may be obtained in accordance with section 96.14(6).**

**3.65(6) The division may, at its discretion and in accordance with Iowa Code section 96.14(3) make an assessment and file a lien in the recorder's office in the county or state where the employer resides. Such liens shall be recorded in accordance with the law governing such liens in the state where filed and the costs thereof shall be borne by the employer.**

**3.65(7) No employment security lien(s) shall be released without payment of the contributions and costs secured thereby except as follows:**

a. It is shown to the division's satisfaction that the lien(s) was filed in error. If this is shown, such lien shall be at the expense of the division.

b. Release of said lien(s) is ordered by a judge having jurisdiction over same.

c. A release is necessary to facilitate payment to the division from proceeds of sale in an equity action.

d. A foreclosure action has been initiated by a secured creditor and it is demonstrated to the division's satisfaction all of the following:

(1) The lien of the secured creditor is properly perfected and is senior to the employment security lien.

## JOB SERVICE DIVISION[345] (cont'd)

(2) The property, both real and personal, does not exceed in value the amount of the secured lien on which the foreclosure is taken.

**3.65(8)** In such cases, the division may release its lien(s) but such release shall be only in respect to the property foreclosed upon by the secured creditor.

**3.65(9)** Interest and penalty secured by a lien may be compromised by the division at its discretion.

**3.65(10)** Upon payment of contributions, interest, penalty, and costs, the division shall execute a Form 68-0199, satisfaction of lien, by filing same with the recorder's office for the county where the lien was filed. A copy of this satisfaction shall be mailed to the employer.

ITEM 8. Rescind rule **3.68(96)** in its entirety.

ITEM 9. Rescind rule **3.69(96)** in its entirety and insert in lieu thereof the following:

**345—3.69(96) Injunction for nonpayment or failure to report.**

**3.69(1)** In addition or as an alternative to any other remedy provided in Iowa Code chapter 96 and this rule, the division may proceed to enjoin an employer who has refused or failed to pay any contributions, interest, or penalty or who has failed to file any reports required by the division.

**3.69(2)** Discretion as to whether or not to seek an injunction rests with the division.

**3.69(3)** When the division determines that an injunction should be obtained, the division will send by certified mail or by personal service to the employer at the last known address for the employer a notice which shall provide the following information:

a. That the division plans to seek an injunction against the employer.

b. The period(s) for which there are delinquent contributions, interest, and penalty due or for which returns have not been filed.

c. The amount of indebtedness.

d. That the injunction will enjoin the employer from operating any businesses in the state of Iowa until one of the following conditions is met:

(1) The entire indebtedness is paid.

(2) The employer files a full and sufficient bond.

(3) The employer has entered into a court-approved plan providing for payment of the indebtedness.

e. That the employer has ten (10) days in which to respond to the division.

**3.69(4)** Upon expiration of the ten (10) days following the notice, if the employer has not responded satisfactorily, the division shall file with the district court for the county in which the employer resides a petition requesting a hearing and an order granting the injunction.

**3.69(5)** Upon the issuance of a court order granting the injunction, the division shall proceed to periodically check to ensure that the employer is complying with the injunction order. Should the division find that the employer is not in compliance, it will ask the court for a finding of contempt and will ask the court to impose appropriate punishment.

**3.69(6)** Upon payment in full of the delinquent contributions, interest, and penalty, and the filing of all delinquent reports, the division shall have the injunction dissolved.

**3.69(7)** If the employer, as the result of a court-approved payment plan, is relieved by the court of the injunction and the employer fails to perform strictly as

set out in the plan, the division may, at its discretion, ask the court to reinstate the injunction upon notice and hearing.

**3.69(8)** Any costs of the actions herein described shall be borne by the employer.

ITEM 10. Amend subrule **4.2(1)**, paragraph "e," as follows:

e. In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report ~~weekly or biweekly or as otherwise required~~, by mail or in person at the time as directed to do so by an authorized representative of the division at the office where the ~~claimant~~ *individual* last registered for work and filed a claim for benefits. *The method of reporting and the payment of benefits, provided the individual is otherwise eligible, shall be by mail on a biweekly basis, unless otherwise directed by an authorized representative of the division.* If the ~~claimant~~ *individual* has moved to another locality, the ~~claimant~~ *individual* may register and report in person at a job service office at the time previously specified for the reporting.

ITEM 11. Amend subrule **4.2(3)** as follows:

**4.2(3)** Filing a claim for job insurance benefits (interstate only).

a. Initial interstate claims. The filing of an initial interstate claim shall conform to all sections of this rule with the exception of the initial claim form. Both agent and liable states shall use the initial interstate claim Form 61-1000 (*IB-1*).

b. Notification to the last employer. In lieu of the Form 60-0150 and the Form 65-5317, the agent state shall prepare two (2) copies of the employer/claimant statement Form 61-1002 (*IB-2*). The agent state shall mail one (1) copy of the Form 61-1002 (*IB-2*) to the liable state and one (1) copy to the last employer. If the state of Iowa is the liable state, the agent state shall mail one (1) copy of the Form 61-1002 (*IB-2*) to the Iowa job service interstate unit and the second copy shall be mailed to the last employer.

If the employer wishes to protest a claim or has any information which would affect the claimant's eligibility for job insurance benefits the employer may so indicate on Form 61-1002 (*IB-2*) and return it to the administrative office within ten (10) days from the date of notification as shown by the postmark date. The ten (10)-day protest period will be determined by the postmark on the envelope which contains the Form 61-1002 (*IB-2*), which is returned from the employer. In the event the tenth day falls on a Saturday, Sunday, or a holiday, the protest period is extended to the next working day of the department.

ITEM 12. Amend subrule **4.6(8)** to read as follows:

**4.6(8)** Separation issues during a claim series on partial claims. Upon receipt of the Forms 60-0154 *notice of separation*, a 65-5315 and 60-0144, SIR, special investigation report, will be issued to the local office and the claimant called in for a statement regarding the separation. The local office will complete a Form 60-0197 to convert the claim to a total claim. The claimant will be advised of the change of status in the claim and the new work search requirement.

ITEM 13. Amend subrule **4.10(1)** by striking "309—401" and inserting "68—0615".

## JOB SERVICE DIVISION[345] (cont'd)

ITEM 14. Amend subrules 4.11(2), 4.11(3), 4.11(4), 4.11(5) and 4.11(6) as follows:

4.11(2) Interstate claimants. Although interstate claimants are not required to have a benefit right interview, they shall be advised at the time they file a new claim that the liable state will probably mail them whatever informational material they use when the claim is received. They must, however, be advised how to complete the 61-1004 (IB-2) continued interstate claim, and to mail the form on Sunday, and be given 60-0134, information for interstate claimants.

4.11(3) Eligibility review program. The eligibility review is accomplished by completion of the Form 60-0232 for intrastate claimants and Form 61-1005 (IB-10) for interstate claimants. The eligibility review Forms 60-0232 and 61-1005 (IB-10) are designed to be completed by the claimant. The Forms 60-0232 and 61-1005 (IB-10) are used to accelerate the claimant's return to work and systematically review the claimant's efforts toward the same goal.

4.11(4) Claimants requiring an eligibility review. Both intrastate and interstate claimants, except those filing under the partial procedure, will be required to complete the eligibility review Form 60-0232 and Form 61-1005 (IB-10) at the time they file an initial or additional claim.

4.11(5) Eligibility review forms. Form 60-0232 and 61-1005 (IB-10) contain information relating to eligibility and availability furnished by and to the claimant, instructions and advice on reemployment that is given to the claimant and the results of the claimant's job search efforts.

a. The eligibility review Forms 60-0232 and 61-1005 (IB-10) encourage claimants to record information that bears directly on reemployment prospects.

b. It gives readily available and useful job search and labor market information.

c. It should conserve benefit funds through early identification of claimants that are restricting their availability.

d. It assures that job ready claimants receive maximum exposure to available jobs by job service.

4.11(6) Eligibility review procedure.

a. The claims taker will enter the claimant's social security number and original claim date on the eligibility review Forms 60-0232 and 61-1005 (IB-10) and instruct the claimant to complete and mail return the eligibility review Form 60-0232 or 61-1005 in with the first weekly claim Form 60-0151. The claims taker will enter "C-ERF" in the group code space on the Form 60-0168 to indicate a Form 60-0232 or 61-1005 was given to the claimant for completion as directed or if it is the agent state claim, mail the 61-1005 (IB-10) with the first weekly 61-1004 (IB-2).

b. After claimants have claimed a specific number of weeks and been scheduled for an eligibility review interview the area claims local job service office will receive duplicate Forms 65-5309 65-5311, call-in notices. The Form 65-5309 65-5311 will not trigger on any claimant for an eligibility review interview unless monetary and nonmonetary eligibility is established.

c. One copy of the Form 65-5309 65-5311, call-in notice, is to be mailed to the claimant and the other copy is to be retained in the area claims job service office so the eligibility review interviewer can keep track of claimants that fail to respond to the Form 65-5309 65-5311.

d. A Form 65-5309 65-5311, call-in notice, will be sent to the area claims job service office only on claimants that are in active status at the time of the printing of the Form 65-5309 65-5311. If the claimant fails to respond to the Form 65-5309 65-5311, the area claims job service office will issue a 65-5323, notice of decision, on an open-end availability issue. Attach duplicate copy of Form 65-5309 65-5311 to the Form 60-0140, interoffice, and the 65-5000 lock card and transmit to the administrative office immediately, to prevent additional payments. If the claimant responds after this action has been taken, the area claims job service office must remove the disqualification before additional payments can be made.

e. If an interstate claimant fails to send in the Form 61-1005 (IB-10), eligibility review, as outlined above and does not reply to the Form 65-5309 65-5311, call-in notice, by Friday of the week in which the claimant was called in, the area claims job service office is to advise the liable state by Form 61-1006 (IB-11), fact-finding report, that the claimant failed to respond to call in for an eligibility review.

f. In cases of illness, injury or pregnancy, the area claims office manager a job service representative will determine when and if a personal appearance should be conducted. The manager representative will be responsible for determining continuing eligibility or noneligibility of the claimant based on the information obtained on the Form 60-0141, request for medical report, and the facts presented during the interview. If the manager representative believes an additional Form 60-0141 may be needed, the manager representative should initiate the request in the regular manner. Special attention should be given to work search, i.e., number of contacts, types of contacts and the available job market information.

g. Before a hearing officer administrative law judge can rule on a disqualification for failure to report at an Iowa job service office as directed, there must be evidence to show that the claimant was required to report for an interview.

ITEM 15. Amend subrule 4.11(8) as follows:

4.11(8) Eligibility review Form 60-02332.

a. The eligibility review Form 60-02332 will be completed in duplicate by the eligibility review interviewer during the initial eligibility review. This Form 60-02332 documents the exchange of information between the claimant and the eligibility review interviewer. Form 60-02332 also contains the claimant work search plan and the eligibility review interviewer's advice and instruction to the claimant concerning eligibility requirements and work search plans.

b. The original copy of Form 60-02332 is to be given to the claimant at the conclusion of the eligibility review interview. The A duplicate copy of Form 60-02332 is to be stapled to Form 60-0232 and retained in the area claims job service office files for future reference.

ITEM 16. Amend subrule 4.11(10) as follows:

4.11(10) Eligibility review statistics, Form 68-014950. For the purpose of statistics it will be necessary for the area claims job service office to maintain various counts. The recap sheet for eligibility review statistics Form 68-014950 should be completed and submitted at the end of each month to the administrative office.

## JOB SERVICE DIVISION[345] (cont'd)

ITEM 17. Amend subrule 4.17(1) as follows:

**4.17(1)** Employer notice specified vacation or holiday pay only. The 65-5317, notice of claim filing, the 60-0150 part 2, claim for job insurance benefits, the 62-2048 request for federal wage and separation information, 61-1002(IB-3), claimant/employer separation statement, the 68-0074, wage verification notice of claim filing on interstate claims and the 68-026962-2049, request for wage and separation information on federal employment additional claim which are returned by the employer for the purpose of notification of vacation pay shall be used as notification to the division that vacation pay is applicable. The Forms 65-5317, 60-0150 part 2, 62-2048, 61-1002 (IB-3), 68-0074, and the 68-026962-2049 received in the administrative office shall be routed to the appropriate local office or to the administrative office interstate unit, as indicated, for the following action:

ITEM 18. Rescind rule 4.22(96) in its entirety and insert the following:

**345—4.22(96) Benefit eligibility conditions.** For an individual to be eligible to receive benefits the division must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

**4.22(1)** Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

b. Interpretation of ability to work. The law provides that an individual must be able to work to be eligible for benefits. This means that the individual must be physically able to work, not necessarily in the individual's customary occupation, but able to work in some reasonably suitable, comparable, gainful, full-time endeavor, other than self-employment, which is generally available in the labor market in which the individual resides.

**4.22(2)** Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment compensation laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers them. Market in that sense does not mean that job vacancies must exist; the purpose of job insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering them.

a. Shift restriction. The individual does not have to be available for a particular shift. If an individual is

available for work on the same basis on which the individual's wage credits were earned and if after considering the restrictions as to hours of work, etc., imposed by the individual there exists a reasonable expectation of securing employment, then the individual meets the requirement of being available for work.

b. Job test. The best method of testing availability for work is an offer of work or job test. If a job test is not possible because of lack of a suitable offer, the active search for work is relied on and conclusions are likely to be based entirely on the fact that the individual did or did not make a search, without regard to the fact that the individual's personal efforts had little probability of success.

c. Intermittent employment. An individual cannot restrict employability to only temporary or intermittent work until recalled by a regular employer.

d. Jury duty. The individual is considered available for work while serving on jury duty because time spent in jury service is not a personal service performed under a contract of hire in an employment situation but is a public duty required by law. Jury duty does not render the individual as employed and ineligible for benefits even though it may involve the individual full time. Witness and jury fees will be considered as reimbursement for expenses and not as wages.

e. Company employment office. The division is not bound by a union/company contract that requires the individual to report at the company employment office. The individual is an independent agent seeking work, and may be found available, if an otherwise diligent search of work is made.

f. Part-time worker, student—other. Part-time worker shall mean any individual who has been in the employ of an employing unit and has established a pattern of part-time regular employment which is subject to the employment security tax, and has accrued wage credits while working in a part-time job. If such part-time worker becomes separated from this employment for no disqualifiable reason, and providing such worker has reasonable expectation of securing other employment during the same hours and for the same number of hours worked, no disqualification shall be imposed under Iowa Code section 96.4(3). In other words, if an individual is available to the same degree and to the same extent as when the wage credits were accrued, the individual meets the eligibility requirements of the law.

g. Work release program while incarcerated. For those individuals incarcerated in jail, the work release program usually does not meet the availability requirements of Iowa Code section 96.4(3); but the division will review any situation concerning an individual incarcerated in a jail, who can meet the able to work, availability for work, and actively seeking work requirements of Iowa Code section 96.4(3).

h. Available for part of week. Each case must be decided on its own merits. Generally, if the individual is available for the major portion of the workweek, the individual is considered to be available for work.

i. On-call workers.

(1) Substitute workers (i.e., post office clerks, railroad extra board workers), who hold themselves available for one employer and who do not accept other work, are not available for work within the meaning of the law and are not eligible for benefits.

(2) Substitute teachers. The question of eligibility of substitute teachers is subjective in nature and must be

## JOB SERVICE DIVISION[345] (cont'd)

determined on an individual case basis. The substitute teacher is considered an instructional employee and is subject to the same limitations as other instructional employees. As far as payment of benefits between contracts or terms and during customary and established periods of holiday recesses is concerned, benefits are denied if the substitute teacher has a contract or reasonable assurance that the substitute teacher will perform service in the period immediately following the vacation or holiday recess. An on-call worker (includes a substitute teacher) is not disqualified if the individual is able and available for work, making an earnest and active search for work each week, placing no restrictions on employment and is genuinely attached to the labor market.

(3) An individual whose wage credits earned in the base period of the claim consists exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code section 96.19(9)"a" and "b." An individual who is willing to accept only on-call work is not considered to be available for work.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed, the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

k. Effect of religious convictions on Sabbath day work. An individual is considered as available for work if the precepts of the individual's religion prohibit work on the Sabbath. An individual who refuses to work on the Sabbath designated by the individual's religion, because of conscientious observance of the Sabbath as a matter of religious conviction, is also deemed to have good cause for refusing the work.

l. Available for work. To be considered available for work, an individual must at all times be in a position to accept suitable employment during periods when the work is normally performed. As an individual's length of unemployment increases and the individual has been unable to find work in the individual's customary occupation, the individual may be required to seek work in some other occupation in which job openings exist, or if that does not seem likely to result in employment, the individual may be required to accept counseling for possible retraining or a change in occupation.

m. Restrictions and reasonable expectation of securing employment. An individual may not be eligible for benefits if the individual has imposed restrictions which leave the individual no reasonable expectation of securing employment. Restrictions may relate to type of work, hours, wages, location of work, etc., or may be

physical restrictions as in the case of physically handicapped individuals.

n. Corporate officers. To be considered available, the corporation officer must meet the same tests of availability as are met by other individuals. The individual must be desirous of other work, be free from serious limitations and be seriously searching for work. The reported efforts of a corporate officer to seek work should be studied to distinguish those directed toward obtaining work for the officer as an individual and those directed to obtaining work or business for the corporation. Any effort to obtain business for the corporation to perform is a service to the corporation and is not evidence of the individual's own availability for work.

o. An individual who is not lawfully authorized to work within the United States will be considered not available for work.

4.22(3) Earnestly and actively seeking work. Mere registration at a job service office does not establish that the individual is earnestly and actively seeking work. It is essential that the individual personally and diligently search for work. It is difficult to establish definite criteria for defining the words earnestly and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. The division expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work.

a. An individual shall be ineligible for benefits for any period for which the division finds that the individual has failed to make an earnest and active search for work. The circumstances in each case are considered in determining whether an earnest and active search for work has been made. Subject to the foregoing, applicable actions of the following kind are considered an earnest and active search for work if found by the division to constitute a reasonable means of securing work by the individual, under the facts and circumstances of the individual's particular situation:

(1) Making application with employers as may reasonably be expected to have openings suitable to the individual.

(2) Registering with a placement facility of a school, college, or university if one is available in the individual's occupation or profession.

(3) Making application or taking examination for openings in the civil service of a governmental entity with reasonable prospects of suitable work for the individual.

(4) Responding to appropriate "want ads" for work which appears suitable to the individual if the response is in writing or in person.

(5) Any other action which the division finds to constitute an effective means of securing work suitable to the individual.

(6) No individual, however, is denied benefits solely on the ground that the individual has failed or refused to register with a private employment agency or at any other placement facility which charges the job-seeker

## JOB SERVICE DIVISION[345] (cont'd)

a fee for its services. However, an individual may count as one of the work contacts required for the week an in-person contact with a private employment agency.

(7) An individual is considered to have failed to make an effort to secure work if the division finds that the individual has followed a course of action designed to discourage prospective employers from hiring the individual in suitable work.

b. Number of employer contacts. It is difficult to determine criteria in which earnestly and actively may be interpreted. Much depends on the estimate of employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunities might be totally unacceptable in another area of unlimited opportunities. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in the individual's characteristics, job prospects in the community, and other factors as the local job service office deems necessary.

c. Union and professional employees. Members of unions or professional organizations who normally obtain their employment through union or professional organizations are considered as earnestly and actively seeking work if they maintain active contact with the union's business agent or with the placement officer in the professional organization. A paid-up membership must be maintained if this is a requirement for placement service. The trade, profession or union to which the individual belongs must have an active hiring hall or placement facility, and the trade, profession or union must be the source customarily used by employers in filling their job openings. Registering with the individual's union hiring or placement facility is sufficient except that whenever all benefit rights to regular benefits are exhausted and Iowa is in an extended benefit period or similar program such as the federal supplemental compensation program, individuals must also actively search for work; mere registration at a union or reporting to union hiring hall or registration with a placement facility of the individual's professional organization does not satisfy the extended benefit systematic and sustained effort to find work and additional work contacts must be made.

d. Week-to-week disqualification. Active search for work disqualifications are to be made on a week-to-week basis and are not open-end disqualifications.

e. Seniority rights. An individual who fails to exercise seniority rights to replace another employee with less seniority has the work search requirement waived during a period of regular benefits. This waiver does not apply to the individual who is receiving extended benefits or federal supplemental compensation.

f. Diligent search for work. The individual must establish proof of an earnest and active search for work by a methodical and systematic canvass of the labor market. Mere registration at a public employment service is not sufficient to meet the eligibility conditions for drawing benefits.

g. Search for work.

(1) The Iowa law specifies that an individual must earnestly and actively seek work. This is interpreted to mean that a registration for work at a state job service office in itself does not meet the requirements of the law. Nor, is it interpreted to mean that every individual must make a fixed number of employer contacts each week

to establish eligibility. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in claimant characteristics, job prospects in the community, and such other factors as the job service office deems necessary.

(2) The individual is referred to suitable work, when possible, to those employers who have outstanding requests with job service for referrals. The individual must meet the minimum lawful requirements of the employer. The individual applies to and obtains the signatures of the employers so designated on the form provided, unless the employers refuse to sign the form. The individual must return the form to job service within seven (7) days from the date of issuance. The individual's failure to obtain the signature of designated employers, who have not refused to sign the form, disqualifies the individual from future benefits until requalified.

(3) The group assignment of individuals is used, to a certain extent, in determining which ones are required to make personal applications for work. Other factors, however, such as the condition of the local labor market, the duration of benefit payments, and a change in claimant characteristics, are also taken into consideration on a weekly basis.

(4) Individuals receiving partial benefits are exempt from making personal applications for work, in any week they have worked and received wages from their regular employer. Individuals involved in hiring hall practices must keep in weekly touch with the business agent of that union in which they maintain membership. All other individuals must make contacts with such frequency as the job service office considers advisable, after considering job prospects in the community, the condition of the labor market and any other factors which may have a bearing on the individual's reemployment. A sincere effort must be made to find a job. A contact made merely for the sake of complying with the law is not good enough.

h. Reverse referral. A reverse referral is defined as an employer hiring only through job service and all individuals applying for employment with the employer are referred to job service. An individual may use job service as work contacts during a week with the employer's name and the job service employee's name listed as the individual contacted. The job service office must be contacted in person by the individual to utilize each reverse referral registration job contact.

i. Job search assistance. Job search assistance classes which are sponsored by job service and attended by the individual during a week may be counted as one of the individual's work search contacts for that week.

This rule is intended to implement Iowa Code section 96.4(3).

ITEM 19. Amend rule 345—4.24(96) as follows:

**345—4.24(96) Failure to accept work and failure to apply for suitable work.** Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (*except in back pay awards*) and been paid wages for insured work equal to ten (10) times the individual's weekly benefit amount, provided the individual is otherwise eligible.

ITEM 20. Amend subrule 4.24(2), paragraph "b," as follows:

b. If such claimant, separated for lack of work, fails to accept work offered by the employer on recall or fails to apply for work when directed by a representative of

## JOB SERVICE DIVISION[345] (cont'd)

the division, such failure shall constitute a refusal of suitable work. In such a situation said claimant shall be disqualified for failure to apply for or accept an offer to work until such time as the individual shall have worked in (*except in back pay awards*) and been paid wages for insured work equal to ten (10) times the individual's weekly benefit amount, provided the individual is otherwise eligible.

ITEM 21. Rescind subrule 4.26(15) in its entirety.

ITEM 22. Rescind rule 4.27(96) and insert in lieu thereof the following:

**345—4.27(96) Voluntary quit of part-time employment.**

**4.27(1)** Voluntary quit without good cause of part-time, base period employment.

a. Before requalification. An individual who voluntarily quits without good cause part-time, base period employment while remaining in regular employment, and who subsequently becomes separated from the regular employer with cause attributable to the regular employer before requalifying by earning in insured work ten (10) times the individual's weekly benefit amount following the voluntary quit without good cause of the part-time employment, shall be processed as follows. If the individual is otherwise eligible and has sufficient remaining wages paid by the regular or other base period employers to establish a valid claim once the wages paid by the part-time employer are removed, the individual shall be eligible for benefits based on the remaining wages paid by the regular or other base period employers. The part-time employer shall be notified on the Form 65-5323 or 60-0186, decision of the job service representative, that benefit payments shall not be made which are based on the wages paid by the part-time, base period employer and benefit charges shall not be assessed against the part-time employer's account.

b. After requalification. Once the individual has met the requalification requirements, the part-time employer shall be notified on the Form 65-5323 or 60-0186, decision of the job service representative, that the wages paid in the part-time employment shall be restored for benefit payment purposes. However, for benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer:

(1) Shall be transferred to the account of the employer with which the individual requalified, or

(2) Shall be transferred to the balancing account, or

(3) Shall remain with the employer from which they were earned.

**4.27(2)** Voluntary quit without good cause of part-time, nonbase period employment.

a. Before requalification. An individual who voluntarily quits without good cause part-time employment, which commenced subsequent to the base period of the individual's current claim for benefits, and who is otherwise eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified during the benefit year of the current claim for voluntarily quitting the part-time employment. The part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, decision of the job service representative, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account.

b. After requalification. Once the individual has met the requalification requirements following the voluntary

quit without good cause, the part-time employer shall be notified on the Form 65-5323 or 60-0186, decision of the job service representative, that the wages paid in the part-time employment shall be available for benefit payment purposes once they become base period wages. However, for benefit charging purposes and as determined by the applicable requalification requirements, the base period wages paid by the part-time employer:

(1) Shall be transferred to the account of the employer with which the individual requalified, or

(2) Shall be transferred to the balancing account, or

(3) Shall remain with the employer from which they were earned.

ITEM 23. Amend subrules 4.28(1) and 4.28(2) as follows:

**4.28(1)** The claimant shall be eligible for benefits even though having voluntarily left employment, if subsequent to leaving such employment, the claimant worked in (*except in back pay awards*) and was paid wages for insured work equal to ten (10) times the claimant's weekly benefit amount.

**4.28(2)** The claimant shall be eligible for benefits even though having been previously disqualified from benefits due to voluntary quit, if subsequent to said disqualification, the claimant worked in (*except in back pay awards*) and was paid wages for insured work equal to ten (10) times the claimant's weekly benefit amount.

ITEM 24. Add new rule 4.29(96) as follows:

**345—4.29(96) Business closing.**

**4.29(1)** Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual.

**4.29(2)** Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business; however, an employer is not considered to have gone out of business at the factory, establishment, or other premises in any case in which the employer sells or otherwise transfers the business to another employer, and the successor employer continues to operate the business.

**4.29(3)** Verification of going out of business.

When the job service representative is informed by the individual or has knowledge of an employer going out of business at a factory, establishment, or other premises, the job service representative forwards a Form 60-0240, verification of business closing, to the field audit unit for assignment to a field auditor who verifies the business closing. Upon return of the Form 60-0240, verification of business closing, the job service representative issues the appropriate decision based on the results of the verification.

ITEM 25. Amend rule 4.31(96) to read as follows:

**345—4.31(96) Subsequent benefit year condition.**

**4.31(1)** The claimant must have been paid benefits on a previous claim.

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**4.31(2)** If the claimant has the qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4) which were earned prior to the filing of the previous claim, the claimant must, during or subsequent to that year, have worked in (*except in back pay awards*) and have been paid wages for insured work totaling at least \$250.00, to fulfill the condition to be eligible for benefits on a new claim. Vacation pay is not considered as wages for second benefit year requalification purposes.

**4.31(3)** Insured work means insured work in any state.

**4.31(4)** Employment for a railroad under the Railroad Unemployment Insurance Act is insured work.

**4.31(5)** The amount equal to \$250.00 in insured work need not be in addition to the qualifying wages for the establishment of a second benefit year. ~~as specified in Iowa Code section 96.4(4) in the base period of the subsequent claim provided that the amount equal to \$250.00 in insured work has been earned and paid at any time after the effective date of the previous claim for which the individual received benefits.~~

**4.31(6)** Disqualification for lack of the \$250.00 in insured work condition shall be removed upon the verification that the claimant worked in and has been paid wages for insured work totaling \$250.00 during or subsequent to the previous benefit year.

ITEM 26. Amend subrule 4.32(1), paragraph "b," as follows:

b. Any individual who has been discharged or suspended for misconduct connected with work is disqualified for benefits until the individual has worked in (*except in back pay awards*) and been paid wages for insured work equal to ten (10) times the individual's weekly benefit amount, provided the individual is otherwise eligible.

ITEM 27. Amend subrule 5.8(1) by adding new paragraph "d" as follows:

d. If an individual has acted in good faith and is without fault in claiming federal unemployment compensation under any of the following programs:

- (1) Unemployment Compensation Federal (UCFE)
- (2) Unemployment Compensation Ex-servicemembers (UCX)
- (3) Extended Benefits (EB)
- (4) Trade Readjustment Allowances (TRA)

or any other type of federal unemployment compensation program and it is subsequently determined that the individual is not entitled to the benefits, the division shall have the right to recover the benefits in accordance with the procedure outlined in subrule 5.8(1). Any federal unemployment compensation overpayments recovered shall be credited to the appropriate account of the United States. Three (3) years after the instance of the federal unemployment compensation overpayment, the unrecovered amount will be removed from the division accounting records and all active collection action shall cease.

The division will maintain an administrative record of the federal unemployment compensation overpayment for a subsequent three-year period after which time the overpayment record shall be disposed of.

ITEM 28. Amend subrule 5.13(2) as follows:

**5.13(2)** Canceled warrant. On a quarterly basis, the comptroller shall cause to be canceled each benefit warrant which, at this time, has been outstanding six (6) months or longer. Any individual who has an outdated

warrant less than five (5) years old may contact any local office for assistance. They will be instructed to return the outdated warrant to the claims payments and adjustment unit with a request that a duplicate warrant be issued. If the outdated warrant is more than five (5) years old, miscellaneous claim Form ~~GPA-3333~~ 60-0224 should be used to request reissuance of the warrant. The miscellaneous claim form shall be transmitted to the state board of appeals for determination as to payment or nonpayment of the warrant. The state board of appeals will make ~~such~~ the determination at their regular monthly meeting.

ITEM 29. Amend subrule 7.2(8) by striking "M-1-R" and inserting "552-0072 R".

ITEM 30. Amend subrules 7.2(10) and 7.2(11) as follows:

**7.2(10)** An applicant who has filed a claim for unemployment insurance shall register for work using the Form 60-0150 claim for job insurance assembly. This form may be used in lieu *instead* of the 62-2019 application card. In certain instances, an exception may be made to this procedure when the commissioner so approves, and this procedure will be granted a waiver.

**7.2(11)** An applicant who has filed an interstate claim for unemployment insurance shall register for work using Form 61-1000 (*IB-1*) as part of the initial interstate claim assembly. This form is obtained in state job service offices.

ITEM 31. Amend subrule 7.3(1) by striking "61-1014" and inserting "62-2024".

ITEM 32. Amend subrules 7.3(4) and 7.3(5) by striking "MA7-90" and inserting "ETA 790".

ITEM 33. Amend subrule 7.4(4) by striking "292-0377" and inserting "68-0612".

ITEM 34. Rescind subrule 7.4(5) in its entirety.

ITEM 35. Amend subrule 7.4(10) by striking "68-0198" and inserting "68-0613".

ITEM 36. Amend subrule 7.5(4) by striking "309-0371" and inserting "68-0597".

ITEM 37. Amend subrules 7.7(1) and 7.7(2) by striking "309-0428" and inserting "68-0624".

ITEM 38. Amend subrule 8.9(2) by adding a new paragraph "g" to read as follows:

g. To the citizens' aide under Iowa Code section 601G.9(3) as amended by the 1988 Iowa Acts, House File 2406.

ITEM 39. Rescind subrule 8.10(2), paragraph "d," subparagraph (9), in its entirety.

ITEM 40. Rescind Chapter 10 and insert in lieu thereof the following:

## CHAPTER 10

## FORMS AND INFORMATIONAL MATERIALS\*

**345-10.1(96) Forms.** Forms listed below in numeric sequence are the forms used by the division of job service. The listing includes: Employer contribution and charge forms, employers records and reports, claims and benefit

\*EDITOR'S NOTE: In accordance with Iowa Code section 17A.6(3) the forms and informational materials are being omitted from the Iowa Administrative Bulletin and are available upon request from the division.

## JOB SERVICE DIVISION[345] (cont'd)

forms, fraud control special investigation forms, appeal procedure forms, job application and related forms, job orders and related areas, order filling and related areas, alien employment certification, complaints, and Trade Act of 1974 forms.

Generally, the employer does not have to request the forms used in the claims and benefit procedures since the division sends them automatically after a claim for job insurance has been filed by a former employee or one who is on a laid off status. The claimant will receive many of these forms in the local office during or following the filing of an initial claim or within the nonmonetary determination or continued claim process. Similarly the employer does not have to request the forms used in the contribution (tax) and charges procedure or in the employer records and reports procedures since the division sends them automatically. However, if the forms are not received the employer must get them from the Division of Job Service, 1000 E. Grand Ave., Des Moines, Iowa 50319.

The job order, job application and related forms are forms used by applicants, employer, or division employees when an individual is seeking work through a job service office or when an employer uses the job service offices to fill job vacancies to obtain job applicants. The forms are either supplied or obtainable from the division.

enforcement offices on the fourth floor of the Wallace State Office Building, Des Moines, Iowa 50319-0034. Also, there will be a public hearing on September 13, 1988, at 10 a.m. in the conference room on the fourth floor west of the Wallace State Office Building, Des Moines, Iowa. Interested persons who wish to present their views orally or in writing at this hearing should contact the law enforcement bureau at least one day prior to the public hearing.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

This amendment is intended to implement Iowa Code sections 110.32, 110.33, 110.34, 809.13 and 809.21.

Amend rule 571—8.6(71GA, ch1140) as follows:

**571—8.6 (71GA, ch1140) Disposition of guns weapons.** Forfeited property may be sold at a department-administered annual public sale. All legal weapons will be sold at the department's annual sale or the director may transfer illegal or legal weapons to the department of public safety for disposal in accordance with Iowa Code sections 809.13 and 809.21.

## ARC 9145

NATURAL RESOURCE  
COMMISSION[571]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 107.24(5), the Natural Resource Commission gives Notice of Intended Action to amend Chapter 8, "Forfeited Property," Iowa Administrative Code.

This amendment gives the Director of the Department of Natural Resources the ability to transfer illegal or legal weapons to the Department of Public Safety for disposal. Although this Notice of Intended Action is an amendment to Chapter 8, the adopted rule will appear as part of renumbered Chapter 10 since other amendments will renumber this chapter.

Any interested person may make written suggestions or comments on the proposed amendment prior to September 13, 1988. Written materials should be directed to the Law Enforcement Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at 515/281-5919 or at the law

## ARC 9146

NATURAL RESOURCE  
COMMISSION[571]

## 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 106.3, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 45, "Boat Motor Regulations," Iowa Administrative Code.

This amendment creates the same boat motor and speed restrictions on Swan Lake in Carroll County that are in effect on all artificial lakes of more than 100 acres in size under the custody of the Commission except Big Creek and Lake Macbride. Swan Lake is managed by the Carroll County Conservation Board. This amendment was requested by the Carroll County Conservation Board.

Any interested person may make written suggestions or comments on the proposed rule prior to September 13, 1988. Such written materials should be directed to the Law Enforcement Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at 515/281-5919 or at the law enforcement offices on the fourth floor of the Wallace State Office Building. There will be a public hearing on September 13, 1988, at 2 p.m. on the fourth floor of the Wallace State Office Building, at which time persons may present their views either orally or in writing.

NATURAL RESOURCE COMMISSION[571] (cont'd)

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement Iowa Code section 106.31.

Amend subrule 45.4(2), paragraph "b," by adding the following:

Swan Lake, Carroll County—unrestricted horsepower operated at a no-wake speed.

ARC 9140

NATURAL RESOURCE COMMISSION[571]

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 107.24 and 109A.3, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 77, "Endangered or Threatened Plant and Animal Species," Iowa Administrative Code.

These rules list the threatened and endangered plant and animal species which are protected by law. They also propose to establish a new "special concern" category for plants and animals not listed as threatened or endangered but about which problems of status or distribution are suspected. These species will not be afforded the additional protection given to threatened or endangered species but may be protected by other state or federal laws. This listing category is intended to draw attention to these species for planning purposes and to encourage further research and study as to their status in Iowa.

Any interested person may make written suggestions or comments on these proposed rules prior to September 13, 1988. Such written materials should be directed to the Chief of the Bureau of Preserves and Ecological Services, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Bureau of Preserves and Ecological Services at 515/281-8524 or at the bureau offices on the fifth floor of the Wallace State Office Building. Also, there will be a public hearing on September 13, 1988, at 10 a.m. in the fourth floor conference room of the Wallace State Office Building, at which time persons may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rules.

These rules are intended to implement Iowa Code sections 109A.3.

Amend Chapter 77 as follows:

571-77.1(109A) Definitions. As used in this rule:

"Endangered species" means any species of fish, plant life, or wildlife which is in danger of extinction throughout all or a significant part of its range.

"Special concern species" means any species about which problems of status or distribution are suspected, but not documented, and for which no special protection is afforded under this rule.

"Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

571-77.12(109A) Endangered, and threatened and special concern animals. The natural resource commission, in consultation with scientists with specialized knowledge and experience, has determined the following animal species to be endangered, or threatened or of special concern in Iowa:

77.12(1) Endangered animal species:

Mammals

- Indiana bat
Plains pocket mouse
Red-backed vole
Bobcat
Myotis sodalis
Perognathus flavescens
Clethrionomys gapperi
Felis rufus

Birds

- Red-shouldered hawk
Northern harrier
Peregrine falcon
Piping plover
Common barn owl
Burrowing owl
Least tern
Cooper's hawk
Bald eagle
Double-crested cormorant
King rail
Short-eared owl
Buteo lineatus
Circus cyaneus
Falco peregrinus
Charadrius melodus
Tyto alba
Athene cucularia
Sterna antillarum
Accipiter cooperii
Haliaeetus leucocephalus
Phalacrocorax auritus
Rallus elegans
Asio flammeus

Fish

- Lake sturgeon
Pallid sturgeon
Pugnose shiner
Weed shiner
Pearl dace
Starhead topminnow
Freckled madtom
Bluntnose darter
Least darter
Acipenser fulvescens
Scaphirhynchus albus
Notropis anogenus
Notropis techanus
Semotilus margarita
Fundulus nolti
Noturus nocturnus
Etheostoma chlorosomum
Etheostoma microperca

Reptiles and Amphibians

- Yellow mud turtle
Wood turtle
Great plains skink
Slender glass lizard
Yellow-bellied water snake
Western hognose snake
Speckled kingsnake
Copperhead
Prairie rattlesnake
Massasauga
Blue-spotted salamander
Central newt
Mudpuppy
Crawfish frog
Kinosternon flavescens
Clemmys insculpta
Eumeces obsoletus
Ophisaurus attenuatus
Nerodia erythrogaster
Heterodon nasicus
Lampropeltis getulus
Agkistrodon contortrix
Crotalus viridis
Sistrurus catenatus
Ambystoma laterale
Notophthalmus viridescens
Necturus maculosus
Rana areolata



## NATURAL RESOURCE COMMISSION[571] (cont'd)

Horsetail family (Equisetaceae)		<i>Northern bog orchid</i>	<i>Platanthera hyperborea</i>
Woodland horsetail	<i>Equisetum sylvaticum</i>	<i>Eastern prairie fringed orchid</i>	<i>Platanthera leucophaea</i>
Quillwort family (Isoetaceae)		<i>Western prairie fringed orchid</i>	<i>Platanthera praecleara</i>
Midland quillwort	<i>Isoetes melanopoda</i>	Purple fringed orchid	<i>Platanthera psychodes</i>
Clubmoss family (Lycopodiaceae)		Great plains ladies tresses	<i>Spiranthes magnicamporum</i>
Running clubmoss	<i>Lycopodium clavatum</i>	<i>Slender ladies tresses</i>	<i>Spiranthes lacera</i>
Round-branched clubmoss	<i>Lycopodium dendroideum</i>	<i>Yellow-lipped ladies tresses</i>	<i>Spiranthes lucida</i>
Crowfoot clubmoss	<i>Lycopodium flabelliforme digitatum</i>	Oval ladies tresses	<i>Spiranthes ovalis</i>
<i>Bog clubmoss</i>	<i>Lycopodium innudatum</i>	Hooded ladies tresses	<i>Spiranthes romanzoffiana</i>
Rock clubmoss	<i>Lycopodium porophyllum</i>	<i>Spring ladies tresses</i>	<i>Spiranthes vernalis</i>
Marsilea family (Marsileaceae)		Grass family (Poaceae)	
Hairy water clover	<i>Marsilea vestita</i>	Buffalo grass	<i>Buchloe dactyloides</i>
Adder's tongue family (Ophioglossaceae)		<i>Northern panic grass</i>	<i>Dichantherium boreale</i>
Leather grape fern	<i>Botrychium multifidum</i>	Rice grass	<i>Oryzopsis pungens</i>
Least grape fern	<i>Botrychium simplex</i>	Slim-leaved panic grass	<i>Panicum linearifolium</i>
Adder's tongue fern	<i>Ophioglossum vulgatum var. pseudopodium</i>	Weak bluegrass	<i>Poa languida</i>
Royal fern family (Osmundaceae)		<i>Bog bluegrass</i>	<i>Poa paludigena</i>
Cinnamon fern	<i>Osmunda cinnamomea</i>	Tumblegrass	<i>Schedonnardus paniculatus</i>
Royal fern	<i>Osmunda regalis var. spectabilis</i>	<i>Rough dropseed</i>	<i>Sporobolus clandestinus</i>
Spike-moss family (Selaginellaceae)		Speargrass	<i>Stipa comata</i>
Meadow spike-moss	<i>Selaginella eclipses</i>	Pickerel-weed family (Pontederiaceae)	
Marsh fern family (Thelypteridaceae)		Mud plantain	<i>Heteranthera limosa</i>
Northern beech fern	<i>Phegopteris connectilis</i>	<i>Pondweed family (Ruppiaceae)</i>	
	<i>Gymnosperms</i>	<i>Widgeon grass</i>	<i>Ruppia maritima</i>
<i>Creeping juniper</i>	<i>Juniperus horizontalis</i>	Yellow-eyed grass family (Xyridaceae)	
	<i>Monocotyledons</i>	Yellow-eyed grass	<i>Xyris torta</i>
Arum family (Araceae)			<i>Dicotyledons</i>
Arrow arum	<i>Peltandra virginica</i>	Acanthus family (Acanthaceae)	
Sedge family (Cyperaceae)		Water willow	<i>Justicia americana</i>
Clustered sedge	<i>Carex aggregata</i>	Parsley family (Apiaceae)	
<i>Creeping sedge</i>	<i>Carex chondrorrhiza</i>	<i>Angelica</i>	<i>Angelica atropurpurea</i>
Field sedge	<i>Carex conoidea</i>	<i>Water parsnip</i>	<i>Berula erecta</i>
Slender sedge	<i>Carex leptalea</i>	Biscuit root	<i>Lomatium foeniculaceum</i>
<i>Shore sedge</i>	<i>Carex limosa</i>	Holly family (Aquifoliaceae)	
Intermediate sedge	<i>Carex media</i>	Winterberry	<i>Ilex verticillata</i>
Rocky mountain sedge	<i>Carex saximontana</i>	Milkweed family (Asclepiadaceae)	
Deep green sedge	<i>Carex tonsa</i>	Eared milkweed	<i>Asclepias auriculata engelmanniana</i>
Purple spike rush	<i>Eleocharis atropurpurea</i>	<i>Woolly milkweed</i>	<i>Asclepias lanuginosa</i>
<i>Ovate spike rush</i>	<i>Eleocharis ovata</i>	Mead's milkweed	<i>Asclepias meadii</i>
<i>Fewflower spike rush</i>	<i>Eleocharis pauciflora</i>	<i>Showy milkweed</i>	<i>Asclepias speciosa</i>
Tall cotton grass	<i>Eriophorum angustifolium</i>	<i>Narrow-leaved milkweed</i>	<i>Asclepias stenophylla</i>
Slender cotton grass	<i>Eriophorum gracile</i>	Aster family (Asteraceae)	
Prairie bulrush	<i>Scirpus paludosus</i>	Forked aster	<i>Aster furcatus</i>
<i>Smith's bulrush</i>	<i>Scirpus smithii</i>	Rush aster	<i>Aster junciformis</i>
<i>Low nut rush</i>	<i>Scleria verticillata</i>	<i>Flax-leaved aster</i>	<i>Aster linariifolius</i>
Rush family (Juncaceae)		Hairy aster	<i>Aster pubentior</i>
Alpine rush	<i>Juncus alpinus</i>	Schreber's aster	<i>Aster schreberi</i>
Green's rush	<i>Juncus greenii</i>	Wavy-leaved thistle	<i>Cirsium undulatum</i>
Lily family (Liliaceae)		<i>Dwarf dandelion</i>	<i>Krigia virginica</i>
Yellow trout lily	<i>Erythronium americanum</i>	Water marigold	<i>Megalodonta beckii</i>
Orchid family (Orchidaceae)		Spreading goldenrod	<i>Solidago patula</i>
Spotted coral root orchid	<i>Corallorhiza maculata</i>	Barberry family (Berberidaceae)	
Pink Showy lady's slipper orchid	<i>Cypripedium reginae</i>	Twinleaf	<i>Jeffersonia diphylla</i>
Pale green Tubercled orchid	<i>Platanthera flava var. herbiola</i>	Borage family (Boraginaceae)	
Round-leaved Hooker's orchid	<i>Platanthera hookeri</i>	Northern lungwort	<i>Mertensia paniculata</i>

## NATURAL RESOURCE COMMISSION[571] (cont'd)

Caper family (Capparidaceae)		Buckbean family (Menyanthaceae)	
James' cristatella	<del>Cristatella</del> <i>Polansia jamesii</i>	Bogbean	<i>Menyanthes trifoliata</i>
Honeysuckle family (Caprifoliaceae)		Waterlily family (Nymphaeaceae)	
Twinflower	<i>Linnaea borealis</i> var. <i>americana</i>	Water shield	<i>Brasenia schreberi</i>
Rockrose family (Cistaceae)		<i>Broomrape family (Orobanchaceae)</i>	
Poverty grass	<i>Hudsonia tomentosa</i>	Clustered broomrape	<i>Orobanche fasciculata</i>
heather		Poppy family (Papaveraceae)	
Pinweed	<i>Lechea intermedia</i>	Golden corydalis	<i>Corydalis aurea</i>
Morning glory family (Convolvulaceae)		Pale corydalis	<i>Corydalis sempervirens</i>
Pickering's morning glory	<i>Stylisma pickeringii</i>	<i>Phlox family (Polemoniaceae)</i>	
Dogwood family (Cornaceae)		Cleft phlox	<i>Phlox bifida</i>
Bunchberry	<i>Cornus canadensis</i>	Milkwort family (Polygalaceae)	
Sundew family (Droseraceae)		Crossleaf milkwort	<i>Polygala cruciata</i>
Sundew	<i>Drosera rotundifolia</i>	Pink milkwort	<i>Polygala incarnata</i>
Waterwort family (Elatinaceae)		Purple milkwort	<i>Polygala polygama</i>
Waterwort	<i>Elatine triandra</i>	Buckwheat family (Polygonaceae)	
Heath family (Ericaceae)		Jointweed	<i>Polygonella articulata</i>
Bearberry	<i>Arctostaphylos uva-ursi</i>	Douglas knotweed	<i>Polygonum douglasii</i>
Princes' pine	<i>Chimaphila umbellata</i>	Purslane family (Portulacaceae)	
Huckleberry	<i>Gaylussacia baccata</i>	Fameflower	<i>Talinum parviflorum</i>
Pinesap	<i>Monotropa hypopithys</i>	Rough-seeded fameflower	<i>Talinum rugospermum</i>
Pink shinleaf	<i>Pyrola asarifolia</i>	<i>Crowfoot family (Ranunculaceae)</i>	
Shinleaf	<i>Pyrola secunda</i>	Northern wild monkshood	<i>Aconitum noveboracense</i>
Low sweet blueberry	<i>Vaccinium angustifolium</i>	Rose family (Rosaceae)	
Velvet-leaf blueberry	<i>Vaccinium myrtilloides</i>	Queen of the prairie	<i>Filipendula rubra</i>
Pea family (Fabaceae)		Prairie Meadowsweet	
Fragrant false indigo	<i>Amorpha nana</i>	Shrubby cinquefoil	<i>Potentilla fruiticosa</i>
Rattle vetch	<i>Astragalus adsurgens</i>	Madder family (Rubiaceae)	
Prairie bush clover	<i>Lespedeza leptostachya</i>	Buttonweed	<i>Diodia teres</i>
Wild lupine	<i>Lupinus perennis</i>	Bog bedstraw	<i>Galium labradoricum</i>
Silky prairie clover	<i>Petalostemon Dalea villosa</i>	Partridge berry	<i>Mitchella repens</i>
French grass	<i>Psorealea onobrychis</i>	Willow family (Salicaceae)	
Gentian family (Gentianaceae)		Sage willow	<i>Salix candida</i>
Small fringed gentian	<i>Gentianopsis procera</i>	Shining willow	<i>Salix lucida</i>
Bogbean	<i>Menyanthes trifoliata</i>	Bog willow	<i>Salix pedicellaris</i>
Water milfoil family (Haloragidaceae)		Saxifrage family (Saxifragaceae)	
Water milfoil	<i>Myriophyllum heterophyllum</i>	Golden saxifrage	<i>Chrysosplenium iowense</i>
Rough water milfoil	<i>Myriophyllum pinnatum</i>	Northern currant	<i>Ribes hudsonianum</i>
Mermaid weed	<i>Proserpinaca palustris</i>	<i>Figwort Snapdragon family (Scrophulariaceae)</i>	
St. John's wort family (Hypericaceae)		Clammy false foxglove	<i>Aureolaria pedicularia</i>
Northern St. John's wort	<i>Hypericum boreale mutilum</i>	Round-stemmed foxglove	<i>Gerardia Agalinis gattingeri</i>
Orange grass	<i>Hypericum gentianoides</i>	Pale false foxglove	<i>Gerardia Agalinis skinneriana</i>
Mint family (Lamiaceae)		Cleft conobea	<i>Leucospora multifida</i>
Blue giant hyssop	<i>Agastache foeniculum</i>	Cobaea penstemon	<i>Penstemon cobaea</i>
Bladderwort family (Lentibulariaceae)		American brookline	<i>Veronica americana</i>
Humped bladderwort	<i>Utricularia gibba</i>	<i>Violet family (Violaceae)</i>	
Flat-leaved bladderwort	<i>Utricularia intermedia</i>	Green violet	<i>Hybanthus concolor</i>
Small bladderwort	<i>Utricularia minor</i>	Grape family (Vitaceae)	
Loosestrife family (Lythraceae)		Summer grape	<i>Vitis aestivalis</i>
Water willow	<i>Decodon verticillatus</i>	77.23(2) Threatened plant species:	
Mallow family (Malvaceae)		Ferns and Fern Allies	
Pink poppy mallow	<i>Callirhoe acaleoides</i>	Spleenwort family (Aspleniaceae)	
Poppy Clustered poppy mallow	<i>Callirhoe triangulata</i>	Oak fern	<i>Gymnocarpium dryopteris</i>
Glade mallow	<i>Napaea dioica</i>	Limestone oak fern	<i>Gymnocarpium robertianum</i>
Melastoma family (Melastomaceae)		Adder's-tongue family (Ophioglossaceae)	
Meadow beauty	<i>Rhexia virginica</i>	Adder's-tongue fern	<i>Ophioglossum vulgatum</i>

## NATURAL RESOURCE COMMISSION[571] (cont'd)

## Horsetail family (Equisetaceae)

Dwarf horsetail *Equisetum scirpoides*

## Monocotyledons

## Day-flower family (Commelinaceae)

Erect day-flower *Commelina erecta*

## Sedge family (Cyperaceae)

Carey's sedge *Carex careyana*  
Beaked rush *Rhynchospora capillacea*

## Rush family (Juncaceae)

Soft rush *Juncus effusus*

## Arrow grass family (Juncaginaceae)

Large arrow grass *Triglochin maritima*  
Small arrow grass *Triglochin palustris*

## Lily family (Liliaceae)

Nodding wild onion *Allium cernuum*  
*Yellow trout lily* *Erythronium americanum*  
Rosy twisted stalk *Streptopus roseus*  
False hellebore *Veratrum woodii*

## Orchid family (Orchidaceae)

Green orchid *Platanthera hyperborea*

## Grass family (Poaceae)

Philadelphia panic grass *Panicum philadelphicum*  
Marsh bluegrass *Poa paludigena*  
Wild rice *Zizania aquatica*

## Pondweed family (Potamogetonaceae)

Large-leaved pondweed *Potamogeton amplifolius*  
White-stemmed pondweed *Potamogeton praelongus*  
Vasey's pondweed *Potamogeton vaseyi*

## Dicotyledons

## Moschatel family (Adoxaceae)

Muskroot *Adoxa moschatellina*

## Parsley family (Apiaceae)

Eastern lomatium *Lomatium orientale*

## Milkweed family (Asclepiadaceae)

Woolly milkweed *Asclepias lanuginosa*

## Aster family (Asteraceae)

Dwarf dandelion *Krigia virginica*  
*Sweet indian plantain* *Cacalia suaveolens*

## Birch family (Betulaceae)

Bog birch *Betula pumila*  
*var. glandulifera*

## Borage family (Boraginaceae)

*Northern lungwort* *Mertensia paniculata*

## Mustard family (Brassicaceae)

Spreading yellow cress *Rorippa sinuata*

## Cactus family (Cactaceae)

Fragile prickly pear *Opuntia fragilis*

## Water starwort family (Callitrichaceae)

Water starwort *Callitriche heterophylla*

## Bellflower family (Campanulaceae)

*Kalm's lobelia* *Lobelia kalmii*

## Rockrose family (Cistaceae)

Hairy pinweed *Lechea villosa*

## Morning glory family (Convolvulaceae)

Low bindweed *Calystegia spithamea*

## Ebony family (Ebenaceae)

Persimmon *Diospyros virginiana*

## Oleaster family (Elaeagnaceae)

Buffalo berry *Shepherdia argentea*

## Pea family (Fabaceae)

*Fragrant false indigo* *Amorpha nana*  
Bent milk vetch *Astragalus distortus*  
Blue wild indigo *Baptisia australis*  
*var. minor*  
Sessile leaved trefoil *Desmodium sessilifolium*  
*Prairie bush clover* *Lespedeza leptostachya*

## Gentian family (Gentianaceae)

*Fringed gentian* *Gentianopsis erinita*  
*Small fringed gentian* *Gentianopsis procera*

## Mint family (Lamiaceae)

Pagoda plant *Blephilia ciliata*

## Loasa family (Loasaceae)

Sand lily *Mentzelia decapetala*

## Mallow family (Malvaceae)

*Glade mallow* *Napea dioica*  
Red false mallow *Sphaeralcea coccinea*

## Meadow beauty family (Melastomaceae)

*Meadow beauty* *Rhexia virginica*

## Olive family (Oleaceae)

Blue ash *Fraxinus quadrangulata*

## Evening primrose family (Onagraceae)

*Small sundrops* *Oenothera perennis*

## Poppy family (Papaveraceae)

Tall corydalis *Corydalis curvisiliqua*  
*spp. grandibracteata*

## Phlox family (Polemoniaceae)

*Cleft phlox* *Phlox bifida*

## Shooting star Primrose family (Primulaceae)

Jeweled shooting star *Dodecatheon amethystinum*

## Crowfoot family (Ranunculaceae)

*Northern monkshood* *Aconitum noveboracense*  
Goldenseal *Hydrastis canadensis*  
Waxy meadow rue *Thalictrum revolutum*

## Rose family (Rosaceae)

Silverweed *Potentilla anserina*  
Three-toothed cinquefoil *Potentilla tridentata*  
Canada plum *Prunus nigra*  
Prickly rose *Rosa acicularis*

## Willow family (Salicaceae)

*Bog willow* *Salix pedicularis*

## Saxifrage family (Saxifragaceae)

*Golden saxifrage* *Chrysosplenium iowense*  
*Grass of parnassus* *Parnassia glauca*  
*Sullivantia* *Sullivantia sullivantii*

## Figwort Snapdragon family (Scrophulariaceae)

Yellow monkey flower *Mimulus glabratus*  
*var. fremontii*  
Winged monkey flower *Mimulus alatus*  
Slender penstemon *Penstemon gracilis*  
Kittentails *Wulfenia Besseyi bullii*

## Valerian family (Valerianaceae)

*Hairy valerian* *Valeriana ciliata*

## NATURAL RESOURCE COMMISSION[571] (cont'd)

## Violet family (Violaceae)

Green violet	<i>Hybanthus concolor</i>
Violet (no common name)	<i>Viola incognita</i>
Large-leaved white violet	
Kidney-leaved violet	<i>Viola renifolia</i>

## 77.3(3) Special concern plant species.

## Ferns and Fern Allies

## Spleenwort family (Aspleniaceae)

Limestone oak fern	<i>Gymnocarpium robertianum</i>
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## Horsetail family (Equisetaceae)

Dwarf scouring rush	<i>Equisetum scirpoides</i>
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## Monocotyledons

## Sedge family (Cyperaceae)

Rocky mountain sedge	<i>Carex backii</i>
Spikerush	<i>Eleocharis olivacea</i>
Wolf spikerush	<i>Eleocharis wolfii</i>
Tall cottongrass	<i>Eriophorum angustifolium</i>

## Rush family (Juncaceae)

Toad rush	<i>Juncus bufonius</i>
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## Orchid family (Orchidaceae)

Small white lady slipper	<i>Cypripedium candidum</i>
Great plains ladies tresses	<i>Spiranthes magnicamporum</i>

## Grass family (Poaceae)

Sand bluestem	<i>Andropogon hallii</i>
Wood millet	<i>Milium effusum</i>

## Dicotyledons

## Parsley family (Apiaceae)

Purple angelica	<i>Angelica atropurpurea</i>
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## Aster family (Asteraceae)

Trumpet weed	<i>Eupatorium fistulosum</i>
Upland boneset	<i>Eupatorium sessilifolium</i>
Golden aster	<i>Heterotheca villosa</i>
Marsh elder	<i>Iva annua</i>
Butterweed	<i>Senecio glabellus</i>

## Bellflower family (Campanulaceae)

Kalm's lobelia	<i>Lobelia kalmii</i>
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## Spurge family (Euphorbiaceae)

Three-seeded mecury	<i>Acalypha gracilens</i>
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## Pea family (Fabaceae)

Blue false indigo	<i>Baptisia australis</i>
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## Mint family (Lamiaceae)

Veiny skullcap	<i>Scutellaria nervosa</i>
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## Broomrape family (Orobanchaceae)

Squawroot	<i>Conopholis americana</i>
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## False mermaid family (Limnanthaceae)

False mermaid	<i>Floerkea proserpinacoides</i>
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## Mallow family (Malvaceae)

Poppy mallow	<i>Callirhoe papaver</i>
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## Snapdragon family (Scrophulariaceae)

Beard-tongue	<i>Penstemon tubaeflorus</i>
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## Willow family (Salicaceae)

Sage willow	<i>Salix candida</i>
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## Saxifrage family (Saxifragaceae)

Northern gooseberry	<i>Ribes hirtellum</i>
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## Valerian family (Valerianaceae)

Valerian	<i>Valeriana edulis</i>
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## Grape family (Vitaceae)

Summer grape	<i>Vitis aestivalis</i>
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571—77.34(107) Revision of lists. The endangered and, threatened and special concern species lists will be continuously monitored by the natural resource commission and may be amended as needed. In accordance with Iowa Code section 109A.3, the lists will be revised a minimum of every two years. This rule is intended to implement Iowa Code section 109A.3.

## ARC 9141

## NATURAL RESOURCE COMMISSION[571]

## 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 107.24, 109.38, 109.39, 109.67 and 109.76, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 81, "Fishing Regulations," Iowa Administrative Code.

Chapter 81 establishes season dates, territories, daily catch limits, possession limits and length limits for sport fishing.

Any interested person may make written suggestions or comments on these proposed rules prior to September 21, 1988. Such written materials should be directed to the Bureau of Fisheries, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Bureau of Fisheries at 515/281-5208 or at the fisheries offices on the fourth floor of the Wallace State Office Building. Also there will be a public hearing on September 20, 1988, at 10 a.m. in the conference room on the fifth floor of the Wallace State Office Building, at which time persons may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement Iowa Code sections 109.38, 109.39, 109.67 and 109.76.

The following amendments are proposed:

ITEM 1. Rescind subrule 81.2(4) and insert the following in lieu thereof:

81.2(4) Paddlefish. Paddlefish snagging is permitted in all waters of the state, except that there shall be no open season in the Missouri River and Big Sioux River.

ITEM 2. Amend subrule 81.2(6), paragraph "d," as follows:

d. Channel catfish daily catch and possession limit eight. Open season on the above fish shall be the first Saturday in nearest May 1 to February 15 each year.

## ARC 9142

### NATURAL RESOURCE COMMISSION[571]

#### 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 106.16, 107.24 and 109.38, the Natural Resource Commission hereby gives Notice of Intended Action to create a new Chapter 88, "Fishing Tournaments," Iowa Administrative Code.

These rules establish permit application procedures for the public to follow and criteria to be met when conducting fishing tournaments.

Any interested person may make written suggestions or comments on these proposed rules prior to September 22, 1988. Such written materials should be directed to the Bureau of Fisheries, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Bureau of Fisheries at 515/281-5208 or at the fisheries offices on the fourth floor of the Wallace State Office Building. Also there will be public hearings as follows:

Tuesday, September 20, 1988, at 10:30 a.m. in Des Moines in the conference room on the fifth floor of the Wallace State Office Building; and

Wednesday, September 21, 1988, at 7 p.m. in Bettendorf in the Student Life Center at Scott Community College.

At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule.

These rules are intended to implement Iowa Code sections 106.16 and 109.38.

The following new chapter is proposed:

#### CHAPTER 88 FISHING TOURNAMENTS

##### 571—88.1(109) Definition.

"Fishing tournament" means any organized fishing event with six or more boats or 12 or more participants, where an entry fee is charged or prizes or other inducements are awarded.

**571—88.2(109) Permit required.** A permit issued by the department of natural resources is required to conduct a fishing tournament on public waters under the jurisdiction of the state. Fishing clinics and youth fishing days are excluded.

**571—88.3(109) Application procedures.** The following procedures shall be used to administer fishing tournaments:

1. Application shall be made on a standard form provided by the department and shall include the name, address and phone number of the sponsoring organization or individual, the location and date of the tournament, total value of the prizes, and expected number of participants.

2. The application shall be received by the department area fisheries management biologist at least 30 days prior to the proposed event.

3. Applications will not be accepted prior to July 1 of the year preceding the calendar year in which the tournament is scheduled.

4. No more than one fishing tournament on the same day will be permitted per boating access area. If two or more applicants have requested a permit for the same date on the same access area, the application received first shall be given priority. Subsequent applicants may be assigned to alternate access areas on the same body of water.

5. Permits are not transferable.

**571—88.4(109) Permit conditions.** The department may impose special conditions not specifically covered herein for any fishing tournament if deemed necessary to protect the resource or to ensure public safety. Special conditions may include but not be limited to:

1. Live release of fish.
2. Fish measured to length and released from boat.
3. Multiple weigh-ins when water temperatures exceed 70°F.
4. Aerated live wells.
5. Designated release areas.
6. Designated release persons.

**571—88.5(109) Reports.** Permittees shall complete and return a report to the department within 30 days after a fishing tournament. The report form shall be provided by the department and the permittee shall answer all questions thereon relating to the tournament.

These rules are intended to implement Iowa Code sections 109.16 and 109.38.

## ARC 9109

### 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, 147.76, and 147.36, 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," Iowa Administrative Code.

These amendments provide for the use of a photograph identification card as part of the admission procedure to the licensure examination site, change the examination application procedures so that the application process is more directly controlled by the Board office, and remove the requirement of a written request for applications for licensure.

## NURSING BOARD[655] (cont'd)

Any interested person may make written suggestions or comments prior to September 13, 1988. 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, 147.76, 147.29, and 147.36.

The following amendments are proposed:

ITEM 1. Amend subrule 3.4(2) by relettering paragraph "d" as "e" and adding the following new paragraph "d":

d. The candidate shall present the admission card and a photograph identification card for admission to the examination. Acceptable identification cards shall be a driver's license, student identification card, passport, or state-issued identification card.

ITEM 2. Amend subrule 3.4(3), paragraph "a," subparagraphs (2) and (3), to read as follows:

(2) Upon return of the information about the students who are anticipated to complete the program, *an adequate supply of application forms and instructions for filing shall be sent to the head of the nursing program for each student.*

(3) An admission card and instructions shall be sent to each applicant approximately two weeks prior to the examination upon receipt of the following materials:

Completed application form (submitted by the ~~school~~ applicant).

Original license fee (submitted by the ~~school~~ applicant).

Notification of completion of the NCLEX application process (submitted by NCLEX).

ITEM 3. Amend subrule 3.4(3), paragraph "b," by striking subparagraphs (1) to (6) and inserting in lieu thereof the following:

(1) Submission of information to the board about the students who are anticipated to complete the program at least two months prior to the scheduled examination.

(2) Distribution of the board application form and the NCLEX application form.

(3) Submission to the board of a list of persons who have failed to complete the program.

(4) Verification of examination eligibility for each applicant by signing each application.

ITEM 4. Amend subrule 3.4(3), paragraph "c," by striking subparagraphs (1) to (4) and inserting in lieu thereof the following:

(1) Submission of a completed board application form. The applicant is responsible for obtaining the signature of the head of the nursing program from which the applicant graduated for verification of license examination eligibility.

(2) The applicant may obtain the board application form and the NCLEX application form from the head of the nursing program or the board office.

(3) Submission of the original license fee, made payable to the Iowa board of nursing. The fee, as outlined in rule 3.1(17A,147,152,258A) is not refundable.

(4) Submission to NCLEX of a completed NCLEX application with an application fee eight weeks prior to the examination. An applicant who does not meet the NCLEX deadline may meet the board deadline pursuant

to Iowa Code section 147.29. A processing fee as outlined in rule 3.1(17A,147,152,258A) will be charged for all NCLEX applications processed by the board. An applicant should contact the board office to obtain instructions for late registration.

(5) Having the nursing program forward an official nursing transcript denoting the date of entry and date of graduation.

(6) Informing the board of the applicant's current mailing address.

ITEM 5. Amend subrule 3.4(6), paragraph "a," subparagraph (1), to read as follows:

(1) Upon receipt of a ~~written~~ request, the instructions entitled "Licensure of Foreign Nurse Graduates in Iowa" shall be sent to the applicant.

ITEM 6. Amend subrule 3.5(2), paragraph "a," subparagraph (1), to read as follows:

(1) Upon receipt of a ~~written~~ request, application forms and instructions shall be sent to the applicant.

## ARC 9138

PHARMACY EXAMINERS  
BOARD[657]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.94, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 2, "Licensure," Iowa Administrative Code. The amendment was approved at the July 12, 1988, meeting of the Iowa Board of Pharmacy Examiners.

The amendment changes the time by which applications for licensure examination must be submitted from 10 days to 15 days. The 10-day period does not provide sufficient time in which to process applications and to order examination materials. The 15-day period is in keeping with the language in Iowa Code section 147.29.

Any interested person may submit data, views, and arguments, orally or in writing, on or before September 13, 1988, to Norman C. Johnson, Executive Secretary, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code supplement section 155A.8.

Amend rule 657—2.1(147) as follows:

**657—2.1(147) Licensure examination dates.** The board of pharmacy examiners shall fix the dates for the examination both in Des Moines and Iowa City and applications must be presented to the board at least ~~ten~~ 15 days before the dates set for the examination.

**ARC 9139****PHARMACY EXAMINERS  
BOARD[657]****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 supplement section 155A.6, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 4, "Minimum Standards for Evaluating Practical Experience," Iowa Administrative Code. The amendment was approved at the July 12, 1988, meeting of the Iowa Board of Pharmacy Examiners.

The amendment changes the requirements for internship by limiting the number of hours which can be obtained in practice sites other than general, hospital, or limited use pharmacies. The amendment requires that a minimum of 250 hours be obtained in those traditional practice sites and allows a maximum of 250 hours in the nontraditional sites.

Any interested person may submit data, views, and arguments, orally or in writing, on or before September 13, 1988, to Norman C. Johnson, Executive Secretary, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code supplement section 155A.6.

Amend rule 657—4.3(155A) as follows:

**657—4.3(155A) 1500-hour requirements.** Internship shall consist of a minimum of 1500 hours, 1000 hours of which may be a college-based clinical program approved or accepted by the board. Such programs shall be structured to provide experience in community, institutional, and clinical pharmacy practices. The remaining 500 hours shall be acquired in a licensed pharmacy or other board-approved location. These 500 hours can only be obtained after internship registration, at a rate of no more than 48 hours per week. *No more than 250 hours shall be earned in sites where the goal and objectives of internship in rule 657—4.2(155A) do not apply.* Internship credit toward the stipulated 500 hours will not be allowed if it is acquired concurrent with academic training. "Concurrent time" means internship experience acquired while the person is a full-time student carrying, in a given school term, at least 75 percent of the average number of credit hours per term needed to graduate and receive an entry level degree in pharmacy. Credit towards the 500 hours will be granted for experience gained during recognized holiday periods, such as spring break and Christmas break. The competencies in subrule 4.2(2) shall not apply to college-based clinical programs.

**ARC 9136****PHARMACY EXAMINERS  
BOARD[657]****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 supplement section 155A.13, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 6, "General Pharmacy Licenses," and Chapter 8, "Minimum Standards for the Practice of Pharmacy," Iowa Administrative Code. These amendments were approved at the July 12, 1988, meeting of the Iowa Board of Pharmacy Examiners.

Language in rule 6.9 is transferred to Chapter 8 as rule 8.2. The transfer is made to ensure understanding that the requirements for prescription information and transfer apply to all pharmacies licensed by the Board, not just general pharmacies.

This amendment is intended to implement Iowa Code supplement section 155A.34.

Rule 6.11 is rescinded and similar language is adopted as new rule 8.17. The movement of this language from Chapter 6 to Chapter 8 is made in order to ensure understanding that the requirements when a pharmacist is temporarily absent from a pharmacy will apply to all pharmacies, not just general pharmacies.

This amendment is intended to implement Iowa Code supplement section 155A.13.

Any interested person may submit data, views, and arguments, orally or in writing, on or before September 13, 1988, to Norman C. Johnson, Executive Secretary, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

ITEM 1. Amend subrule **6.8(3)** by striking the reference to "10.13(15)" and inserting "10.13(13)".

ITEM 2. Renumber **657—6.9(155A,204)** as **657—8.2(155A,204)** and correct the reference in renumbered **8.2(3)"e"** from **6.9(3)"b"** to **8.2(3)"b"**.

This rule is intended to implement Iowa Code supplement section 155A.34.

ITEM 3. Rescind rule **657—6.11(155A)**.

ITEM 4. Amend 657—Chapter 8 by adding the following new rule:

**657—8.17(155A) Pharmacist temporary absence.** In the case of the temporary absence of the pharmacist, hospital pharmacies excepted, the pharmacy must display a card or sign, in letters not less than 1¾ inches high, which reads "PHARMACIST TEMPORARILY ABSENT. NO PRESCRIPTIONS WILL BE FILLED UNTIL THE PHARMACIST RETURNS."

This rule is intended to implement Iowa Code supplement section 155A.13.

## ARC 9135

### PHARMACY EXAMINERS BOARD[657]

#### 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 supplement section 155A.13, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 8, "Minimum Standards for the Practice of Pharmacy," Iowa Administrative Code, by deleting rule 8.8 and creating a new Chapter 16, "Nuclear Pharmacy," Iowa Administrative Code. The amendments were approved at the July 12, 1988, meeting of the Iowa Board of Pharmacy Examiners.

The language in rule 8.8 will transfer without change to the new Chapter 16.

Any interested person may submit data, views, and arguments, orally or in writing, on or before September 13, 1988, to Norman C. Johnson, Executive Secretary, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code supplement section 155A.13.

Rescind rule 657—8.8(155A) and adopt the following chapter:

#### CHAPTER 16 NUCLEAR PHARMACY

**657—16.1(155A) Purpose and scope.** It is unlawful to receive, possess or transfer radioactive drugs, except in accordance with the provisions of 1987 Iowa Code supplement chapter 155A. It is also unlawful for any person to provide radiopharmaceutical services unless the person is a pharmacist or a person acting under the direct supervision of a pharmacist acting in accordance with the provisions of 1987 Iowa Code supplement chapter 155A and the board of pharmacy examiners rules, and rules of the environmental protection commission with the exception of a medical practitioner for administration to patients as provided in Iowa Code chapter 148. No person may receive, acquire, possess, use, transfer or dispose of any radioactive material except in accordance with the conditions set forth by the environmental protection commission pursuant to the provisions of Iowa Code chapter 455B. The requirements of these nuclear pharmacy rules are in addition to and not in substitution for other applicable provisions of rules of the board of pharmacy examiners and the environmental protection commission or the public health department.

#### **657—16.2(155A) Definitions.**

**16.2(1)** A "nuclear pharmacy" is a pharmacy providing radiopharmaceutical services.

**16.2(2)** "Radiopharmaceutical service" shall mean, but shall not be limited to, the compounding, dispensing, labeling and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and

safe storage and distribution of radiopharmaceuticals; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or where regulated, of therapeutic values, hazards and use of radiopharmaceuticals; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a nuclear pharmacy.

**16.2(3)** "Radiopharmaceutical quality assurance" means, but is not limited to, the performance of appropriate chemical, biological and physical tests on potential radiopharmaceuticals and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment authentication of product history and the keeping of proper records.

**16.2(4)** "Internal test assessment" means, but is not limited to, conducting those tests of a quality assurance necessary to ensure the integrity of the test.

**16.2(5)** "Authentication of product history" means, but is not limited to, identifying the purchasing source, the ultimate fate, and any intermediate handling of any component of a radiopharmaceutical.

#### **657—16.3(155A) General requirements for pharmacies providing radiopharmaceutical services.**

**16.3(1)** The application for a license to operate a pharmacy providing radiopharmaceutical services shall only be issued to a qualified nuclear pharmacist. All personnel performing tasks in the preparation and distribution of radioactive drugs shall be under the direct personal supervision of a nuclear pharmacist. A nuclear pharmacist is responsible for all operations of the licensed area and shall be in personal attendance at all times that the pharmacy is open for business.

**16.3(2)** Nuclear pharmacies shall have adequate space, commensurate with the scope of services required and provided, meeting minimal space requirements established for all pharmacies in the state. The nuclear pharmacy area shall be separate from the pharmacy areas for nonradioactive drugs and shall be secured from unauthorized personnel. All pharmacies handling radiopharmaceuticals shall provide a radioactive storage and product decay area, occupying at least 25 square feet of space, separate from and exclusive of the hot laboratory, compounding, dispensing, quality assurance and office area. A nuclear pharmacy handling radioactive drugs exclusively may be exempted from the general space requirements for pharmacies by obtaining a waiver from the board of pharmacy examiners. Detailed floor plans shall be submitted to the board of pharmacy examiners and the public health department before approval of the license.

**16.3(3)** Nuclear pharmacies shall only dispense radiopharmaceuticals which comply with acceptable professional standards of radiopharmaceutical quality assurance.

**16.3(4)** Nuclear pharmacies shall maintain records of acquisition and disposition of all radioactive drugs in accordance with the board of pharmacy examiners and the environmental protection commission.

**16.3(5)** Nuclear pharmacies shall comply with all applicable laws and regulations of federal and state agencies, including those laws and regulations governing nonradioactive drugs.

**16.3(6)** Radioactive drugs are to be dispensed only upon a prescription order from a licensed medical

**PHARMACY EXAMINERS BOARD[657] (cont'd)**

practitioner authorized to possess, use and administer radiopharmaceuticals.

A nuclear pharmacy may also furnish radiopharmaceuticals for office use only to these practitioners for individual patient use.

**16.3(7)** In addition to any labeling requirements of the board of pharmacy examiners for nonradioactive drugs, the immediate outer container of a radioactive drug to be dispensed shall also be labeled with:

- a. The standard radiation symbol;
- b. The words "Caution— Radioactive Material";
- c. The radionuclide;
- d. The chemical form;
- e. The amount of radioactive material contained, in millicuries or microcuries;
- f. If a liquid, the volume in cubic centimeters;
- g. The requested calibration time for the amount of radioactivity contained.

**16.3(8)** The immediate container shall be labeled with:

- a. The standard radiation symbol;
- b. The words "Caution — Radioactive Material";
- c. The name, address and telephone number of the pharmacy; and
- d. The prescription number.

**16.3(9)** The amount of radioactivity shall be determined by radiometric methods for each individual preparation immediately prior to dispensing.

**16.3(10)** Nuclear pharmacies may redistribute NDA-approved radioactive drugs if the pharmacy does not process the radioactive drugs in any manner or violate the product packaging.

**657—16.4(155A) General requirements for nuclear pharmacists to obtain a nuclear pharmacy license.** A qualified nuclear pharmacist shall:

1. Meet minimal standards of training for medical uses of radioactive material;
2. Be a currently licensed pharmacist in the state;
3. Have received a minimum of 90 contact hours of didactic instruction in nuclear pharmacy from an accredited college of pharmacy;
4. Attain a minimum of 160 hours of clinical nuclear pharmacy training under the supervision of a qualified nuclear pharmacist in a nuclear pharmacy providing nuclear pharmacy services, or in a structured clinical nuclear pharmacy training program in an accredited college of pharmacy;
5. Submit an affidavit of experience and training to the board of pharmacy examiners.

**657—16.5(155A) Library.** Each nuclear pharmacy shall have access to the following reference books. All books must be current editions or revisions.

1. United States Pharmacopeia, with supplements;
2. National Formulary, with supplements;
3. State laws and regulations relating to pharmacy;
4. State rules or federal regulations governing the use of applicable radioactive materials;
5. United States Public Health Service, Radiological Health Handbook.

**657—16.6(155A) Minimum equipment requirements.**

1. Laminar flow hood;
2. Dose calibrator;
3. Refrigerator;
4. Class A prescription balance or balance of greater sensitivity;
5. Single channel scintillation counter;

6. Microscope;
7. Autoclave, or access to one;
8. Oven capable of 250° C. for 45 minutes, or access to one;
9. Portable radiation survey meter capable of detecting 0.005 microcuries of the radionuclides in question;
10. Other equipment necessary for radiopharmaceutical services provided as required by the board of pharmacy examiners.

These rules are intended to implement Iowa Code supplement section 155A.13.

**ARC 9098****PROFESSIONAL LICENSURE  
DIVISION[645]**

BOARD OF BARBER EXAMINERS

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 158.15 and 258A.2, the Board of Barber Examiners hereby gives Notice of Intended Action to amend Chapter 20, "Barber Examiners," Iowa Administrative Code.

The proposed amendment changes fees for new barbershop licenses and renewal of barbershop licenses and clarifies continuing education requirements to be earned each calendar year and to be made up for reinstatement of license.

Any interested person may make written comments concerning the proposed amendment not later than September 13, 1988, addressed to Carol J. Barnhill, Barber Board Administrator, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

This rule is intended to implement 1988 Iowa Acts, House File 2444, section 9, and Iowa Code sections 147.11 and 258A.2.

**ITEM 1.** Amend subrule 20.101(1) by adding the following unnumbered paragraph:

Beginning January 1, 1988, each person licensed to practice barbering in this state shall complete during each continuing education biennial period a minimum of six hours of continuing education approved by the board. Compliance with the requirement of continuing education is a prerequisite for license renewal in each subsequent biennial license renewal period beginning July 1 of each even-numbered year.

**ITEM 2.** Amend subrule 20.109(2), paragraph "b," as follows:

b. Completion of a total number of hours of accredited continuing education computed by multiplying six by the number of years a certificate of exemption shall have been in effect for such applicant *until January 1, 1988,*

## PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

and then compute the remaining number of continuing education hours by multiplying three by the remaining years a certificate of exemption shall have been in effect for such applicant; or

ITEM 3. Amend subrule 20.110(2), paragraph "d," by adding the following new subparagraph:

(5) Additional continuing education figured after January 1, 1988, will be computed by multiplying by three the number of years the license had lapsed past January 1, 1988.

ITEM 4. Amend subrules 20.214(8) and 20.214(9) as follows:

20.214(8) License for new barbershop is \$50 \$30.

20.214(9) Renewal of barbershop license is \$25 \$30. Penalty for late renewal is \$10, in addition to renewal fee.

## ARC 9114

PROFESSIONAL LICENSURE  
DIVISION[645]

BOARD OF OPTOMETRY EXAMINERS

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in 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 147.36 and 147.76, the Board of Optometry Examiners hereby gives Notice of Intended Action to amend 645—Chapter 180 of the Iowa Administrative Code.

The proposed amendments provide for examinations, for due process for license suspension, and changes governing study compliance for license renewal and reinstatement.

Any interested person may make written comments concerning the proposed rules no later than September 13, 1988, addressed to Keith Rankin, Administrator, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The proposed rules are intended to implement Iowa Code sections 147.36, 147.80, 154.3, and 258A.2.

ITEM 1. Amend rule 645—180.5(154) as follows:

Amend subrule 180.5(3) as follows:

180.5(3) An applicant for admission to practice optometry in Iowa shall successfully pass the following paragraphs "a" through "c." An applicant shall present a diploma from an accredited school or college of optometry and, if the applicant graduated from optometry school prior to January 2, 1988, shall submit proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154.

a. All parts ~~Parts one and two~~ of the examination of the national board of examiners in optometry; and

b. ~~The written and practical clinical examinations of the Iowa state board of optometry examiners with a minimum average score of 75 percent and a minimum score on each part of 70 percent. The examination of the International Association of Boards of Examiners in Optometry on "The Treatment and Management of Ocular Disease"; and~~

c. ~~The written and practical clinical examinations of the Iowa state board of optometry examiners with a minimum overall average score of 75 percent and a minimum score on each part of 70 percent. Paragraphs "a" and "b" are prerequisites to taking paragraph "c."~~

Add the following new subrules:

180.5(4) Diagnostic certification. Those persons licensed to practice optometry in Iowa before January 2, 1980, who apply to be a diagnostically certified licensed optometrist shall earn a grade of not less than 70 percent on the examination prescribed by the Iowa state board of optometry examiners. The examination shall be in the subjects of physiology and pathology appropriate to the use of diagnostic pharmaceutical agents and diagnosis of conditions of the human eye, and pharmacology including systemic effects of ophthalmic diagnostic pharmaceutical agents and the possible adverse reactions

## ARC 9131

PROFESSIONAL LICENSURE  
DIVISION[645]

BOARD OF DIETETIC 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 147.36 and 147.76, the Board of Dietetic Examiners hereby gives Notice of Intended Action to amend 645—Chapter 80 of the Iowa Administrative Code.

The proposed amendment provides in the rules for definition clarification regarding consultation.

Any interested person may make written comments concerning the proposed rule no later than September 13, 1988, addressed to Keith Rankin, Administrator, Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The proposed subrule is intended to implement Iowa Code sections 147.36, 147.80, 154.3 and 258A.2.

Amend rule 80.4(152A) by adding the following new subrule:

80.4(5) A license is not required for dietitians who are in this state for the purpose of consultation when they are licensed in another state, U.S. possession, or country, or have received at least a baccalaureate degree in human nutrition. Consultation means the practice of dietetics in affiliation with, and at the request of, a dietitian licensed in this state on behalf of a specific patient.

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

thereto, authorized for use by optometrists by Iowa Code section 154.1.

**180.5(5)** Therapeutic certification. This subrule applies to all optometrists graduating after January 2, 1986, and prior to January 2, 1988.

a. As a prerequisite to taking the examination described in subrule 180.5(3)"c," an applicant for admission to practice optometry in Iowa may only apply to be a therapeutically certified optometrist and, if requested by the board, shall supply certification that the applicant's optometric education and training meet or exceed the requirements of the state of Iowa as outlined in Iowa Code section 154.3(5).

b. A person licensed to practice optometry in any state prior to January 1, 1986, who applies to be a therapeutically certified optometrist shall first satisfactorily complete a course provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States Department of Education, and approved by the Iowa state board of optometry examiners, which has particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa. The course shall include a minimum of 40 hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa.

c. The board also requires that all therapeutically certified optometrists, prior to the utilization of topical and oral antiglaucoma agents, oral and antimicrobial agents and oral analgesic agents, shall complete an additional 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases, provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States Department of Education, and approved by the board of optometry examiners. Upon completion of the additional 44 hours of education, a therapeutically certified optometrist shall also pass an oral or written examination which emphasizes the diagnosis, treatment, and management of glaucoma, ocular disease, and systemic disease which affect the eye. The board shall suspend the optometrist's therapeutic certificate according to the procedures outlined in subrule 180.5(6) in the event the optometrist fails to comply with this paragraph by July 1, 1988. Beginning July 1, 1988, additional continuing education is required as study compliance for license renewal as specified in subrule 180.12(2).

**180.5(6)** The board shall suspend an optometrist's therapeutic certificate for failure to comply with rule 180.5(5)"c" by July 1, 1988.

a. When it comes to the board's attention that an optometrist therapeutically certified by July 1, 1988, has failed to comply with subrule 180.5(5)"c" by July 1, 1988, the board shall take the following steps.

(1) The board shall notify the licensee of being placed on suspension due to the licensee's failure to be in compliance with subrule 180.5(5)"c." Notice shall be served by restricted certified mail, return receipt requested, or by personal service.

(2) Any requests for appeal concerning the suspension shall be submitted by the aggrieved party, in writing,

to the Iowa board of optometry examiners by certified mail, return receipt requested, within 20 days of the receipt of the board's notice. The address is: Iowa Board of Optometry Examiners, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. If such a request is made within the 20-day time period, the notice shall be deemed suspended. If no request for appeal is received within the 20-day time period, the board's notice of suspension shall become the board's final agency action.

(3) Upon the board's receipt of a request for a hearing, the board shall prepare a notice of hearing and transmit the notice to the licensee by certified mail, return receipt requested, at least 10 days before the date of the hearing.

(4) The board shall conduct the hearing in accordance with rule 180.108(258A) and may authorize an administrative hearing officer to assist it with conducting the hearing.

(5) After the hearing, the board shall affirm, modify, or set aside the suspension.

(6) Prior to or at the hearing, the board may rescind the notice of suspension upon satisfaction that the reason for the suspension has been resolved.

b. Unless otherwise specified, the suspension, originally noticed, shall exist until the therapeutically certified licensee has completed the requirements of subrule 180.5(5)"c" and proven completion to the board.

ITEM 2. Amend rule 645—180.12(154) as follows:

**645—180.12(154) General.**

**180.12(1)** The optometric study compliance year shall extend from June 1 to May 31, during which period attendance at approved study sessions may be used as evidence of study fulfillment requirements for the subsequent license renewal year beginning July 1 and expiring June 30. ~~license renewal study compliance biennium shall extend for a two-year period between May 1 and April 30 of even-numbered years during which period attendance at approved study sessions, educational programs, and courses approved by the board of examiners may be used as evidence of compliance in fulfillment of continuing education study requirements for the subsequent license renewal biennium which begins July 1 and expires June 30 of even-numbered years. Completion of continuing education requirements is a prerequisite for license renewal.~~

During the continuing education period from June 1, 1982 to May 31, 1984, each person licensed to practice as an optometrist in this state shall complete a minimum of 24 hours of continuing education during the biennium approved by the board. Beginning with the continuing education period from June 1, 1984 to May 31, 1986 and each biennium thereafter, each person licensed to practice as an optometrist in this state shall complete a minimum of 30 hours of continuing education approved by the board. Not more than 18 hours of continuing education shall be completed during any 12-month period; from June 1 through May 31. Any continuing education beyond 18 hours completed during any 12-month period shall not be counted toward the required hours of continuing education. The completion of the continuing education is a prerequisite for license renewal. License renewal beginning July 1, 1982 shall be for a two-year period.

a. Requirements for nontherapeutically certified optometrists. Beginning with the continuing education period from June 1, 1984, to May 31, 1986, and each

## PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

biennium thereafter, each person who is licensed to practice as an optometrist in this state and who is not therapeutically certified shall be required to complete a minimum of 30 hours of continuing education approved by the board. Not more than 18 hours of continuing education shall be credited during any 12-month period, from May 1 to April 30.

b. Requirements for therapeutically certified optometrists. Beginning with the continuing education period from May 1, 1988, to April 30, 1990, and each biennium thereafter, each person who is licensed to practice as a therapeutically certified optometrist in this state shall be required to complete a minimum of 50 hours of continuing education approved by the board. A minimum of 20 hours of continuing education per biennium shall be in the treatment and management of ocular disease. Not more than 30 hours of continuing education shall be credited during any 12-month period, from May 1 to April 30.

180.12(2) Prior to June 1, 1982, the educational requirement shall be 12 clock hours of attendance and study at approved study sessions. From June 1, 1982 through May 31, 1984, the educational requirement shall be 24 hours of approved continuing education completed biennially. Beginning with the continuing education period starting June 1, 1984, the educational requirement shall be 30 hours of approved continuing education completed biennially. Each person who is licensed to practice optometry in this state must comply with Iowa study compliance rules for license renewal and reinstatement regardless of the licensee's place of residence or place of practice.

180.12(3) The required number of study hours may be obtained by one or more of the following methods:

a. The annual continuing education programs of the Iowa optometric association, the American Optometric Association, the American Academy of Optometry, and national regional optometric congresses.

b. Postgraduate study sessions or seminars at by an accredited school or college of optometry;

c. Local study group programs approved by the board; study groups shall meet a minimum of six times per year. A maximum of one hour credit per meeting shall be given for each meeting unless prior approval is rendered granted by the board for an additional amount of credit.

d. Other meetings or seminars either within or without the state of Iowa that may be approved in advance by the board with such request for approval to be made to the board at least 30 days prior to the meeting or seminar. Programs, names of speakers with qualifications credentials, and subject matter shall accompany the request. Providers of accredited continuing education must be approved by the board as having education as one of their primary functions.

e. Home study material specified and approved by the board in cases of extenuating circumstances. Such will be allowed only upon submission of satisfactory evidence to the board of such circumstance and inability to acquire the number of study hours.

f.e. Correspondence courses which include posttesting results may be used for a maximum of six hours credit for the each biennium with prior board approval.

g.f. Practice management courses may be used for a maximum of six hours credit for the each biennium.

g. In cases of extenuating circumstances, study material which is specified and approved in advance by the board.

h. The department of ophthalmology of the school of medicine of the State University of Iowa shall be one of the providers of continuing education for Iowa optometrists.

180.12(4) Certification to the board of attendance at any of the foregoing shall be submitted within seven 30 days of said meeting by the secretary or chairperson of the organization or group sponsoring said meeting, the dean of optometry school, or in the case of special meetings approved by the board, a person so designated by the board.

180.12(5) No change.

180.12(6) If a new license holder licensee is licensed during the first year of the biennial continuing education period, the license holder licensee is only required to complete 15 only 24 hours of continuing education for renewal. If a new license holder licensee is licensed during the second year of the biennial continuing education period, the license holder licensee will be exempt from meeting continuing education requirements for the first license renewal. The new license holder licensee will be required to complete 30 a minimum of 50 hours of continuing education per biennium for the each subsequent license renewals.

This rule is intended to implement Iowa Code sections 147.80 and 258A.2.

## ARC 9151

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 11, "Administration," and Chapter 15, "Determination of a Sale and Sale Price," Iowa Administrative Code.

The 1988 Iowa Acts, House File 2477, made two changes, among many others, in Iowa sales tax law. Neither change fits into any particular category. Both changes are thus placed in this miscellaneous rule. The first change ends the requirement that the director's examination of a taxpayer's books or records not include any transaction completed five or more years prior to the examination. The law now contains no specific provision limiting the time period in which the director can examine books and records; however, when a sales tax permit has been filed without a fraudulent intent to evade tax, an assessment must be issued within five years after the return is filed. Furthermore, if an assessment is based upon examination of a taxpayer's

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

books or records, it remains the law that the assessment must be issued within one year after the examination of the books and records is completed. The department's existing rule regarding statutes of limitations is amended to reflect the end of one limitation and the retention of two others. Also, under prior law, a "fuel exemption certificate" which protects a retailer who in good faith sells fuel on the assumption that the fuel will be used in processing was available only for fuel which was to be used in "self-propelled" implements of husbandry. As of January 1, 1988, the requirement that the implement of husbandry be "self-propelled" has been retroactively eliminated. January 1 was the effective date of the legislation which originally allowed the use of an exemption certificate for "fuel consumed in processing." Because of this retroactive amendment to the beginning date of the legislation, all reference to any requirement that an implement of husbandry be "self-propelled" is eliminated from the department's rules.

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 13, 1988, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before September 23, 1988. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the 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 September 16, 1988.

The amendment is intended to implement 1987 Iowa Code supplement section 422.47(4)"f" and Iowa Code subsection 422.70(1) as amended by 1988 Iowa Acts, House File 2477.

The following amendments are proposed:

ITEM 1. Amend rule 701—11.2(422,423), the first unnumbered paragraph and the implementation clause, to read as follows:

In all other circumstances, within five years after a return is filed, the department shall examine it, determine sales or use tax due, and give notice of assessment to the taxpayer. ~~If the determination is based upon an examination of books, papers, records, or~~

~~memoranda, the examination will not include any transactions completed five years or more prior to the examination.~~

This rule is intended to implement Iowa Code sections 422.54(1), 422.54(2), and 422.70(1) as amended by 1988 Iowa Acts, House File 2477.

ITEM 2. Amend subrule 15.3(3), paragraph "a," the first sentence of the second unnumbered paragraph and the implementation clause, to read as follows:

"Fuel consumed in processing" includes fuel used in grain drying, providing heat or cooling for livestock buildings, fuel used for generating electric current, fuel consumed in self-propelled implements of husbandry engaged in agricultural production, as well as fuel used in processing as defined in rule 18.29(422,423).

This rule is intended to implement Iowa Code sections 422.42(3), 422.42(13), 422.42(16), 422.47 as amended by 1987 1988 Iowa Acts, ~~chapter 196~~ House File 2477, and Iowa Code sections 422.53 and 423.1(1).

**ARC 9149**

**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 11, "Administration," and Chapter 107, "Local Option Sales and Service Tax," Iowa Administrative Code.

Until recently, Iowa law did not require a retailer to collect Iowa sales tax unless that retailer had a physical presence or an agent in this state. As a result of 1988 Iowa Acts, House File 2459, certain retailers, not present in this state, are required to collect Iowa sales tax. Retailers who solicit in Iowa through the electronic or printed media, those who maintain a franchisee or licensee here, and those affiliated with a business selling tangible personal property in this state and meeting certain other qualifications are now responsible for collecting sales tax. The newly liable retailers are not obligated to collect local option sales tax.

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

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

by delivery or by mailing postmarked no later than September 13, 1988, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before September 23, 1988. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the 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 September 16, 1988.

The amendment is intended to implement 1987 Iowa Code supplement section 422.43 as amended by 1988 Iowa Acts, House File 2459.

The following amendments are proposed.

ITEM 1. Amend 701—Chapter 11 by adding the following rule:

**701—11.11(422) Retailers newly liable, as of July 1, 1988, for collection of sales tax.** On and after July 1, 1988, certain retailers who solicit sales of tangible personal property from residents of this state or who are owned or controlled by the same interests which own or control other retailers engaged in business in this state or who have certain franchisees or licensees operating in this state must collect and remit sales tax to the state of Iowa even though those retailers were not required to collect and remit Iowa sales tax prior to July 1, 1988.

**11.11(1) Definitions and characterizations.** Words are defined or characterized for the purposes of this rule in the manner set out below.

a. "Marketing." The meaning of the word "marketing" is far broader than the meaning of the word "selling," *Treasure Valley Potato Bargaining Association v. Ore-Ida Foods, Inc.*, 497 F.2d 203 (C.A. 9th, 1974). Marketing includes numerous functions directed to the purpose of transferring title and moving tangible personal property in a series of transactions to the consumer. By way of nonexclusive example, marketing of tangible personal property includes buying, selling, storing, transporting, standardizing, financing, risk bearing under the contract of sale, and gathering information.

b. "Residents of this state" may be artificial persons (e.g., corporations and partnerships) as well as natural persons.

c. "Sales solicitation message." Not all advertising of tangible personal property for sale to Iowa residents involves a "sales solicitation message." Advertising and soliciting are not synonymous terms. In *re Owen*, 177 S.E. 403, 207 N.C. 445 (1934). A "sales solicitation message" involves not only a statement that tangible personal property is for sale or a message urging or inciting residents of Iowa to buy the tangible personal

property but also an offer to sell tangible personal property with delivery in Iowa or an inducement to Iowa residents to purchase tangible personal property for delivery into this state. Any "sales solicitation message" must include information which allows a resident of Iowa to contact a retailer and offer to purchase tangible personal property from the retailer. Information allowing a resident to do this includes, by way of nonexclusive example: order blanks, a company name and address where offers to purchase are accepted, and 800 telephone numbers.

d. "Solicitation" includes, but is not necessarily limited to, the following:

1. Transmittance of a printed sales solicitation message by United States mail, common carrier, or otherwise, in the form of a bulk mailing or a bulk delivery, a sales catalog, brochure, advertising flier, billing or package insert or similar publication or device.

2. Transmittance of a sales solicitation message by space advertising in a newspaper, magazine, or other publication, which is local, regional, or national in character.

3. Transmittance of a sales solicitation message by radio, television, telephone, telegraph, computer data base, or by cable, optic, microwave or any other electronic means.

Each separate transmittance of a sales solicitation message is a separate act of "solicitation." Thus, by way of nonexclusive example, a retailer who solicited orders from Iowa residents by means of one bulk mailing of advertising fliers in June, by another mailing of catalogs in August, and by advertising in a newspaper in October, would be engaging in three separate "solicitations."

e. "Soliciting on a continuous basis" means soliciting without interruption or cessation, the uninterrupted or unceasing solicitation consisting of recurring acts of solicitation.

f. "Soliciting on a regular basis" means recurring solicitation at fixed, periodic or unvarying intervals.

g. "Soliciting on a seasonal basis" means soliciting during at least one season (spring, summer, fall, or winter) of a calendar year.

h. "Soliciting on a systematic basis." A retailer is soliciting on a systematic basis if the retailer is soliciting orders from residents of this state in an orderly or methodical fashion, in accordance with some plan or design or in a step-by-step fashion.

**11.11(2) Advertising broadcast from a transmitter.** Any retailer who solicits sales of tangible personal property from residents of this state by means of advertising broadcast from or relayed from a transmitter within this state must collect and remit tax to the department on sales to Iowa residents. The solicitation must be on either a "continuous, regular, seasonal, or systematic basis." Solicitation which is "seasonal" gives rise to liability for tax only if that solicitation is by the means described in this subrule. The term "advertising . . . broadcast from or relayed from a transmitter within this state" can include advertising disseminated through a cable television system.

**11.11(3) Retailers soliciting in this state by means other than those described in subrule 11.11(2).** Retailers soliciting orders for tangible personal property from Iowa residents by any means other than advertising which is broadcast or relayed from a transmitter within Iowa are obligated to collect Iowa sales tax if the following circumstances exist:

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

a. The solicitations are continuous, regular, or systematic, and

b. The retailer benefits from:

1. Any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state. A retailer benefits from banking activities occurring in Iowa if the retailer takes payment for tangible personal property sold by means of a check or a credit card drawn upon or issued by a bank in this state; or

2. The location in Iowa of authorized installation, servicing, or repair facilities. To "benefit" from the location in Iowa of installation, servicing, or repair facilities, a retailer need not own or control those facilities. The facilities need only be "authorized" to install, service, or repair tangible personal property sold by the retailer.

11.11(4) Differing treatments of solicitations of sales by means of advertising, broadcast, or relayed from the transmitters inside and outside of Iowa. Differing consequences exist when solicitation is by means of electronic transmitters located inside or outside of Iowa. If the transmissions originate inside Iowa, the provisions of subrule 11.11(2) are applicable, and the mere act of soliciting on a continuous, regular, seasonal, or systematic basis is enough to impose liability for collection of sales tax on sales to Iowa residents. If the solicitation is by means of a transmitter or transmitters located outside this state, the provisions of subrule 11.11(3) are applicable, and the mere act of solicitation on a continuous, regular, or systematic basis is not enough to impose liability for collection of tax on sales to Iowa residents. The retailer must, additionally, benefit from banking, financing, or other activities described in subrule 11.11(3) to be held liable for collection of the tax.

EXAMPLE: ABC Company, a major retailer, solicits sales of its snowmobiles in an advertisement run on a radio station located in Spencer, Iowa, on November 12, 1988. It solicits sales for its snowblowers in an advertisement on a Mason City radio station on December 4, 1989. It solicits sales of both snowmobiles and snowblowers in an advertisement run on a Decorah radio station on December 14, 1990. ABC is "soliciting on a seasonal basis" by means of advertising broadcast from a transmitter within this state and is, without further activity on its part, obligated to collect tax on its sales to Iowa residents.

EXAMPLE: DEF Company is located in Geneseo, Illinois. Advertisements for this store are broadcast daily from a television transmitter located in East Moline, Illinois. These advertisements are intended to be and are watched by residents of Iowa. DEF is soliciting orders from residents of Iowa on a continuous basis; however, since the solicitations are broadcast from a transmitter located outside the state of Iowa, without more, DEF is not liable for collection of Iowa sales tax unless the furniture store benefits from Iowa banking, financing, debt collection, or other activities previously described to be held liable for collection of the tax.

11.11(5) Retailers owned or controlled by similar interests. Retailers which are owned or controlled by interests which own or control a retailer engaged in business in the same or a similar line of business in Iowa are obligated to collect tax on their Iowa sales regardless of any other contacts with this state which they might have.

11.11(6) Retailers with franchisees or licensees in this state. Retailers who maintain or have a franchisee or licensee operating under the retailer's trade name in this state are required to collect tax on the retailer's Iowa sales if the franchisee or licensee is required to collect Iowa sales or use tax on any of the franchisee's or licensee's Iowa sales.

This rule is intended to implement 1987 Iowa Code supplement section 422.43 as amended by 1988 Iowa Acts, House File 2459.

ITEM 2. Amend rule 701—107.9(422B) by adding a new numbered subparagraph and at the implementation clause as follows:

6. On and after July 1, 1988, sales subject to tax only under the circumstances described in rule 701—11.11(422) are exempt from local option tax. Sales of "foreign retailers" taxable by virtue of any circumstances other than those described in rule 11.11(422) remain subject to Iowa local option sales tax.

This rule is intended to implement Iowa Code Supplement subsection 422B.8(1) as amended by 1986 Iowa Acts, Senate House File 2302 2459.

**ARC 9150**

**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 422B.9, the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 19, "Sales and Use Tax on Construction Activities," and Chapter 107, "Local Option Sales and Service Tax," Iowa Administrative Code.

Under prior law, construction contractors had no right to a refund of local option sales tax paid on property used in a construction contract if the property was incorporated into an improvement to real estate in fulfillment of a written contract fully executed prior to the date local option sales tax was imposed or its rate increased. As a result of 1988 Iowa Acts, House File 2463, a right of refund under the circumstances previously mentioned now exists. The right is similar to a right of refund for contractors currently existing with regard to tax paid on a contract fully executed prior to an increase in state sales and service tax. House File 2463 was effective upon enactment (May 4, 1988).

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

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

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 13, 1988, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before September 23, 1988. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the 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 September 16, 1988.

The amendment is intended to implement Iowa Code chapter 422B as amended by 1988 Iowa Acts, House File 2463.

The following amendments are proposed:

**ITEM 1.** Amend rule 701—19.2(422,423), the third unnumbered paragraph which begins "Construction contractors may make application . . ." by adding to it, at the end, the following sentence:

A similar right of refund exists with reference to local option sales tax paid upon goods, wares, or merchandise incorporated into an improvement to real estate. See subrule 107.3(3)"a."

**ITEM 2.** Amend subrule 107.3(3), paragraph "a," by adding the following paragraphs:

As of May 4, 1988, construction contractors may apply for refund of additional local option sales or service tax paid as a result of the imposition of or an increase in the rate of local option tax if the following circumstances exist:

(1) The additional tax was paid upon tangible personal property incorporated into an improvement to real estate in fulfillment of a written construction contract fully executed prior to the date local option sales tax is imposed or its rate increased, and

(2) The contractor has paid the full amount of both state and local option sales tax due to the department or to a retailer, and

(3) The claim is filed on forms provided by the department within six months of the date on which the contractor has paid the tax.

See rule 19.2(422,423) for a description of a similar right of refund applicable to state sales tax. The rule contains several examples useful in understanding this right of refund for local option tax paid. This local option tax right of refund is not applicable to equipment transferred under a mixed construction contract. See rule 19.9(422,423) for a description of a mixed construc-

tion contract and rule 19.10(422,423) for a description of "equipment."

**ITEM 3.** Amend rule 701—107.3(422B) by adding, at the end, the following unnumbered paragraph:

This rule is intended to implement Iowa Code chapter 422B as amended by 1988 Iowa Acts, House File 2463.

**ARC 9153**

**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 34, "Vehicles Subject to Registration," Iowa Administrative Code.

The 1988 session of the General Assembly amended the law regarding use tax upon vehicles subject to registration in several respects. Under prior law, persons who purchased vehicles subject to registration and rebuilt those vehicles into ambulances, rescue vehicles, or fire vehicles were required to pay Iowa use tax on their purchase of vehicles for rebuilding. As a result of 1988 Iowa Acts, House File 2259, those who purchased vehicles subject to registration for rebuilding into ambulances, rescue vehicles, or fire vehicles may be licensed as vehicle wholesalers. It is presumed that vehicle wholesalers purchase vehicles subject to resale for registration; therefore, vehicle wholesalers are not required to pay tax upon their purchases of vehicles subject to registration. Rebuilders, now classified by the law as vehicle wholesalers, are therefore no longer required to pay use tax on their purchase of vehicles subject to registration which they will rebuild into ambulances, rescue, or fire vehicles. Also, the legislature, in 1988 Iowa Acts, House File 2460, has provided that the amount of a cash rebate which a manufacturer allows to the purchaser of a vehicle subject to registration is excluded from use tax so long as the rebate is applied to lessen the "purchase price" of the vehicle. The effective date of House File 2460 is July 1, 1988.

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

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

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 13, 1988, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before September 23, 1988. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the 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 September 16, 1988.

The amendment is intended to implement 1988 Iowa Acts, House File 2259.

The following amendments are proposed:

ITEM 1. Amend subrule 34.1(3), first sentence, to read as follows:

**34.1(3)** "Taxable price" shall be the total delivered price of the vehicle less cash discounts, ~~and~~ trade-in allowances, *and any manufacturer's cash rebate to a purchaser which is applied to the purchase price of a vehicle.*

ITEM 2. Amend rule 701—34.1(422,423) at the implementation clause to read as follows:

This rule is intended to implement Iowa Code sections 422.42(3), 422.43, 423.1(1) *as amended by 1988 Iowa Acts, House File 2460, 423.2, 423.4(4) and 423.7.*

ITEM 3. Amend rule 701—34.5(423) by adding the following subrule:

**34.5(10)** On and after July 1, 1988, purchases of vehicles subject to registration by persons who will rebuild those vehicles into ambulances, rescue, or fire vehicles (as defined in Iowa Code chapter 321) are exempt from tax. These purchases are exempt only if the person purchasing the vehicle for rebuilding into an ambulance, rescue, or fire vehicle is a licensed wholesaler of new motor vehicles. This exemption is applicable only to purchases of vehicles which will be rebuilt into ambulances, rescue, or fire vehicles.

ITEM 4. Amend rule 701—34.5(423) at the implementation clause to read as follows:

This rule is intended to implement Iowa Code sections 422.45(5), 423.4(4), and 423.4(9), and ~~1988 Iowa Acts, chapter 1~~ *1988 Iowa Acts, House File 2259.*

ARC 9152

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 and 1987 Iowa Code supplement sections 421.17(29) and (30), the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to adopt Chapter 150, "Offset of Debts Owed State Agencies," Iowa Administrative Code.

These rules are intended to implement 1987 Iowa Acts, chapter 199. The legislation establishes a procedure, administered by the Department of Revenue and Finance, whereby debts owed by state agencies are offset by debts owed to state agencies. Thus, the state of Iowa, as a result of this legislation, need not pay tax refunds to a person who owes the state, for example, money under a contract of sale for state property. The new chapter which sets out this procedure for offsetting debts contains a list of applicable definitions, a statement of the chapter's purpose, a description of debts to which the chapter is not applicable, a description of the procedure for offsetting debt and of the duties of the Department of Revenue and Finance and other state agencies with regard to this offset procedure, a description of the debtor's right to appeal a proposed offset, a description of priorities in case of multiple claims, a confidentiality provision, and a rule regarding reimbursement to the Department of Revenue and Finance from other state agencies for the Department's services in offsetting debts. The legislation allowing offset is effective July 1, 1988.

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

The Department has determined that these proposed rules 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 13, 1988, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on these proposed rules on or before September 23, 1988. Such written comments should be

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

directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the 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 September 16, 1988.

The amendment is intended to implement 1987 Iowa Code supplement section 421.17.

The following new chapter is proposed:

## CHAPTER 150

## OFFSET OF DEBTS OWED STATE AGENCIES

**701—150.1(421) Definitions.** For purposes of this chapter, the following definitions shall govern:

“Debtor” means any person owing a debt to the state of Iowa or any state agency.

“Department” means the Iowa department of revenue and finance or the director of the Iowa department of revenue and finance and the director’s representative.

“Director” is the director of revenue and finance.

“Liability” or “debt” means any liquidated sum due and owing to the state of Iowa or any state agency which has accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum. Before setoff, the amount of a person’s liability to a state agency shall be at least \$50.

“Offset” shall mean to set off or compensate a state agency which has a legal claim against a person or entity where there exists a person’s valid claim on a state agency that is in the form of a liquidated sum due, owing and payable. Before setoff, the amount of a person’s claim on a state agency shall be at least \$50.

“Person” or “entity” means individual, corporation, business trust, estate, trust, partnership or association, or any other legal entity, but does not include a state agency.

“State agency” or “agency” means a board, commission, department, including the department of revenue and finance, or other administrative office or unit of the state of Iowa. “State agency” does not include the general assembly, the governor, or any political subdivision of the state, or its offices and units.

**701—150.2(421) The scope and purpose of these rules.**

**150.2(1)** The purpose of these rules is to establish a procedure by which state agencies can cooperate in identifying debtors who owe liabilities to those state agencies and to establish a procedure for offsetting debtors’ claims against state agencies with liabilities or debts which those debtors owe the state agencies.

**150.2(2)** Agencies may collect debts under the provisions of Iowa Code subsection 421.17(29) through the preaudit offset system. Departments utilizing the income tax refund offset system under the provisions of Iowa Code subsection 421.17(21), which allows for the recovery of child support, foster care, and public assistance payments; Iowa Code subsection 421.17(23), which allows for the recovery of guaranteed student or parental loans; and Iowa Code subsection 421.17(25), which allows for the recovery of criminal fines, civil penalties, surcharges, and court costs, may also utilize

this offset system to collect debts due. Any state agency exempt from the provisions of Iowa Code section 421.39, and making payments, shall be subject to these rules.

**150.2(3)** Inclusions in and exclusions from setoff. This offset system may be used to collect any debt described in rule 150.1(421). However, some claims against the state or state agencies on behalf of certain persons are made from funds exempt from collection and are thus unavailable for offset. A consolidated listing of payment sources unavailable for offset is available from the department of revenue and finance’s financial management division. Also, agencies having claims against state employees or paid through any payroll system of the state must follow the wage collection procedures outlined in Iowa Code chapter 642.

**701—150.3(421) Participation guidelines.** Those state agencies qualified under rule 150.2(421) to use this chapter’s offset provisions should utilize those provisions when it is cost effective to do so. Final determination regarding whether or not it will be cost effective to offset any debt owed will be at the discretion of the director. Generally, it will not be cost effective to offset a debt if the total anticipated collection cost will exceed the amount of the claim that could reasonably be expected to be realized as a result of those collection costs. The cost effectiveness criteria which the director applies will not be the same for every agency. Circumstances differ among agencies. The following nonexclusive examples are intended to provide guidance in determining the cost effectiveness. These examples represent instances in which it might not be cost effective to offset debts.

**EXAMPLE A:** A debtor has ceased operations for an extended period of time.

**EXAMPLE B:** A business has changed its form (e.g., from a sole proprietorship to a partnership or corporation).

**EXAMPLE C:** A debt has been placed with a private collection firm and it appears likely that the firm will collect the debt.

**EXAMPLE D:** The age or health of a debtor is such that it is unlikely that the debtor will be receiving any payments from the state or a state agency.

**EXAMPLE E:** The debtor is a foreign student who has left the country.

**EXAMPLE F:** The debtor is a person in bankruptcy.

**EXAMPLE G:** By statute or federal regulations certain agencies cannot write off debts. If the debt of one of these agencies has been owing for a substantial amount of time, it may be reasonable to assume that referral would not be cost effective (e.g., the debtor had changed its name or address or for some other reason would be impossible to locate).

**701—150.4(421) Duties of the agency.** The agency seeking offset shall have the following duties regarding the department and debtors.

**150.4(1)** Notification to the department. The agencies must provide a list of debtors to the department of revenue and finance. This list must be in a format and type prescribed by the department and include only information relevant to the identification of the person owing.

The director shall not process a claim under the provisions of Iowa Code section 421.17(29) until notification is received from the state agency that the debt has been established through notice and opportunity to be heard. The agency shall provide along with each

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

liability file a written statement to the director declaring the debt to have occurred.

**150.4(2) Change in status of debt.** A state agency which has provided a liability file to the department of revenue and finance must notify the department immediately of any change in the status of a debt to the state. This notification shall be made no later than 30 calendar days from the occurrence of the change. Change in status may come from payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

**150.4(3) Semiannual certification of file.** Each agency maintaining a liability file will be required to certify the file to the department semiannually. This certification will be made in a manner prescribed by the director. Debtors not certified in the manner prescribed will be removed from the liability file.

**150.4(4) Notification to debtor.** The agency shall send notification to the debtor within 10 calendar days from the date the agency was notified by the department of a potential offset. This notification shall include:

- a. The agency's right to the payment in question.
- b. The agency's right to recover the payment through this offset procedure.
- c. The basis of the agency's case in regard to the debt.
- d. The right of the debtor to request the split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.
- e. The debtor's right to appeal the offset and the procedure to follow in that appeal.
- f. The agency or division and a phone number for the person owing to contact in the case of questions.

The department may require a copy of this notice be sent to it. Once the offset has been completed, the agency shall notify the debtor of the action taken along with the balance, if any, still due to the agency. It is the responsibility of the agency to make payment to the person owing the state any payment offset by the department to which the state is not entitled, in accordance with established procedures.

**701—150.5(421) Duties of the department—performance of the offset.** The department will develop procedures for administering each offset program request on an individual basis. Procedures will vary in order to achieve the greatest efficiency in administering each offset.

Before issuing an authorized payment to a person or entity, the department will match against a debt listing provided by the state agencies participating in this offset program. The department will notify the state agency of the person's or entity's name, address, identifying number, and amount of the entitled payment.

The department shall hold the payment which offsets the liquidated sum due and payable for a period not to exceed 45 days awaiting notification from the agency as to the amount required to satisfy the person's or entity's debt to the state. If notification is not made to the department by the state agency within 45 days, the amount of the payment shall be released to the person or entity.

The offset will be made by the department only after the state agency has notified the debtor as prescribed in subrule 150.4(4). The department shall then refund any balance amount due from the state to the person or entity.

**701—150.6(421) Multiple claims—priority of payment.** In the case of multiple claims to payments filed under Iowa Code section 421.17, subsections 21, 23, 25, and 29, priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21. Next priority shall be given to claims filed by the college aid commission under subsection 23. Next priority shall be given to claims filed by the office of investigations under subsection 21. Next priority shall be given to claims filed by a clerk of the district court under subsection 25. Last priority shall be given to claims filed under subsection 29.

The order of priority for offset against multiple claims by more than one state agency shall be determined by the date the liability was listed with the department. Subsequent entries of claims by state agencies shall be offset in order of the date the listing was made with the department.

**701—150.7(421) Payments of offset amounts.** Payments to the agency requesting the offset shall be made by the department on the 25th day of each month.

**701—150.8(421) Reimbursement for offsetting liabilities.** Costs incurred by the department in administering the offset program will be charged to the state department requesting offset. The costs will be deducted from the gross proceeds collected through offset and may include direct expenses such as salaries, supplies, equipment, and system modification and development costs; or indirect costs such as space, security, or utility costs.

**701—150.9(421) Confidentiality of information.** Information shared between state agencies shall be deemed confidential and shall be disclosed only to the extent that sufficient information is given that is relevant to the identification of persons liable to or claimants of state agencies. The information is to be used for the purpose of offset only.

These rules are intended to implement Iowa Code sections 421.17, 422.16, 422.20, and 422.72.

**ARC 9132**

**SECRETARY OF STATE[721]**

**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 554.1110, the Secretary of State hereby gives Notice of Intended Action to rescind the current 721—Chapter 30 and adopt a new 721—Chapter 30, Iowa Administrative Code.

The new Chapter 30 differs from the current Chapter 30 by removing references to filing fees, and other minor and nonsubstantive changes within the chapter.

## SECRETARY OF STATE[721] (cont'd)

Any interested person may make written suggestions or comments on these rules on or before September 13, 1988. Comments should be directed to Mr. Harry Davis, Director, Uniform Commercial Code, Hoover State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact Mr. Davis in person at the above address, or by telephone at 515-281-3326. No public hearing is planned.

These rules are intended to implement Iowa Code chapter 554, article 9 of the Uniform Commercial Code.

721—Chapter 30 is rescinded and the following new chapter is proposed:

**CHAPTER 30  
UNIFORM COMMERCIAL CODE**

**721—30.1(554) Forms and fees for financing statements (UCC-1 or UCC-2).**

**30.1(1)** The form to be used for filing financing statements pursuant to Iowa Code sections 554.1110, 554.9402 and 554.9403 shall conform to the following standards in order to qualify as a standard form.

a. A UCC-1 form shall be eight inches wide and either five or ten inches in length. A UCC-2 shall be eight inches wide and ten inches in length. Both forms shall have all information printed on one side. All financing statement forms shall consist of three copies interleaved with carbon paper, or equivalent: an alphabetical, numerical, and evidence of filing copy. The evidence of filing copy of a UCC-1 form used as an original financing statement may be used for termination by execution of the termination portion thereof. No fee is required for filing a termination statement.

b. The debtor block shall be in the upper left-hand corner.

c. The secured party block shall be immediately to the right of the debtor block.

d. The filing officer block shall be in the upper right-hand corner.

e. The signature(s) of the secured party (parties) and debtor(s) shall be located in the lower right-hand corner and identified accordingly.

f. A UCC-2 form must be used for recording fixture, timber, mineral and mineral account security interests in county real estate records, and cross-indexing in county UCC records.

(1) A UCC-2 must contain a description of real estate pertaining to the collateral and specifically identify the name of a record owner of that real estate which should be the debtor unless the debtor is not a record owner. The description shall be substantially similar to the description that would be sufficient to obtain a mortgage on the real estate.

(2) A UCC-2 is to be recorded in county real estate records. It is a UCC financing statement and subject to UCC filing fees and county recording fees. This financing statement must be filed and recorded in county real estate records under a real estate number. This statement shall also be cross-indexed under a real estate number in the UCC files of the county recorder's office.

g. All financing statement forms shall consist of three copies interleaved with carbon paper, or equivalent: an alphabetical, numerical, and evidence of filing copy.

**30.1(2)** Forms that do not conform to the above standards, but which otherwise conform to the requirements of law shall be filed as a nonstandard form, except that real estate mortgages used as fixture filings are subject to real estate recording fees.

**30.1(3)** Forms that conform to the above standards and which are accompanied by an additional page or pages shall be filed as a nonstandard form.

**721—30.2(554) Forms and fees for financing statement changes (UCC-3 or UCC-4).**

**30.2(1)** The forms to be used for filing financing statement changes pursuant to Iowa Code sections 554.1110, 554.9403, 554.9404, 554.9405 and 554.9406 shall conform to the following standards in order to be filed as a standard form.

a. A UCC-3 form shall be eight inches wide and five inches in length; a UCC-4 form shall be eight inches wide and ten inches in length. Both forms shall have all information printed on one side and both forms shall consist of three copies interleaved with carbon paper, or equivalent: an alphabetical, numerical, and evidence of filing copy.

b. The debtor block shall be in the upper left-hand corner.

c. The secured party block shall be immediately to the right of the debtor block.

d. The filing officer block shall be in the upper right-hand corner.

e. The forms may be used for Continuation, Partial Release, Assignment, Amendment or Termination, and must clearly indicate by express use of one only of the above capitalized terms for which purpose it is being used.

f. If either form is used as a financing statement amendment, it must be signed by both the debtor and the secured party of record. If the transaction is other than an amendment, it need be signed only by the secured party.

g. A UCC-4 form must be used for changes in all county filings recorded in real estate records and cross-indexed in county UCC records.

(1) A UCC-4 must specifically identify the name of a record owner of the real estate.

(2) This financing statement change must be filed and recorded in county real estate records under a real estate number. This statement shall also be cross-indexed under a real estate number in the UCC files of the county recorder's office.

(3) A UCC-4 is to be recorded in county real estate records. It is a UCC financing statement and subject to UCC filing fees and county recording fees.

**30.2(2)** Forms that do not conform to the above standards but which otherwise conform to the requirements of law shall be filed as nonstandard forms.

**30.2(3)** Forms that conform to the above standards and which are accompanied by an additional page or pages shall be filed as nonstandard forms.

**721—30.3(554) Forms and fees for requests for information.**

**30.3(1)** The form to be used for filing requests for information, pursuant to Iowa Code section 554.9407, shall conform to the following standards in order to qualify as a standard form.

a. The form shall be eight inches wide and ten inches in length with all information printed on one side. It shall consist of two copies interleaved with carbon paper, or equivalent: a copy for certification and a filing officer's accounting copy.

b. The debtor block shall be in the upper left-hand corner.

c. The party requesting information block shall be immediately to the right of the debtor block.

SECRETARY OF STATE[721] (cont'd)

d. The filing officer block shall be in the upper right-hand corner.

e. The form shall contain a space for reporting file number, number of pages, day and hour of filing and names and addresses of secured parties.

f. The form shall contain appropriate boxes in order to designate whether this form is being used as a request for information or as a request for copies. It cannot be used for both at the same time unless the requesting party has a prior approved billing account.

g. If information or copies are to be requested from different filing officers, separate forms must be submitted to each filing officer.

30.3(2) Forms that do not conform to the above standards but which otherwise conform to the requirements of law shall be filed as nonstandard forms.

721-30.4(554) Request for copies. Written requests for copies of filings must clearly specify the file number, number of pages, date and hour of filing for all copies requested, and must be accompanied by the statutory fee.

721-30.5(554) Payment of fees.

30.5(1) The office of the secretary of state requires the payment of all fees in full at the time of filing of financing statements and financing statement changes. Verbal requests for information and copies may be billed if the requesting party has a prior approved billing account. Otherwise payment must accompany the requests.

30.5(2) A filing under this chapter may be effected only upon receipt of the correct filing fee. Failure to include the filing fee or partial payment of the filing fee will result in the return of the filing to the sender with instructions to include the correct filing fee.

30.5(3) In the event that a filing fee overpayment is made, the amount in excess of the correct filing fee shall be returned to the filing party. No adjustment is required if the amount of overpayment is one dollar or less.

30.5(4) Payment must be made at the time of request for information concerning federal tax liens on file with the office of the secretary of state and any request for copies of such filed tax liens.

721-30.6(570A) Forms and fees for verified lien statements and request for information (VLS-1).

30.6(1) The form to be used for filing verified lien statements, pursuant to Iowa Code section 570A.4, shall conform to the following standards in order to qualify as a standard form.

a. A VLS-1 form shall be eight inches wide and shall not exceed thirteen inches in length. The form shall have all information printed on one side. All verified lien statement forms shall consist of three copies interleaved with carbon paper, or equivalent: an alphabetical, numerical, and evidence of filing copy.

b. The debtor block shall be in the upper left-hand corner.

c. The lienholder block shall be immediately to the right of the debtor block.

d. The filing officer block shall be in the upper right-hand corner.

e. The first day payment due block shall be directly below the lienholder block.

f. The last day product furnished block shall be directly below the lienholder block.

g. The form must have a box to check off showing that the lien attaches to crops, livestock, or both.

30.6(2) Forms that do not conform to the above standards but which otherwise conform to the requirements of law shall be filed as nonstandard forms.

30.6(3) Forms that conform to the above standards and which are accompanied by an additional page or pages shall be filed as nonstandard forms.

721-30.7(570A) Forms and fees for request for information (VLS-1). The form to be used for requesting information pursuant to Iowa Code section 570A.4 shall conform to the same standards as set forth in subrule 30.6(1). In addition there will be a one dollar fee for copies of financing and verified lien statement produced in response to a request.

These rules are intended to implement Iowa Code chapters 17A, 491, 496A, 497, 498, 499, 504, 504A, 554 article IX and 570A.

NOTICE-PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 453.6, the Committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Banking Edward L. Tubbs, and Auditor of State Richard D. Johnson have established the following rates of interest for public obligations and special assessments. The usury rate for August is 11.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

- 74A.2 Unpaid Warrants . . . . . Minimum 7.5%
- 74A.4 Special Assessments . . . Maximum 12.0%

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

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

INTEREST RATE—PUBLIC FUNDS (cont'd)

New official state interest rates, effective July 30, 1988, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7 - 31 days	Minimum 6.40%
32 - 89 days	Minimum 6.60%
90 - 179 days	Minimum 6.80%
180 - 364 days	Minimum 7.00%
One year	Minimum 7.00%
Two years	Minimum 8.00%

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

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

ARC 9113

UTILITIES DIVISION[199]

Notice of Intended Action

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

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

Pursuant to Iowa Code section 17A.4, the Utilities Board (Board) gives Notice that on August 2, 1988, the Board issued an order in Docket No. RMU-88-13, In Re: Declaratory Rulings, "Order Commencing Rule Making." The Board is proposing to rescind Chapter 4 and adopt in lieu thereof a new Chapter 4, "Declaratory Rulings," Iowa Administrative Code. Subrule 2.2(6) will also be amended to conform to the Uniform Rules of Agency Procedure.

The current rules regarding declaratory rulings have been in existence, in whole or in part, since 1976. In keeping with the current trend towards unifying agency procedure throughout state government, where appropriate, the Board believes that the uniform rules regarding declaratory rulings should be adopted with only slight modification.

The uniform rules do not differ in any substantial respect from the existing rules. Adoption in whole will not result in any appreciable change in agency procedure. The uniform rules are more specific in certain areas, e.g., contents of petition in rule 4.1(17A), and the uniform rules provide petitioners with greater rights (see rule 4.4(17A)). Because agency procedure will not be encumbered, and greater rights are being afforded to petitioners, the Board believes the uniform rules should be adopted. The only modification is in rule 4.1(17A),

which has been amended to require the petitioner to file ten copies of an application with the Board.

Any interested person may file a written statement of position pertaining to the proposed rules. The statement must be filed on or before September 13, 1988, by filing the original and ten copies in a form substantially complying with subrule 2.2(2). All communications shall clearly indicate the author's name and the docket in which the comment is submitted. All communications should be directed to the Executive Secretary, Iowa State Utilities Board, Lucas State Office Building, Des Moines, Iowa 50319.

ITEM 1. Rescind Chapter 4 and insert in lieu thereof the following:

CHAPTER 4
DECLARATORY RULINGS

The utilities division hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to declaratory rulings, which are printed in Volume I of the Iowa Administrative Code.

199—4.1(17A) Petition for declaratory ruling. Any person or agency may file a petition with the Iowa State Utilities Board (hereinafter referred to as board) for a declaratory ruling concerning the applicability of any statute, rule, policy, decision, or order administered by the board at Des Moines, Iowa. A petition is deemed filed when ten copies are received by that office. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially comply to the following form:

STATE OF IOWA

BEFORE THE IOWA STATE UTILITIES BOARD

IN RE: THE PETITION OF )
(insert petitioner's name) FOR ) DOCKET NO. \_\_\_\_\_
A DECLARATORY RULING ) (completed by board)
ON (insert rule number, statute, etc., for which interpretation sought) ) PETITION FOR
) DECLARATORY
) RULING

COMES NOW (insert name of petitioner) and requests a declaratory ruling on (state rule number, statute, order, decision, or other written statement of law or policy for which an interpretation is sought), and in support of (insert pronoun) petition states:

(The petition shall then set forth in separately numbered paragraphs:

1. A clear and concise statement of all relevant facts on which the ruling is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory ruling and disclosure of the petitioner's interest in the outcome.

UTILITIES DIVISION[199] (cont'd)

6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.

7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.

8. Any request by petitioner for a meeting provided for by rule 4.4(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

WHEREFORE, (insert petitioner's name) prays that the board issue a declaratory ruling on (insert proposed subject of ruling).

Respectfully submitted,

(signature of petitioner)
(name)
(address and zip code)

6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.

7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.

8. Any request by petitioner for a meeting provided for by rule 4.4(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

WHEREFORE, (insert petitioner's name) prays that the board issue a declaratory ruling on (insert proposed subject of ruling).

Respectfully submitted,

(signature of petitioner)
(name)
(address and zip code)

199-4.3(17A) Inquiries. In lieu of "(designate official by full title and address)", insert "Executive Secretary, Iowa State Utilities Board, Lucas State Office Building, Des Moines, Iowa 50319".

ITEM 2. Rescind subrule 2.2(6) and insert in lieu thereof the following:

STATE OF IOWA

BEFORE THE IOWA STATE UTILITIES BOARD

IN RE: THE PETITION OF ) DOCKET NO. \_\_\_\_\_
(insert petitioner's name) FOR ) (completed by board)
A DECLARATORY RULING )
ON (insert rule number, statute, etc., for which interpretation sought) ) PETITION FOR DECLARATORY RULING

COMES NOW (insert name of petitioner) and requests a declaratory ruling on (state rule number, statute, order, decision, or other written statement of law or policy for which an interpretation is sought), and in support of (insert pronoun) petition states:

(The petition shall then set forth in separately numbered paragraphs:

- 1. A clear and concise statement of all relevant facts on which the ruling is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory ruling and disclosure of the petitioner's interest in the outcome.

NOTICE — USURY

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

Table with 2 columns: Interest Period and Interest Rate. Rows include periods from October 1, 1986 to September 30, 1988 with rates ranging from 9.00% to 11.00%.

\*Submitted as 10.75%, published IAB 4/6/88

ARC 9124

CHILDREN, YOUTH AND  
FAMILIES DIVISION[425]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 601K.35, the Division on Children, Youth and Families hereby emergency adopts and implements rules to establish a new Chapter 7, "Juvenile Justice Advisory Council," Iowa Administrative Code. The Juvenile Justice Advisory Council Executive Committee adopted these rules August 3, 1988.

These rules implement a federal grant program administered by the Juvenile Justice Advisory Council within the Division of Children, Youth and Families under the Department of Human Rights.

The Juvenile Justice Advisory Council administers the Juvenile Justice and Delinquency Prevention federal grants which are operational beginning October 1 of each year. Grant announcements, review and awards take place a couple of months prior to this date. These rules describe the composition of the Council and the procedures in awarding and administering these grants.

In compliance with Iowa Code section 17A.4(2), the agency finds that public notice and participation are impracticable in that the operation of the grant begins October 1 in accordance with the federal fiscal year and there should be rules in place to cover the grant process from beginning to end. However, recognizing that those entities and individuals affected by these rules may wish to comment upon them, the agency has also submitted these rules under Notice of Intended Action.

The agency also 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 be made effective upon filing with the Administrative Rules Coordinator on August 5, 1988, as it confers a benefit upon the public to have procedures and guidelines for the grant process so that the operations of the agency and the public's use of the federal funds are not adversely affected.

These rules are also published herein under Notice of Intended Action as ARC 9125. A public hearing will be held September 13, 1988.

These rules are intended to implement Iowa Code chapter 601K.

The following new chapter is adopted:

## CHAPTER 7

## JUVENILE JUSTICE ADVISORY COUNCIL

425—7.1(601K) **Definitions.** As used in this chapter:

"Administrator" means administrator of the division of children, youth and families within the department of human rights.

"Application" means a request for Juvenile Justice Delinquency Prevention Act (JJJPA) funds which complies with federal and state requirements.

"Council" means the juvenile justice advisory council.

"Division" means the division of children, youth and families which is the division staff within the department of human rights.

"Grantee" means the designated state administrator for a specific federal grant program.

"Grant review committee" means a juvenile justice advisory council committee designated by the council to review JJJPA applications.

"Juvenile justice advisory council" means the federally mandated board assigned to the division on children, youth and families to administer federal grant funds and improve the juvenile justice system in Iowa.

"Office of Juvenile Justice and Delinquency Prevention" means the federal office within the U.S. Department of Justice that administers the Juvenile Justice and Delinquency Prevention Act.

"Subgrantee" means any applicant receiving grant funds under this program.

425—7.2(601K) **General purpose and guidelines.**

7.2(1) The juvenile justice advisory council was established in 1975 by the governor of Iowa in accordance with the federal Juvenile Justice and Delinquency Prevention Act (JJJPA) of 1974. Effective July 1, 1987, the council and its programs were placed in the division of children, youth and families in the department of human rights.

7.2(2) All inquiries on the council shall be directed in writing or orally to the Juvenile Justice Advisory Council, Division of Children, Youth and Families, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319, 515/281-3241.

7.2(3) The purpose of the council is to advise the division on juvenile justice issues. The council shall submit to the governor and the legislature, at least annually, recommendations with respect to matters related to its functions, including compliance with the requirements of paragraphs 223 (a) (12) (13) and (14) of the JJJPA, PL 93-415 as amended; and shall have an opportunity to review and comment on all JJJPA grant applications submitted to the division. Additionally the council may be given a role in monitoring compliance with the requirements of paragraphs 223 (a) (12) (13) and (14) of the JJJPA, shall contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system, and participate in the development and review of the state's juvenile justice plan.

425—7.3(601K) **Composition of the council.** The council shall consist of not less than 15 and not more than 33 persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice programs. A majority of the members (including the chairman) shall not be full-time employees of the federal, state or local government. At least one-fifth of the members shall be under the age of 24 at the time of appointment, and at least three of the members shall have been or shall currently be under the jurisdiction of the juvenile justice system. Council members are appointed by the governor. The council shall include locally elected officials, representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, corrections, or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education, special education, or youth services departments, which shall include:

1. Representatives of private organizations, including those with a special focus on maintaining and strengthening the family unit, those representing parents or parent groups, those concerned with delinquency prevention and treatment and with neglected or dependent children, and those concerned with the quality

## CHILDREN, YOUTH AND FAMILIES DIVISION[425] (cont'd)

of juvenile justice, education, or social services for children;

2. Representatives of organizations which utilize volunteers to work with delinquents or potential delinquents;

3. Representatives of community-based delinquency prevention or treatment programs;

4. Representatives of business groups or businesses employing youth;

5. Youth workers involved with alternative youth programs; and

6. Persons with special experience and competence in addressing the problems of the family, school violence and vandalism, and learning disabilities.

**425—7.4(601K) Activities of the council.**

7.4(1) Council activities include monitoring compliance with the requirements of the JJDPA. The JJDPA requires that the states participating will provide that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities (223 (a) (12) (A); will provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges (223 (a) (13), and will provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except in conformance with exceptions that the Administrator of the Office of Juvenile Justice Delinquency Prevention shall promulgate. (223 (a) (14).

7.4(2) The division staff will monitor jails and lockups for compliance with the JJDPA requirements in the state, through the collection of self-report data of juvenile holdings from all jails and lockups in the state. Self-report information will also be collected from the state juvenile home, state training school, and the mental health institutes relative to provisions of 223 (a) (12) (A) and 223 (a) (13) of the JJDPA. Staff will do on-site verification of the data consistent with federal requirements. Through written agreement, the jail inspection unit of the department of corrections will provide the division and the specific facilities with certification of their ability to separate juveniles and adults, consistent with 223 (a) (13) of the JJDPA.

7.4(3) Through written agreement, the department of inspections and appeals will provide information to the division on holdings relative to 223 (a) (12) (A) of the JJDPA in contracted private facilities which department of inspections and appeals has authority to inspect.

**425—7.5(601K) State plan.** The division and the council will prepare a three-year plan with annual amendments and annual performance reports on progress on the established plan. The three-year plan, amendments and performance reports shall be completed by dates designated by the Office of Juvenile Justice and Delinquency Prevention. The plan shall identify juvenile justice problems and priority areas for program development and funding in the state.

**425—7.6(601K) Juvenile justice projects.** JJDPA funds are made available to the state by the federal government for projects to improve the juvenile justice system. In years that funds are available, the council will advise the division of which problem areas identified in the three-year plan should be addressed through the funding process. The division will administer grants to eligible applicants for projects which address those problem areas. The amount of the money granted shall be contingent upon the funds available and shall be made on an annual basis. The administrator of the division will announce through public notice the opening of an application period. Applications must be submitted by the grant due date.

**425—7.7(601K) Application procedures.** Applicants shall submit applications to the division. Applications shall be in the form prescribed by the council and shall be available upon request to all interested parties. Each application shall contain the following information:

7.7(1) A brief narrative describing the agency or unit of local government requesting funding.

7.7(2) A description of services for which funding is being requested which includes but is not limited to the following:

- a. The geographical area to be served.
- b. The target population to be served.
- c. Eligibility requirements.
- d. Description of needs assessment made to define the problems to be addressed.
- e. Stated goals and objectives of the program.

7.7(3) Description of the proposed project or program including a time schedule for implementing the proposed project or program.

7.7(4) The amount of grant funds requested.

7.7(5) A description of how the proposed project will provide or improve direct services to the target client group.

7.7(6) Proof of coordination with appropriate agencies at the local level.

7.7(7) A budget for the project or program and plans for continued funding. The proposed budget for the services and other sources of income.

7.7(8) Other information identified in the request for proposals.

**425—7.8(601K) Submission of applications.** All applicants shall submit the original and six copies of the completed application form to the division. Applications shall be in the form prescribed by the council. In order to be included in the review process and considered for funding, applications shall be received by the division office no later than 4:30 p.m. on the due date. Applications may be delivered to the division during regular business hours anytime prior to the deadline.

**425—7.9(601K) Selection process.** The division will conduct a preliminary review of each application to ensure that the applicant is eligible, the application is complete, and the proposed project is consistent with the program purpose stated for that year. All applications which are submitted in a timely fashion and which contain the necessary information will be presented to the grant review committee of the council. The committee members will use a numerical rating system based on criteria stated in the request for proposals. Those whose applications receive high ratings will be invited to a

## CHILDREN, YOUTH AND FAMILIES DIVISION[425] (cont'd)

public meeting where questions and answers can be exchanged. The committee will discuss application areas and make approval and award amount recommendations. Final grant decisions will be made by the administrator of the division based upon these recommendations.

**425—7.10(601K) Quarterly reports.** Quarterly reports on program status and fiscal status will be expected from subgrantees on provided forms. Failure to submit reports by the due date will result in suspension of financial payments to the subgrantee by the grantee until such time as the report is received. No new awards will be made for continuation programs where there are delinquent reports from prior grants.

**425—7.11(601K) Contract termination.**

**7.11(1) Termination by grantee.** The contract may be terminated by the grantee at any time during the contract period by giving 30 days' notice to the division.

**7.11(2) Termination by division.** The division may terminate a contract upon ten days' notice when the grantee or any of its subcontractors fail to comply with the grant award stipulations, standards or conditions. The division may terminate a contract upon 30 days' notice when there is a reduction of funds by executive order.

**7.11(3) Financial statement supplied.** Within 45 days of the termination, the grantee shall supply the division with a financial statement detailing all costs up to the effective date of the termination.

**7.11(4) Termination for convenience.** The performance of work under the agreement may be terminated by the division in accordance with this clause in whole, or from time to time in part, whenever the division determines that such termination is in the best interests of the state. The division will pay all reasonable costs associated with the agreement that the subgrantee has incurred up to the date of termination. The division will not pay for any work which has not been done prior to the date of termination.

**7.11(5) Termination for default.** If the subgrantee fails to fulfill its obligations under this agreement properly or on time, or otherwise violates any provision of this agreement, the division may terminate the agreement by written notice to the subgrantee. The notice shall specify the acts of omissions relied on as cause for termination. All finished or unfinished products and services provided by the subgrantee shall, at the option of the division, become the state's property. The division shall pay the subgrantee fair and equitable compensation for satisfactory performance prior to receipt of notice of termination.

**425—7.12(601K) Immunity of state and agencies.** The subgrantee shall defend and hold harmless the state and any federal funding source for the state from liability arising from:

1. Subgrantee's performance or attempted performance of this contract, and
2. Subgrantee's activities with subcontractors and all other third parties.

**425—7.13(601K) Records.** Subgrantees shall keep statistical records of services provided and any other records as required by the department and specified in the contract.

**425—7.14(601K) Timing of grants.** In order to promote sound administration and effectuate the intent

of the program, the council may set one or more deadlines for grant applications and make awards of some or all of the funds appropriated for this program.

**425—7.15(601K) Request for reconsideration.** Dissatisfied applicants may file a request for reconsideration of the denial of an award with the council. The request for reconsideration must be submitted within ten working days of the date of the notice of decision to the administrator to review the decision and the reasons for dissatisfaction.

The request shall be based on a contention that the process violated state or federal law, policy, or rule; did not provide adequate public notice or was altered without adequate public notice; or involved a conflict of interest. Within ten working days of the receipt of the request the council will review the request and evidence provided and will issue a final decision.

No disbursements will be made to any applicant for a period of ten working days. All disbursements will be held pending a final decision on the request. All applicants involved will be notified if a request is filed.

**425—7.16(601K) Contract agreement.**

**7.16(1)** The contract shall be negotiated by the division and the applicant.

**7.16(2)** The applicant may be requested to modify the proposal in the negotiating process.

**7.16(3)** The applicant or the division may request a modification of the contract. Both parties must agree to any modification of the contract.

**7.16(4)** Funds are to be spent to meet the program goals as provided in the contract. Expenditures will be reimbursed monthly pursuant to regular reimbursement procedures of the state of Iowa.

These rules are intended to implement Iowa Code chapter 601K.

[Filed emergency 8/5/88, effective 8/5/88]  
[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9133**

**PHARMACY EXAMINERS  
BOARD[657]**

**Adopted and Filed Emergency**

Pursuant to Iowa Code section 204.201(4), the Iowa Board of Pharmacy Examiners adopts amendments to Chapter 10, "Controlled Substances," Iowa Administrative Code.

The purpose of the amendments is to provide for the temporary designation of controlled substances to bring Iowa law into conformance with federal law and to delete current subrule 10.20(1). Effective July 1, 1988, the Iowa Legislature enacted into law 1988 Iowa Acts, House File 2322 which places the drugs Tiletamine and Zolazepam

## PHARMACY EXAMINERS BOARD[657] (cont'd)

or any salt thereof into Iowa Code section 204.208. The temporary designation is for Beta-hydroxy-3-methylfentanyl and N,N-dimethylamphetamine into Iowa Code section 204.204; Cathine [(+)-norpseudoephedrine], Fencamfamin, Fenproporex, and Mefenorex in Iowa Code section 204.210; and Propylhexedrine and Pyrovalerone in Iowa Code section 204.212. These drugs have been placed in Schedules I, IV, and V, respectively, by the United States Department of Justice, Drug Enforcement Administration, effective January 4, 1988, May 27, 1988, and May 12, 1988, respectively.

In compliance with Iowa Code section 17A.4(2), the Board finds that public notice and participation are unnecessary in that the deleted subrule has already been made part of Iowa statutes. The Board also concurs with the findings of the Drug Enforcement Administration that the substances Beta-hydroxy-3-methylfentanyl and N,N-dimethylamphetamine (1) have a high potential for abuse, (2) have no accepted medical use in treatment in the United States or lack accepted safety for use in treatment under medical supervision. These findings are consistent with placing these two drugs in Schedule I of the Iowa Uniform Controlled Substances Act.

The Board also concurs with the findings of the Drug Enforcement Administration that the substances Cathine[(+)-norpseudoephedrine], Fencamfamin, Fenproporex, and Mefenorex (1) have low potential for abuse relative to substances listed in Schedule III and (2) abuse of the substances may lead to limited physical dependence or psychological dependence relative to substances in Schedule III. These findings are consistent with placing these four drugs in Schedule IV of the Iowa Uniform Controlled Substances Act.

The Board also concurs with the findings of the Drug Enforcement Administration that the substances Propylhexedrine and Pyrovalerone (1) have a low potential for abuse relative to the substances listed in Schedule IV, (2) have currently accepted medical use in treatment in the United States, and (3) have limited physical dependence or psychological dependence liability relative to controlled substances listed in Schedule IV. These findings are consistent with placing these substances in Schedule V of the Iowa Uniform Controlled Substances Act.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this rule be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on August 5, 1988, as it confers a benefit upon the public to ensure that the manufacture, distribution, and possession of these substances will be subject to the regulatory controls of Iowa Code chapter 204.

The Iowa Board of Pharmacy Examiners adopted this rule at the July 12, 1988, meeting of the Board.

This rule is intended to implement Iowa Code section 204.201.

Rescind subrule 10.20(1) and insert the following in lieu thereof:

**10.20(1)** Amend Iowa Code subsection 204.204(2) by adding the following new paragraph:

at. Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-Nphenylpropamide.)

**10.20(2)** Amend Iowa Code section 204.204(9) by adding the following new paragraph:

n. N,N-dimethylamphetamine (some other names: N,N,alpha-trimethylbenzene-ethanamine; N,N,alpha-trimethylphenethylamine), its salts, optical isomers and salts of optical isomers.

**10.20(3)** Amend Iowa Code section 204.210(5) by redesignating paragraph "a" as "b"; paragraph "b" as "c"; paragraphs "c," "d," "e," "f," as "g" through "j," and by adding new paragraphs "a," "c," "d," and "f," as follows:

- a. Cathine[(+)-norpseudoephedrine]
- c. Fencamfamin
- d. Fenproporex
- f. Mefenorex

**10.20(4)** Amend Iowa Code section 204.212 by adding new paragraph 4 as follows:

4. Stimulants. Unless specifically excepted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- a. Propylhexedrine
- b. Pyrovalerone

[Filed emergency 8/5/88, effective 8/5/88]  
[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

## ARC 9095

## REGENTS BOARD[681]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 262.9, the State Board of Regents amends Chapter 9, "Policies, Practices, and Procedures," Iowa Administrative Code.

In compliance with Iowa Code section 17A.4(2), the Board of Regents finds that public notice and participation are impracticable in that 1988 Iowa Acts, House File 529, requires that the Board of Regents not compete with private enterprise unless (1) the Board has, by rule, provided for exemption of the activities, or (2) 1988 Iowa Acts, House File 529, by its terms, does not apply to the activities. This rule incorporates into the administrative rules of the Board of Regents the provisions of 1988 Iowa Acts, House File 529.

The Board of Regents also finds, pursuant to Iowa Code section 17A.5(2)"b," that the normal effective date of this rule, 35 days after publication, should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on July 27, 1988, as it confers a benefit upon the public to ensure speedy and uniform compliance with the Board's legislative mandate.

## REGENTS BOARD[681] (cont'd)

The Board of Regents adopted this rule at a regular meeting on July 15, 1988.

This rule is intended to implement 1988 Iowa Acts, House File 529.

The following new rule is adopted:

**681—9.4(72GA, HF529) Policy on competition with private enterprise.**

**9.4(1) Definitions.**

“Private enterprise” means an individual, firm, partnership, joint venture, corporation, association, or other legal entity engaging in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services for profit.

“State agency” includes a state department, board, commission, or other unit of state government regardless of whether moneys are appropriated to the agency.

**9.4(2)** The state board of regents exempts the activities enumerated in 1988 Iowa Acts, House File 529, section 2, subsection 2, paragraphs “a” through “i.”

**9.4(3)** The policy does not apply to the on-campus activities of an institution or school under the control of the state board of regents as provided in 1988 Iowa Acts, House File 529, section 2, subsection 10, paragraph “k,” subparagraphs (1) to (10).

**9.4(4)** An appeal process is established for resolving complaints of unlawful competition with private enterprise.

a. A private enterprise which wishes to appeal an action of an institution shall attempt to resolve the issue at the institutional level.

b. If the private enterprise is dissatisfied with the institution’s response, the private enterprise may notify the executive secretary of the board of regents in writing and request assistance.

c. The executive secretary may then take steps to assist the private enterprise and the institution in resolving the issue.

d. If the issue remains unresolved, the executive secretary, at the request of the vendor, will docket the matter for review by the board of regents. If the complaint is docketed, the executive secretary will prepare a recommendation for the board of regents to consider and shall send to the vendor and to the institution prior to the meeting a copy of the recommendation with notice of the date, time, and place of the meeting for which the matter has been docketed.

e. Board of regents action shall constitute final agency action.

[Filed emergency 7/27/88, effective 7/27/88]  
[Published 8/24/88]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9154****CREDIT UNION DIVISION[189]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 533.55 and 22.11, the Credit Union Division hereby adopts Chapter 25, "Public Records and Fair Information Practices," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin May 18, 1988, as **ARC 8780**.

A public hearing was held on June 21, 1988. No comments were received at the public hearing. No revisions have been made to the Noticed rules.

These rules are intended to implement Iowa Code chapter 22.

These rules will become effective September 30, 1988.

The following new chapter is adopted:

**CHAPTER 25  
PUBLIC RECORDS AND  
FAIR INFORMATION PRACTICES**

The credit union division hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in Volume I of the Iowa Administrative Code.

**189—25.1(17A,22) Definitions.** As used in this chapter: "Agency" in these rules means the Iowa credit union division.

**189—25.3(17A,22) Requests for access to records.**

**25.3(1) Location of record.** In lieu of the words "(insert agency head)", insert "superintendent". In lieu of the words "(insert agency name and address)", insert "Iowa Credit Union Division, 200 E. Grand, Suite 370, Des Moines, Iowa 50309".

**25.3(2) Office hours.** In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays."

**25.3(7) Fees.**

c. Supervisory fee. In lieu of "(specify time period)", insert "one-half hour".

**189—25.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.** In lieu of the words "(designate office)", insert "Iowa credit union division".

**189—25.9(17A,22) Disclosure without the consent of the subject.**

**25.9(1) Open records** are routinely disclosed without the consent of the subject.

**25.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 25.10(17A,22) or in any notice given for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

**189—25.10(17A,22) Routine use.**

**25.10(1)** "Routine use" means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

**25.10(2)** To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

**189—25.11(17A,22) Consensual disclosure of confidential records.**

**25.11(1)** Consent to disclosure by a subject individual. To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 189—25.7(17A,22).

**25.11(2)** Complaints to public officials. A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

**189—25.12(17A,22) Release to subject.**

**25.12(1)** The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 25.6(17A,22). However,

**CREDIT UNION DIVISION[189] (cont'd)**

the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code subsection 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code subsection 22.7(5))

d. As otherwise authorized by law.

**25.12(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

**189—25.13(17A,22) Availability of records.**

**25.13(1)** Open records. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

**25.13(2)** Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Tax records made available to the agency. (Iowa Code sections 422.72 and 422.20)

b. Records which are exempt from disclosure under Iowa Code section 22.7.

c. Minutes of closed meetings of a government body. (Iowa Code subsection 21.5(4))

d. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code subsection 17A.3(1)"d."

e. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)

f. All papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of any state credit union or other person by the superintendent of credit unions pursuant to the laws of this state. (Iowa Code section 533.60)

g. Reports of examinations conducted by the superintendent of credit unions and reports of examinations received by or furnished to the superintendent of credit unions pursuant to Iowa Code section 533.6(2).

h. Information and material in the public file of applications filed with the superintendent pursuant to rule 2.12(17A) deemed by the superintendent to be confidential.

i. All information obtained by examiners and described in Iowa Code section 533.60.

j. All applications, reports, materials, documents, information and other writings obtained from the National Credit Union Administration or authorized account insurer (Iowa Code section 533.64), Federal Reserve Bank, Comptroller of the Currency or any agency of the United States government which would cause the denial of services or information to the agency. (Iowa Code section 22.9; the Privacy Act of 1974, (U.S.C. 522a), and Part 790 of the National Credit Union Administration Rules and Regulations, 12 C.F.R. 790, August 1987)

k. Those personnel records which are confidential under Iowa Code sections 22.7(11), 19A.9, and 19A.15.

l. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

m. Any other information made confidential by law.

**25.13(3)** Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 25.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 25.4(3).

**189—25.14(17A,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 189—25.1(17A,22). The credit union division does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in another record system. The record systems maintained by the agency which may contain personally identifiable information are the files of current and former agency employees. This information is collected pursuant to Iowa Code section 533.55 and is subject to the provisions of Iowa Code sections 19A.9 and 19A.15.

**189—25.15(17A,22) Other groups of records routinely available for public inspection.** This rule describes groups of records maintained by the agency other than record systems as defined in rule 189—25.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 25.13(17A,22). In addition, the records listed in subrules 25.15(1) to 25.15(4) may contain information about individuals. All records are stored on paper.

**25.15(1)** Rule making. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This

**CREDIT UNION DIVISION[189]** (cont'd)

information is not stored in an automated data processing system.

**25.15(2)** Credit union review board records. Agendas, minutes, and materials presented to the credit union review board are available from the office of the credit union division, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Credit union review board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier and is not stored in an automated data processing system.

**25.15(3)** Publications. News releases, annual reports, project reports, agency newsletters, etc., are available from the office of the credit union division.

Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees. This information is not retrieved by individual identifier and is not stored in an automated data processing system.

**25.15(4)** Orders issued by the superintendent. All findings of fact, conclusions of law, and orders issued by the superintendent of credit unions subsequent to a public hearing under the provisions of Iowa Code chapter 17A. These records may contain information about individuals making written or oral comments at the public hearing.

**25.15(5)** Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

**25.15(6)** Policy manuals. The agency's employees manual, containing the policies and procedures for programs administered by the agency, is available in the office of the agency. Subscriptions to all or part of the employees manual are available at the cost of production and handling. Requests for subscription information should be addressed to Iowa Credit Union Division, 200 E. Grand Avenue, Suite 370, Des Moines, Iowa 50309. Policy manuals do not contain information about individuals.

**25.15(7)** Reports to superintendent. Reports obtained by the superintendent of credit unions pursuant to the provisions of Iowa Code section 533.6(1). These reports are considered open reports.

**25.15(8)** Officers, directors and shareholders. Lists filed with the superintendent of credit unions pursuant to the provisions of Iowa Code section 533.8. These reports are considered open records.

**25.15(9)** All other records that are not exempted from disclosure by law.

These rules are intended to implement Iowa Code section 22.11.

[Filed 8/5/88, effective 9/30/88]  
[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9100****FAIR BOARD[371]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 173.14(8), the Iowa State Fair Board hereby amends Chapter 1, "General Rules," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin, May 18, 1988, as **ARC 8715**. Public comments were solicited until June 7, 1988, and no comments or suggestions were received.

This rule is identical to that published under Notice.

This rule will become effective September 28, 1988.

The adopted rule 371—1.7(173) would require liability insurance be carried on commercial exhibitors, concessions and competitive exhibitors.

The Iowa State Fair Board approved the adoption of the rule at its regular meeting on July 27, 1988.

This rule is intended to implement Iowa Code section 173.14.

Add a new rule to read as follows:

**371—1.7(173) Liability insurance.** All concessionaires, commercial exhibitors and competitive events exhibitors shall carry liability insurance and shall name the Iowa state fair authority, Iowa state fair board and its agents, and the state of Iowa as additional insured and shall furnish a certificate of such insurance to the authority.

[Filed 8/1/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9101****FAIR BOARD[371]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 22.11 and 173.14(8), the Iowa State Fair Board adopts 371—Chapter 9, "Public Records and Fair Information Practices," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin, May 18, 1988, as **ARC 8714**. Public comments were solicited until June 7, 1988, and no comments or suggestions were received.

These rules are identical to those published under Notice.

These rules will become effective September 28, 1988.

These rules are adopted in order to comply with the requirements of Iowa Code section 22.11 the Iowa Fair Information Practices Act.

The Iowa State Fair Board approved the adoption of these rules at its regular meeting on July 27, 1988.

These rules are intended to implement Iowa Code sections 22.11 and 173.14.

## FAIR BOARD[371] (cont'd)

The following new chapter is adopted:

**CHAPTER 9  
PUBLIC RECORDS AND  
FAIR INFORMATION PRACTICES**

The Fair Board hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in Volume I of the Iowa Administrative Code.

**371—9.1(17A,22) Definitions.** As used in this chapter: "Agency." In lieu of "(official or body issuing these rules)" insert "the fair board".

**371—9.3(17A,22) Requests for access to records.**

**9.3(1)** In lieu of "(insert agency head)" insert "secretary/manager of the fair board". In lieu of "(insert agency name and address)" insert "Secretary of Fair Board, Statehouse, Des Moines, Iowa 50319".

**9.3(2)** Office hours. In lieu of "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)" insert "8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays".

**9.3(7) Fees.**

c. Supervisory fee. In lieu of "(specify time period)" insert "one-half hour".

**371—9.9(17A,22) Disclosures without the consent of the subject.**

**9.9(1)** Open records are routinely disclosed without the consent of the subject.

**9.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 9.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality had submitted a written request to the fair board specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

**371—9.10(17A,22) Routine use.**

**9.10(1)** Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures

required to be made by statute other than the public records law, Iowa Code chapter 22.

**9.10(2)** To the extent allowed by law, the following uses are considered routine uses of all fair board records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the fair board.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

**371—9.11(17A,22) Consensual disclosure of confidential records.**

**9.11(1)** Consent to disclosure by a subject individual. To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 9.7(17A,22).

**9.11(2)** Complaints to public officials. A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

**371—9.12(17A,22) Release to subject.**

**9.12(1)** The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 9.6(17A,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. See Iowa Code section 22.7(5).

d. As otherwise authorized by law.

**9.12(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the fair board may take reasonable steps to protect confidential information relating to another subject.

**371—9.13(17A,22) Availability of records.**

**9.13(1)** General. Fair board records are open for public inspection and copying unless otherwise provided by rule or law.

**FAIR BOARD[371]** (*cont'd*)

**9.13(2) Confidential records.** The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

b. Tax records made available to the agency. (Iowa Code sections 422.20, 422.72)

c. Records which are exempt from disclosure under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“d.”

f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2, 17A.3 )

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

**9.13(3) Authority to release confidential records.** The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 9.4(17A,22). If the agency initially determines that it will release such records, the agency may where appropriate notify interested parties and withhold the records from inspection as provided in subrule 9.4(3).

**371—9.14(17A,22) Personally identifiable information — personnel files.** The fair board maintains files containing information about employees and applicants for positions with the agency. The files include payroll records, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

**371—9.15(17A,22) Other groups of records.** This rule describes groups of records maintained by the agency other than record systems as defined in rule 9.1(17A,22). These records are routinely available to the public.

However, the agency's files of these records may contain confidential information as discussed in rule 9.13(17A,22). The records listed may contain information about individuals.

Council and commission records. Agendas, minutes, and materials presented to the fair board are available from the office of the fair board, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Fair board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

1. Administrative records. This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

2. Publications. The office receives a number of books, periodicals, newsletters, government documents, etc. These materials would generally be open to the public but may be protected by copyright law. Most publications of general interest are available in the state law library.

3. Office publications. This office issues a variety of materials including premium books and newsletters, brochures and pamphlets, press releases, and statistical reports.

4. Rule-making records. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection.

5. Office manuals. Information in office manuals such as the Superintendents Manual may be confidential under Iowa Code section 17A.2(7)“f” or other applicable provision of law.

6. All other records that are not exempted from disclosure by law.

**371—9.16(17A,22) Data processing systems.** None of the data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

[Filed 8/1/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9096**

**GENERAL SERVICES  
DEPARTMENT[450]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 18.6, the Iowa Department of General Services amends Chapter 5, “Printing Division,” Iowa Administrative Code.

The amendment provides for a maximum cost for publishing sample ballots for communities with populations under 2,000 when no newspaper is published.

## GENERAL SERVICES DEPARTMENT[450] (cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 15, 1988, as ARC 8851. The only comments received were in favor of the amendment.

This rule is identical to that published as Notice of Intended Action.

This rule will become effective on September 28, 1988.

The following amendment is adopted.

**450—5.20(18,49) Cost of publication — sample ballot.** The charges for the publication of a sample ballot shall not be more than the usual or customary display advertising rate that the newspaper charges its regular advertisers. *In a city in which no newspaper is published and with a population of 2,000 or less, a maximum cost has been established. The maximum cost for a quarter-page sample ballot must not exceed \$250 and maximum cost for a half-page sample ballot must not exceed \$350.*

[Filed 7/28/88, effective 9/28/88]

[Published 8/24/88]

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**ARC 9110****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 65, "Administration," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these rules August 4, 1988. Notice of Intended Action regarding these rules was published in the Iowa Administrative Bulletin on June 29, 1988, as ARC 8941.

These amendments change food stamp employment and training policies and procedures.

These revisions affect food stamp recipients who are mandatory work registrants and the requirements of these persons within the food stamp employment and training program. The revision affects three areas of the food stamp employment and training program (FSET).

The first area of revision is the components offered to FSET participants. The current FSET program offers two components operated by the Department of Employment Services. These components are individual job search and job search assistance. Participants referred to Employment Services first complete the individual job search, then, if still unemployed, they participate in the job search assistance component. Job search assistance includes individual job search plus services that range from four half-day sessions to one six-hour session to a handout (Job Seeker's Encyclopedia). The service offered depends upon the staffing capability of the local employment service offices.

The revised components consist of additional services. These additional services as well as the criteria used for selecting participants were identified and recommended in part by an in-depth study of Iowa's employment and training programs. The study was conducted by an im-

partial and experienced organization that reviewed programs offered by the Department and other agencies and organizations throughout Iowa. In addition, these components were reviewed, discussed and presented by the Welfare Reform Work Group in its public notice of welfare reform proposals for employment and training programs. (See ARC 8531 in the March 23, 1988, Iowa Administrative Bulletin)

The revised FSET process begins with a four-week individual job search operated by the Department of Human Services for mandatory participants who are likely to find employment quickly. The characteristics used to determine who these people are were identified in the study of employment and training programs. The characteristics include criteria such as a recent work history, a high school education (or equivalent), etc. This component will operate statewide.

The next component to which a mandatory participant might be assigned is job club. This component is modeled after the Work Incentive Demonstration (WIN) job club component. The job club will be operated by the Department of Employment Services (in concert with welfare reform for employment and training programs). Because FSET components are funded solely by a limited federal grant, the job club component will be offered at only five locations serving 15 counties. Locations will be Cedar Rapids, Davenport, Des Moines, Sioux City, and Waterloo. Job club will consist of five half-day classroom-type sessions on job-seeking skills training. Three weeks of contacting potential employers by telephone will follow. This component offers participants an opportunity for more intensive training than is currently offered.

When a mandatory participant is assigned to job club, that person is given an opportunity to participate in another component. After assessment by Employment Services, a person who does not have a high school or equivalent education or who has remedial educational needs, and would like to participate in a General Educational Development (GED), Adult Basic Education (ABE) or English as a Second Language (ESL) program may be allowed to substitute that educational program for job club. That educational service will be considered an FSET component in those circumstances.

If a person completes the job club component and is still unemployed, the person may elect to enroll in a Job Training Partnership Act (JTPA) program or may be assigned to an individual job search. A mandatory participant who enrolls in JTPA is considered participating in an FSET component. These people will not receive a participation allowance from FSET as do people in other components. This is because federal regulations do not allow FSET to reimburse expenses reimbursed by the program in which the person is participating. JTPA has reimbursement for expenses for which the FSET allowance is normally used.

People assigned to the individual job search participate in a component identical to the Job Search I component currently operated by Employment Services. This is the final component offered.

The second area of revision relates to the exemptions from FSET. Again, the study commissioned by the Department, as well as the Department's FSET experience, determined that additional exemptions were needed to reduce hardships on FSET participants and reduce the number of "no shows" at components. The additional exemptions include temporary unemployment, pregnant women at any stage of the pregnancy,

## HUMAN SERVICES DEPARTMENT[441] (cont'd)

persons in households receiving less than \$50 in benefits, persons who do not have a mailing address other than general delivery, spousal abuse victims receiving training through a shelter, participation in the Self-Employment Investment Demonstration project, persons beginning employment, WIN volunteers, those employed 60 or more hours per month, and distance from a component site requiring more than two hours round-trip travel.

The third area of revision includes clarification or refinement of current rules. These include:

All food stamp recipients who lose exempt status due to a reportable change are considered mandatory participants and are work registered when the change is reported. This change is a correction of previously misinterpreted federal policy.

Absence from employment and training requirements for mandatory participants is defined. Rescheduling of appointments missed due to absence is clarified.

All mandatory participants referred to Employment Services must complete the Employment Services registration process. New forms are identified for this process and a process required of all Department of Employment Services registrants is included, providing documentation for certifying employment eligibility.

Job contacts are defined.

Additional ways to cure a noncompliance with employment and training requirements are listed.

Minor grammatical changes were made in subrule 65.28(7), first and third paragraphs; subrule 65.28(8), second, third and fourth introductory paragraphs, paragraph "a," first introductory paragraph, paragraph "b," first and fifth paragraphs, paragraph "c," and paragraph "e"; and subrule 65.28(9), paragraph "l," for ease in reading only.

Subrule 65.28(7), last paragraph, last sentence, was revised by changing "15" to "30" minutes, thereby allowing participants an additional 15 minutes before having to reschedule an appointment.

The words "this component" were changed to "DHS/IJS for a four-week period" in subrule 65.28(8), paragraph "a," first introductory paragraph, for clarification.

The last sentence of subrule 65.28(8), paragraph "b," first paragraph, was removed to ensure uniformity of operation.

The words "substantially improve" were changed to "directly enhance" in subrule 65.28(8), paragraph "c," fourth sentence, to be compatible with federal regulations in response to public comments.

These rules are intended to implement Iowa Code section 234.12.

These rules shall become effective October 1, 1988.

The following amendments are adopted:

ITEM 1. Amend subrule 65.28(3) as follows:

**65.28(3)** Losing exempt status. Persons ~~not required to monthly report~~ who lose exempt status ~~because of due to~~ any changes in circumstances ~~that is subject to the reporting requirements (i.e., as loss of employment that also results in a loss of income of more than \$25 a month, or departure from the household of the sole dependent child for whom an otherwise nonexempt household member was caring)~~ for that household shall register for employment when the change is reported. Persons ~~required to monthly report~~ who lose exempt status due to a change in circumstances ~~that is not subject to the reporting re-~~

~~quirements for that household shall register for employment no later than at the household's next recertification.~~

ITEM 2. Amend subrule 65.28(6), paragraphs "b" and "c," as follows:

b. Respond to a request from the department or the ~~department of employment services~~ *its designee* for supplemental information regarding employment status or availability for work.

c. Report to an employer to whom referred by the ~~department of employment services~~ *or its designee* if the potential employment meets the suitability requirements described in subrule 65.28(15).

ITEM 3. Amend subrule 65.28(7) as follows:

**65.28(7)** Employment and training programs. Persons required to register for work and not exempted by subrule 65.28(9) from placement in a job component shall be subject to employment and training requirements. ~~If not all nonexempt mandatory registrants cannot be served because of insufficient funds~~ *minimum federal participation standards have been met*, registrants will be randomly selected for referral up to the ~~limit the funding can accommodate~~ *minimum standard*. Requirements may vary among participants.

*The department or its designee shall serve as the provider of employment and training services for nonexempt food stamp registrants.*

*The department or its designee can require participants to engage in vocational testing activities when deemed necessary.*

*Participants shall report for all scheduled employment interviews and accept bona fide offers of suitable employment as defined in subrule 65.28(15).*

*Participants who, for any reason, are absent from any scheduled employment and training appointment shall be required to reschedule a like appointment. Absence includes missing more than 30 minutes of a scheduled appointment.*

ITEM 4. Rescind subrule 65.28(8) and insert the following in lieu thereof:

**65.28(8)** Employment and training components. Employment and training components include individual job search (required by either the department or the department of employment services), job club, educational services (GED/ABE/ESL) and Job Training Partnership Act (JTPA) activities.

Nonexempt mandatory registrants shall first be assigned to individual job search operated by the department (DHS/IJS) (subject to the requirements of paragraph "a"). Other nonexempt mandatory registrants not assigned to DHS/IJS and those remaining unemployed at the end of DHS/IJS shall participate in job club operated by the department of employment services (subject to limitations imposed in paragraph "b"). Registrants referred to job club may choose to complete their education through the educational services (GED/ABE/ESL) programs if, through individual assessment, the department of employment services determines that the registrant would become more employable by completing the educational services program. Participants in the job club component who do not become employed may choose to either enroll in the JTPA program or to be assigned to an individual job search operated by the department of employment services (DES/IJS). Those participants choosing JTPA who are not enrolled in the JTPA program shall be assigned to DES/IJS.

## HUMAN SERVICES DEPARTMENT[441] (cont'd)

The job club, educational services and DES/IJS components shall operate in the following counties: Black Hawk, Boone, Buchanan, Clinton, Dallas, Jasper, Johnson, Linn, Marion, Muscatine, Polk, Scott, Story, Warren, Woodbury. These counties were chosen based upon available food stamp population and the most effective use of limited department of employment services staff and a limited federal grant to serve the food stamp population.

Any mandatory participant may enroll in the JTPA component and, if enrolled, be considered as participating in a food stamp employment and training program. Otherwise, program participation is limited to two components per federal fiscal year (October-September). The educational services component shall be considered as two components for participation purposes.

a. Individual job search operated by the department (DHS/IJS). Persons required to register for work and not exempted by subrule 65.28(9) from placement in a component shall be subject to participation in DHS/IJS for a four-week period. Each nonexempt mandatory registrant shall contact up to 24 employers, face-to-face, for the purpose of submitting employment applications and arranging for employment interviews.

The selection process for participation in this component may include one or more of the following criteria:

(1) Individuals in households containing only adults, or one-parent or two-parent (both unemployed) households, or an adult household member with no family responsibility in the household.

(2) Individuals possessing a high school (or equivalent) education.

(3) Individuals with recent work history.

(4) Individuals under 45 years of age.

(5) Individuals, meeting above criteria, who say they can find work on their own and are willing to make at least six job contacts per week.

Based on the chosen criteria, registrants will be selected on a first-come, first-served basis for referral up to the limit that can be accommodated.

b. Job club. Participants who are assigned to job club shall receive one week of job-seeking skills training and shall then participate in a structured employment search activity for a period not to exceed three weeks. Participants shall be assigned a maximum of four hours per day in scheduled job club activities. Participants shall contact a minimum of 25 employers per day by telephone to schedule employment interviews unless fewer contacts are required by staff. Daily attendance during the one week of job-seeking skills training is required. Staff may require a participant who, for any reason, is absent during this week to repeat the entire week of training. Additional allowances shall not be paid to these individuals.

Staff may require job club participants to make up absences which occur during the three-week job search period. Additional allowances shall not be paid to these persons.

Job club participants who, during participation, obtain part-time employment of less than 60 hours per month shall be required to continue job club unless the scheduled job club hours conflict with the scheduled hours of employment. Staff shall require these persons to participate in job club during those hours where no conflict with work hours exists.

Registrants are required to complete a current employment services registration, Application Card, Form 62-

2019, including Form I-9, Employment Eligibility Verification Form, when referred to the department of employment services.

Participants in job club shall receive information about the program. At a minimum, the orientation shall include an explanation of services provided, an explanation of participation requirements, an explanation of what services participants can expect to receive, and an explanation of each participant's rights and responsibilities. At the conclusion of the presentation, each participant shall be required to read and sign Your Rights and Responsibilities, Form 62-2053, acknowledging that a complete explanation of the program and what constitutes noncompliance and the sanctions for noncompliance have been provided.

c. Educational services (GED/ABE/ESL). Persons referred to the job club component may elect to be referred to the educational services program. Educational services offered include the General Educational Development (GED), Adult Basic Education (ABE), or English as a Second Language (ESL). The department of employment services shall individually assess persons requesting referral to this program. If it is determined that obtaining educational services would directly enhance the person's likelihood of obtaining employment, the person will be referred to this program (subject to available funds). Participation in the educational services program for eight consecutive weeks would be considered equivalent to participation in two 4-week employment and training components. Persons that fail to begin or continue the educational program during the two 4-week components will be assigned to the job club component.

d. Job Training Partnership Act (JTPA). Persons electing to participate in and selected for participation in the JTPA program shall be considered participating in an employment and training component.

e. Individual job search operated by the department of employment services (DES/IJS). Each participant shall be given a job search assignment. The participant shall be required to contact up to 24 employers, face to face, for the purpose of submitting employment applications and arranging for employment interviews. To qualify as a job contact, the participants must present themselves to prospective employers as available for work. Also, the prospective employer must ordinarily employ persons in areas of work for which the applicant is reasonably qualified based on the participant's skills, prior work experience and level of education. The participant cannot contact the same employer more than once during the component unless the initial contact indicated that vacancies in suitable positions may soon exist. Each participant shall be required to submit written documentation of employer contacts made using Job Service Work Search Record, Form 60-0259. This documentation shall be provided in person to employment services staff at a scheduled meeting which shall occur at the conclusion of the four-week participation period. Each participant shall be given written notice of the time, date, and location of this meeting, at the beginning of the period.

ITEM 5. Amend subrule 65.28(9) as follows:

65.28(9) Exemptions from employment and training programs. The department may exempt certain individuals and categories of individuals from employment and training participation. Exempt status of individuals shall

## HUMAN SERVICES DEPARTMENT[441] (cont'd)

be reviewed at recertification to determine if the exemption is still valid. Exempt classifications include:

a. Persons who reside in counties where:

(1) Job placements services are not available through the department of employment services and

(2) Either less than fifteen percent (15%) of the county's residents are employed outside of the county or the unemployment rate for the county is ten percent (10%) or higher.

ba. Pregnant women in the sixth month or more any stage of pregnancy. Department staff are authorized to require medical documentation.

eb. Strikers and persons who are unemployed because of lockout.

c. Persons who are laid off or temporarily unemployed and expect to be recalled within the next 90 days (job attached).

d. Persons in households with a full month's benefit amount (prior to recoupment, proration, etc.) of less than \$50 at the time of the employment and training exemption decision (application, recertification, or change from otherwise exempt to mandatory during certification period).

e. Persons with no mailing address available other than general delivery.

f. Victims of spouse abuse receiving employment-related services from a shelter for battered women or other spousal abuse organization.

g. Persons who have accepted a job that will exempt them and that will begin within 60 days. The person shall provide verification that a legitimate job offer and acceptance has been made.

h. Persons participating in the Self-Employment Investment Demonstration (SEID) project (as defined in 441—Chapter 48). Exempt status begins when the person begins participation in SEID training and assessment.

i. Mandatory food stamp work registrants who have volunteered for WIN in voluntary and mandatory WIN counties.

j. Mandatory food stamp work registrants who are employed 60 or more hours per month.

k. Persons whose daily commuting time exceeds two hours per day, not including the transporting of a child to and from a child care facility, or the distance to the component site prohibits walking and neither public nor private transportation is available to transport the person.

dl. Persons who are assigned to a job or training component, but who do not commence the component and are determined to have good cause as defined in subrule 65.28(17), may be considered exempted if the reason for good cause will last for sixty (60) days or longer. When the reason for the exemption is no longer applicable, the person may be placed in a component.

ITEM 6. Amend subrule 65.28(11) as follows:

**65.28(11)** Participation allowance. Participants in employment and training programs shall be provided an allowance for costs of transportation or other costs reasonably necessary and directly related to participation in the programs components of \$25 for each four (4)-week component in which the participant is placed. *Exception: Participation in JTPA (subrule 65.28(8)“d”) does not entitle the person to a participation allowance.* The allowance shall be authorized on the first day of each component in which the person participates. The allowance shall be authorized only once per component in each federal fiscal year. *Participation in educational*

*services (subrule 65.28(8)“c”) is considered participation in two consecutive four-week components.*

ITEM 7. Amend subrule 65.28(12) as follows:

**65.28(12)** Failure to comply. When an individual a person other than the head of the household has refused or failed without good cause to comply with the work registration or employment and training requirements in this section, that individual person shall be ineligible to participate in the food stamp program for two (2) months and is treated as an excluded household member. If the head of household fails to comply, the entire household is ineligible to participate for two (2) months. *This does not apply to persons electing to participate in the employment and training components of educational services and JTPA (subrule 65.28(8), paragraphs “c” and “d”).*

a. Ineligibility shall continue either (1) until the member who caused the violation complies with the requirement as specified in subrule 65.28(14), leaves the household, or becomes exempt from work registration as provided in subrule 65.28(2) exclusive of paragraphs “c” and “e,” or (2) for two (2) months, whichever occurs earlier.

b. If any household member who failed to comply joins another household as the head of the household, that entire new household is ineligible for the remainder of the disqualification period. If the member who failed to comply joins another household where the member is not the head of the household, the person shall be considered an excluded household member ineligible for the remainder of the disqualification period.

c. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a fair hearing is requested.

d. Participants who are on probation in accordance with rules of this chapter and who incur any subsequent offense shall be sanctioned disqualified. Participants shall be notified of probation status in writing. Probation shall last for the duration of the component.

In addition to other work requirements in this chapter, sanctionable issues specific to employment and training components are as follows:

(1) Participants who are more than fifteen (15) minutes late for scheduled appointments with employment services without good cause shall be placed on probation; a subsequent lateness (without good cause) shall be considered refusal.

(2) Participants who are absent without good cause for orientation (Job Search I) or the first day of job-seeking skills instruction (Job Search II) shall be placed on probation. A second absence without good cause shall result in sanction disqualification.

(3) Participants who are absent without good cause on the second, third or fourth day of job-seeking skills instruction (Job Search II) shall be sanctioned.

(4) Participants who are absent without good cause at the time they are scheduled to present their job search documentation shall be sanctioned disqualified.

(5) Participants who fail to make the required number of employer contacts without good cause shall be sanctioned disqualified. Participants who fail to complete the required number of job contacts with good cause shall be excused from completion of the job search requirements for that component.

(6) Participants who exhibit disruptive behavior shall be placed on probation; a second offense shall result in

## HUMAN SERVICES DEPARTMENT[441] (cont'd)

**sanction disqualification.** Disruptive behavior means the participant hinders the performance of other participants or staff, refuses to follow instructions, or uses abusive language.

(75) Participants will be allowed an additional two (2) weeks to make up employer contacts which have been disallowed by employment services. *Qualifying job contacts are defined in subrule 65.28(8)"e."* Failure to make up employer contacts will result in ~~sanction disqualification~~. Employment services will disallow employer contacts when it has been determined that the participant failed to make a face-to-face contact or the requirements of the job applied for far exceed the applicant's level of experience, education, or abilities.

(86) Participants who make physical threats to other participants or staff shall be ~~sanctioned disqualified~~.

ITEM 8. Amend subrule 65.28(14) as follows:

**65.28(14)** Ending disqualification. Following the end of the two (2)-month disqualification period for noncompliance with the work registration or employment and training requirements, participation may resume. ~~if a~~ A disqualified individual or household ~~applies must apply~~ again and ~~is be~~ determined eligible. A ~~disqualified individual in a currently participating eligible household shall be added to the household effective the month following the end of the disqualification period.~~ Eligibility may be reestablished during a disqualification period. ~~and the~~ The household shall (if otherwise eligible) be permitted to resume participation ~~by application if a disqualified household, or at the beginning of the next month if a disqualified member in a currently eligible household. if In order to reestablish eligibility during a disqualification period,~~ the member who caused the disqualification ~~shall either becomes exempt from the work requirement as provided in subrule 65.28(2) exclusive of paragraphs "c" and "e," is or no longer be a member of the household, or the member complies comply~~ as follows:

a. If the member ~~failed or~~ refused to register for work with the department, the member complies by registering.

b. If the member ~~failed or~~ refused to respond to a request from the department or the ~~department of employment services its designee~~ requiring supplemental information regarding employment status or availability for work, the member must comply with the request.

c. If the member ~~failed or~~ refused to report to an employer to whom referred, the member must report to that employer if work is still available or report to another employer to whom referred.

d. If the member ~~failed or~~ refused to accept a bona fide offer of suitable employment to which referred, the member must accept the employment if still available to the participant, or secure other employment which yields earnings per week equivalent to the refused job, or secure any other employment of at least ~~thirty (30)~~ hours per week or secure employment of less than ~~thirty (30)~~ hours per week but with weekly earnings equal to the federal minimum wage multiplied by ~~thirty (30)~~ hours.

e. ~~If the member failed or refused to attend a scheduled employment and training interview, the member must arrange and attend a scheduled interview.~~

f. ~~If the member failed or refused to participate in instruction, training or testing activities, the member must participate in the activities.~~

*g. If the member failed or refused to complete assigned job search requirements, the member must complete the job search requirements.*

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[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

## ARC 9111

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6 and 249A.4, and 1988 Iowa Acts, House File 2447, section 37, the Department of Human Services hereby amends Chapter 75, "Conditions of Eligibility," and Chapter 96, "Nonassistance Child Support Recovery Program," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these rules on August 4, 1988. These rules combine three Notices of Intended Action published in the Iowa Administrative Bulletin on June 29, 1988, as ARC 8938, ARC 8939, and ARC 8944.

These amendments do the following:

1. These amendments extend Medicaid benefits from 4 to 12 months for persons who are canceled from Aid to Dependent Children (ADC) because of increased income from employment and extend Medicaid benefits from 9 to a maximum of 15 months for persons who are terminated from ADC because of discontinuance of the \$30 or the \$30 and one-third earned income disregards. Persons who would be ineligible for ADC if the disregards were still being applied at the end of the initial 9 months will receive 12 months extended coverage and persons who would be eligible for ADC if the disregards were still being applied at the end of the initial 9 months will receive 15 months.

The extended Medicaid coverage is a welfare reform initiative passed by the General Assembly that is intended to encourage ADC recipients to seek employment and offer medical support while they are attempting to become self-sufficient. Many entry-level jobs do not have health insurance coverage or require a minimum waiting period before the insurance becomes effective. As a result, many clients are unwilling to accept employment and jeopardize their access to health care coverage.

2. These amendments provide that the pregnancy for the qualified pregnant women coverage group can be verified by any medical professional authorized to make a determination of pregnancy.

3. These amendments rescind the rule which allows four months of extended Medicaid coverage to families who are terminated from Aid to Dependent Children (ADC) because of excess income from support or contributions from a spouse.

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The Child Support Enforcement Act of 1984 that mandated this coverage contained a sunset clause that states these provisions only apply to persons becoming ineligible for ADC on or after the date of the enactment of the Act and before October 1, 1988.

4. These amendments require that Medicaid applicants and recipients shall cooperate with the Child Support Recovery Unit in order to obtain support and establish paternity of children born out of wedlock as a condition of eligibility for Medicaid. These amendments are necessary to comply with federal regulations.

5. In addition, these amendments provide that the Child Support Recovery Unit will provide services to Medicaid-only recipients in accordance with the Omnibus Budget Reconciliation Act of 1987. The five-month transition period for families canceled from Aid to Dependent Children (ADC), during which these cases are treated differently from other non-ADC cases, is eliminated. These cases will now become non-ADC cases once ADC ends, and child support enforcement services will be provided without the need for an application or payment of an application fee until the agency is notified by the family that continued services are not desired.

6. Clarification is provided that participation in the work incentive program, deprivation, and strike participation are not factors of ineligibility for the Child Medical Assistance program.

Subrule 75.1(11), introductory paragraph, and paragraphs "d" and "f" were revised as follows:

1. The additional eight months of Medicaid coverage for persons who lose eligibility for refugee cash assistance because of increased earnings or hours of employment was removed because the Office of Refugee Resettlement has informed the Department they will not agree to fund the cost. They will, however, continue the funding for the initial four months of extended Medicaid.

2. Language has been added based on recent clarification from the Health Care Financing Administration to provide that families who are terminated from ADC because of the increased earnings of a person who is not a member of the eligible group, but whose income is considered in determining eligibility, are also entitled to extended Medicaid and to provide that families who become ineligible for ADC-unemployed parent because the qualifying wage earner begins working over 100 hours or more per month are also entitled to the extended Medicaid coverage.

New rule 75.13(249A) was renumbered since the Notice as 75.14(249A).

Rule 441—96.12(252B) was revised to remove the requirement that payment of fees must be in the form of a money order, cashier's check, or bank draft and to remove the stipulation that cash or personal checks will not be accepted.

These rules are intended to implement Iowa Code sections 249A.4, 252B.4 and 252B.11 and 1988 Iowa Acts, House File 2447, section 3, subsection 5.

These rules shall become effective October 1, 1988.

The following amendments are adopted:

ITEM 1. Amend rule 441—75.1(249A) as follows:

Amend subrule 75.1(2), paragraph "d," as follows:

d. Persons covered under this rule are not considered to be deemed recipients of ADC and are not eligible for ~~four 12~~ or ~~nine 15~~ months of extended Medicaid coverage.

Amend subrule 75.1(11), introductory paragraph and paragraphs "d" and "f," as follows:

75.1(11) Persons and families terminated from aid to dependent children (ADC) or refugee cash assistance (RCA) because of increased earnings or hours of employment. ~~Medical assistance Medicaid~~ shall be available for a period of up to ~~four~~ 12 months to persons who are canceled from the aid to dependent children ADC program or refugee cash assistance and for a period of up to four months to persons who are canceled from the RCA program solely because a member of the eligible group receives increased income from employment or because a person who is not a member of the eligible group, but whose income is considered in determining eligibility, receives increased income from employment. Medicaid shall also be available for up to 12 months to persons who are canceled from the ADC unemployed parent program solely because the qualifying wage earner begins working 100 or more hours per month.

d. The four or 12 months' ~~medical Medicaid~~ coverage begins the day following termination of aid to dependent children ADC or RCA benefits or refugee cash assistance.

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

Rescind subrule 75.1(14), paragraph "c," and insert the following in lieu thereof:

c. Persons eligible under this coverage group shall not be required to participate in the work incentive program.

Further amend subrule 75.1(14), paragraph "f" as follows:

f. Persons in the coverage group are not considered deemed recipients of ADC and are not eligible for ~~four 12~~ or ~~nine 15~~ months of extended Medicaid.

Amend subrule 75.1(15) by rescinding paragraph "e," and inserting the following:

e. Persons eligible under this coverage group shall not be required to participate in the work incentive program. Additionally, deprivation and strike participation shall not be considered when determining eligibility.

Amend subrule 75.1(19) as follows:

75.1(19) ~~Individuals and families ineligible for~~ Persons and families terminated from aid to dependent children (ADC) due to discontinuance of the \$30 or the \$30 and one-third earned income disregards. ~~Medical assistance Medicaid~~ shall continue to be available for ~~nine 12~~ months to ~~individuals and families persons~~ who are canceled from become ineligible for aid to dependent children ADC solely due to the loss of the \$30 or the \$30 and one-third earned income disregards and who, at the end of the initial ~~nine~~ months of extended Medicaid coverage would not be eligible for ADC if the disregards were still being applied.

Medicaid shall continue to be available for up to 15 months to persons who become ineligible for ADC solely due to the loss of the \$30 or the \$30 and one-third earned income disregards and who, at the end of the initial nine months of extended Medicaid coverage, would continue to be eligible for ADC if the disregards were still being applied.

Rescind and reserve subrule 75.1(21).

Amend subrule 75.1(26), introductory paragraphs and paragraphs "a" to "d" and "g," as follows:

75.1(26) Qualified pregnant women. ~~Medical assistance Medicaid~~ shall be available to pregnant women who

## HUMAN SERVICES DEPARTMENT[441] (cont'd)

meet the income and resource guidelines of the aid to dependent children (ADC) program.

The pregnancy shall be certified in writing by a ~~licensed physician~~ *medical professional authorized under state law to make this determination*. 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~~ *provider* shall be authorized to make the examination and submit the claim for payment.

a. Eligibility for ~~medical assistance~~ *Medicaid* 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~~ *ADC* program.

c. ~~A person~~ *Persons in this coverage group* shall not be ~~ineligible for medical assistance under this rule for failure required~~ to participate in the work incentive program.

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

g. Recipients in this coverage group are not eligible for the ~~four 12 and nine 15~~ months of extended ~~medical assistance~~ *Medicaid*.

ITEM 2. Amend 441—Chapter 75 by adding the following new rule:

**441—75.14(249A) Establishing paternity and obtaining support.**

75.14(1) As a condition of eligibility, applicants and recipients of Medicaid in households with an absent parent shall cooperate in obtaining support for the applicant or recipient as well as for any other person in the household for whom Medicaid is requested and for whom the person can legally assign rights for medical support, except when good cause as defined in subrule 41.2(8) for refusal to cooperate is established.

a. The applicant or recipient shall cooperate in the following:

(1) Identifying and locating the parent of the child for whom Medicaid is requested.

(2) Establishing the paternity of a child born out of wedlock for whom Medicaid is requested.

(3) Obtaining financial and medical support payments for the applicant or recipient and for a child for whom Medicaid is requested.

(4) Obtaining any other payments or property due the applicant, recipient or child.

b. Cooperation is defined as including the following actions by the applicant or recipient:

(1) Appearing at the local office or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the applicant or recipient that is relevant to achieving the objectives of the child support recovery program.

(2) Appearing as a witness at judicial or other hearings or proceedings.

(3) Providing information, or attesting to the lack of information, under penalty of perjury.

c. The applicant or recipient shall cooperate with the local office in supplying information with respect to the absent parent, the receipt of support, and the establish-

ment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. The applicant or recipient shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure support payments or establish paternity.

e. The income maintenance unit in the local office shall make the determination of whether or not the client has cooperated.

75.14(2) Failure of the applicant or recipient to cooperate shall result in denial of Medicaid benefits or in cancellation of the person's Medicaid benefits. Additionally, in ADC-related Medicaid cases, the \$30 and the \$30 and the one-third earned income disregards described at 41.7(2)"c" shall not be allowed nor shall income be diverted to meet the needs of the parent who refuses to cooperate without good cause when establishing eligibility for the children.

75.14(3) Each applicant for or recipient of Medicaid who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing support. The provisions set forth in subrules 41.2(8) to 41.2(11) shall be used when making a determination of the existence of good cause.

75.14(4) Each applicant for or recipient of Medicaid shall assign to the department any rights to medical support from any other person for which the person can legally make assignment. This shall include rights to support in the applicant's or recipient's own behalf or in behalf of any other family member for whom the applicant or recipient is applying. An assignment is effective the same date the local office enters the eligibility information into the automated benefit calculation system and is effective for the entire period for which assistance is paid. Support payments not intended for medical support shall not be assigned to the department.

75.14(5) Referrals to the child support recovery unit for Medicaid applicants or recipients shall be made in accordance with subrule 41.2(5).

ITEM 3. Amend rule 441—96.1(252B), introductory paragraphs, as follows:

**441—96.1(252B) Services available.** The child support collection or paternity determination services established by the department for collection of child support from the absent parents of children receiving aid to dependent children (ADC) shall be made available to *families with an absent parent who receive Medicaid and to any individual person* not otherwise eligible for ~~aid to dependent children~~ *ADC*. The services shall be made available to ~~individuals~~ *persons* upon the completion and filing of an application with the child support recovery unit except for *Medicaid recipients and those individuals persons* who are eligible for services under rule 441—96.10(252B).

The child support recovery unit shall provide the following services for the ~~individual person~~ not otherwise eligible for the services as a public assistance recipient:

ITEM 4. Amend rule 441—96.2(252B) as follows:

**441—96.2(252B) Limitation of services.** The service is limited to the *establishment and enforcement* of child

## HUMAN SERVICES DEPARTMENT[441] (cont'd)

support obligations, *medical support obligations*, and alimony where a child support obligation is also involved. The service available is the same as that the department provides for aid to dependent children recipients. The primary emphasis of the unit is on the regular and periodic payment of the current support obligation. The child support recovery unit shall determine the amount of support upon the ability of the absent parent to pay, even when an existing court order provides a higher amount of support. The unit shall also determine the appropriate enforcement procedure to be utilized in each specific case.

ITEM 5. Amend rule 441—96.4(252B) as follows:

**441—96.4(252B) Application for services.** ~~An individual~~ A person requesting services under this chapter, except for *Medicaid recipients* and those ~~individuals~~ persons eligible to receive support services in accordance with rule 441—96.10(252B), shall complete and return Form 470-0188, Application for Nonassistance Support Services, to the child support recovery unit serving the county where the ~~individual~~ person resides.

This rule is intended to implement Iowa Code section 252B.4.

ITEM 6. Amend rule 441—96.10(252B) as follows:

**441—96.10(252B) Services Continued services available to canceled aid to dependent children (ADC) recipients.** Support services shall automatically be provided for the ~~five (5) months immediately following cancellation, without application or fee, to individuals~~ persons who were eligible to receive support services as recipients of ~~aid to dependent children ADC~~ and who were canceled from ~~aid to dependent children ADC~~. Continued support services shall not be provided to ~~an individual~~ a person who has been canceled from ~~aid to dependent children ADC~~ when a claim of good cause, as defined in subrule 41.2(8), was valid at the time benefits were canceled or when one of the reasons for denial of services, listed in rule 441—96.3(252B) applies to the case.

Support services shall ~~continue to be provided to eligible individuals~~ persons without application or application fee, but ~~immediately following the five (5) months of continued services~~ subject to applicable enforcement fees.

**96.10(1) Notice of services.** Within ~~forty-five (45) days~~ from the date ~~aid to dependent children ADC~~ benefits are canceled or within ~~fifteen (15) days~~ from the date the unit is notified of the cancellation of benefits, the department shall forward Form CS-1113, Notice of Continued Support Services, to ~~an individual's~~ a person's last known address to inform the ~~individual~~ person of eligibility for and duration of the continued services.

**96.10(2) Termination of services.** ~~An individual~~ A person may request the department to terminate support services ~~during, or at any time after, the five (5) months of continued services~~ by the completion and return of the bottom portion of Form CS-1113, or in any other form of written communication, to the child support recovery unit.

Continued support services may be terminated at any time for any of the reasons listed in rule 441—96.3(252B).

**96.10(3) Reapplication for services.** ~~An individual~~ A person whose services were denied or terminated may reapply for services under this chapter by completing the application process as described in rule 441—

96.4(252B), and paying the application fees described in rule 441—96.13(252B).

This rule is intended to implement Iowa Code section 252B.4.

ITEM 7. Amend rule 441—96.12(252B) as follows:

**441—96.12(252B) Charging fees.** The child support recovery unit may charge *enforcement* fees to persons who receive *continued* services according to rule 441—96.10(252B) ~~following the five (5) months of continued services~~ and to all other persons receiving nonassistance services. ~~At the time of application, or at the end of the five (5) month period of continued services, Eligible~~ persons shall be provided with a schedule of *enforcement* fees and the effective date of the fees. Revisions to the schedule of fees due to a change in charges set by federal agencies shall be provided to persons receiving services, ~~thirty (30) days prior to the effective date of the change. Payment of fees must be in the form of a money order, cashier's check, or bank draft. Cash or personal checks will not be accepted.~~

This rule is intended to implement Iowa Code sections 252B.4 and 252B.11.

[Filed 8/4/88, effective 10/1/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

## ARC 9115

INSPECTIONS AND APPEALS  
DEPARTMENT[481]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 10A.104, the Department of Inspections and Appeals adopts amendments to Chapter 30, "Field Survey Administration"; Chapter 31, "Food Establishment Inspections"; Chapter 32, "Food Service Establishment Inspections"; and Chapter 33, "Food and Beverage Vending Machine Inspections," Iowa Administrative Code.

Chapter 30 has been amended by adding a definition for "baked goods," "bed and breakfast home," and "home food establishment." The definitions of "farmers market" and "food establishment" have been amended to exclude markets included in other rules which are defined specifically and separately. The procedure for obtaining a license for a home food establishment is explained.

Before the 1988 legislative session, the fee for a second license, either food or food service establishment type was reduced by 50 percent. For example, if a licensed food establishment also housed a food service establishment, the food establishment paid only 50 percent of the fee to license the food service establishment. The reverse was also true. This provision was deleted effective July 1, 1988. There is no decrease in cost for double licensing. Rule 481—30.6(170,170A) has been amended to reflect this action.

Rule 481—31.1(170) allows the sale of food prepared in a licensed home food establishment.

## INSPECTIONS AND APPEALS DEPARTMENT[481] (cont'd)

Rule 481—32.1(10A) is amended by adding an exception to the Food and Drug Administration Food Service Sanitation Ordinance which requires separate kitchen facilities if a bed and breakfast inn or a bed and breakfast home serves food to people other than overnight guests. Neither "inns" nor "homes" are required to maintain separate kitchen facilities.

Rule 481—33.2(191A) is amended by deleting section 6-108 of the Food and Drug Administration Food and Beverage Vending Machine Ordinance. This will include vending machines which dispense only prepackaged ice; prepackaged candy, cookies, crackers or similar prepackaged, nonpotentially hazardous snacks or nuts in the requirements of the ordinance.

These rules are identical to those adopted and filed emergency and published in the June 29, 1988, Iowa Administrative Bulletin as ARC 8907 and simultaneously placed under Notice as ARC 8908.

The rules adopted and filed emergency will be rescinded September 28, 1988, when these rules become effective.

No comments were received.

The amendments are intended to implement 1988 Iowa Acts, Senate File 356, House File 2063, and House File 2444, sections 38 and 39.

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 [amendments to 30.2 to 30.4, 30.6 to 30.8, 30.10, 30.12, 31.1, 32.1, 33.2] is being omitted. These rules are identical to those published under Notice as ARC 8908 and Filed Emergency as ARC 8907, IAB 6/29/88.

[Filed 8/5/88, effective 9/28/88]

[Published 8/24/88]

[For replacement pages for IAC, see IAC Supplement, 8/24/88.]

## ARC 9116

### INSPECTIONS AND APPEALS DEPARTMENT[481]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 10A.104(5), the Department of Inspections and Appeals adopts Chapter 34, "Home Food Establishments," Iowa Administrative Code.

The 1988 Iowa Acts, Senate File 356, created this new class of food establishment.

The new chapter sets standards to be maintained by Iowans who prepare potentially hazardous baked goods in their residence for sale.

This chapter was published under Notice of Intended Action in the Iowa Administrative Bulletin, June 29, 1988, as ARC 8906, and was simultaneously adopted and filed emergency as ARC 8905. The adopted chapter is identical with one exception. Subrule 34.1(12) has been amended to say that items "shall" be washed, rinsed and sanitized in lieu of the Noticed "may."

The chapter adopted and filed emergency is rescinded on the effective date of these rules, September 28, 1988.

No comments were received.

These rules will become effective September 28, 1988.

These rules are intended to implement 1988 Iowa Acts, Senate File 356.

The following new chapter is adopted:

#### CHAPTER 34

#### HOME FOOD ESTABLISHMENTS

#### 481—34.1(72GA,SF356) Inspection standards.

34.1(1) All ingredients must come from a licensed or approved source except for fresh fruits and vegetables, nonhazardous baked goods and honey or eggs. The use of food in hermetically sealed containers not prepared in a licensed food processing plant is prohibited.

34.1(2) All food products and ingredients shall be stored in original containers. If removed from the original container, food and ingredients must be stored in labeled and closed containers. Container must be of a material that will not cause the food to become adulterated.

34.1(3) All food shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption. Food products shall not be stored on the floor.

34.1(4) All potentially hazardous food must be refrigerated at 45°F or less, or held at 140°F or higher to control bacteria growth. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165°F or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.

34.1(5) Food storage facilities must be kept clean and located to protect food from unsanitary conditions or contamination from any source at all times.

34.1(6) The floors, walls, ceilings, utensils, machinery, equipment and supplies in the food preparation area and all vehicles used in the transportation of food must be kept thoroughly clean. All food contact surfaces shall be easy to clean, smooth, nonabsorbent, and free of cracks or open seams.

34.1(7) All food must be protected against insects and rodents at all times. Outside doors, windows, and other openings must be fitted with screens and self-closing doors, if not otherwise protected. No dogs, cats, or other pets are allowed in the room where food is prepared or stored.

34.1(8) All garbage and refuse must be kept in containers and removed from the premises regularly to eliminate insects and rodents, offensive odors, or health or fire hazards. Garbage and refuse containers must be durable, easy to clean, insect and rodent resistant and of material that neither leaks, nor absorbs liquid.

34.1(9) All food handlers must be free from contagious or communicable diseases, sores or infected wounds, and must keep their hair covered and restrained.

34.1(10) All food handlers must keep themselves and their clothing clean. Hands must be washed as frequently as necessary to maintain good sanitation.

34.1(11) Smoking is not permitted while handling or preparing food or in food preparation or storage areas.

34.1(12) All establishments must have an adequate supply of hot and cold potable water under pressure from an approved source. Facilities must assure that equipment, utensils, and containers used in the preparation of food shall be washed, rinsed and sanitized.

## INSPECTIONS AND APPEALS DEPARTMENT[481] (cont'd)

If the residence is not served by a public water system, the water must be tested annually for nitrites and coliform. Records of water tests must be maintained by license holders who are not served by a public system. These records must be available to the regulatory authority upon request.

**34.1(13)** All establishments must have proper toilet facilities, equipped with a hand-washing lavatory, complete with hot and cold potable water under pressure and hand soap. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near the hand-washing facility.

**34.1(14)** Inspection findings shall be recorded on the inspection report form set out in Section 8-205 of the 1982 Edition of the FDA Retail Food Store Sanitation Code.

**481—34.2(72GA,SF356) Enforcement.** All serious violations (four- and five-point items) shall be corrected within ten days. Within 15 days, the license holder shall make a written report to the regulatory authority, stating the action taken to correct the serious violation. All one- and two-point items shall be corrected by the next routine inspection.

Violation of these rules or any provision of 1988 Iowa Acts, Senate File 356, is a simple misdemeanor. The department may employ various remedies if violations are discovered.

A license may be revoked.

An injunction may be sought.

A case may be referred to a county attorney for criminal prosecution.

**481—34.3(72GA,SF356) Labeling requirement.** All labels shall contain the following information in legible English:

1. Name and address of the person(s) preparing the food, and
2. Common name of the food.

**481—34.4(72GA,SF356) Annual gross sales.** Annual gross sales shall not exceed \$20,000. The license holder shall maintain a record of sales of food licensed under 1988 Iowa Acts, Senate File 356. The record shall be available to the regulatory authority when requested.

These rules are intended to implement 1988 Iowa Acts, Senate File 356.

[Filed 8/5/88, effective 9/28/88]  
[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

ARC 9123

**JOB SERVICE DIVISION[345]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 96.11, the Commissioner of the Division of Job Service hereby adopts amendments to Chapter 3, "Employer's Contribution and Charges," and Chapter 4, "Claims and Benefits," Iowa Administrative Code.

These rules are identical to those published under Notice of Intended Action in the Iowa Administrative Bulletin, June 29, 1988, as ARC 8949, except for minor

word changes in Item 9. In Item 9, subrule 4.34(8), paragraph "b," subparagraphs (1), (2) and (3), the word "or" was added at the end of each subparagraph.

Subrule 3.3(2) is amended by adding paragraph "h" as this new paragraph states specifically that the term "wages" shall not include any amount of personal compensation withdrawn from the business or profession by a bona fide sole proprietor—partner or partners of the business or profession. Subrule 3.18(7) is not definitive enough and does not address the nonreporting of sole proprietorship or partnership personal draws as total and taxable wages for job insurance purposes.

Subrule 4.1(48) is amended to provide that a seated interview may be done by use of telephone as well as the in-person seated interview.

Subrule 4.2(1), paragraph "a," subparagraph (1), is amended to provide Job Service local offices with the flexibility to better serve the public at times that meet the public's needs.

Subrule 4.2(2) is amended by adding new paragraph "e" to provide that a claimant may exceed their weekly benefit amount plus \$15 for four consecutive weeks before an additional claim is filed.

Subrule 4.5(2), paragraph "h," is amended to correct an error in reference to the length of time an employer has to furnish vacation pay information and makes a reference to the proper procedure pertaining to vacation pay.

Rule 4.8(96) is amended by adding new subrule 4.8(9), so that when another state transfers wages to Iowa to combine with Iowa wages and Iowa is the paying state, Iowa cannot again adjudicate a previously adjudicated issue of the transferring state. If the transferring state makes an allowance, Iowa need take no further action. However, if the transferring state has issued a disqualification, Iowa will apply the Iowa requalification criteria.

Rule 4.19(96) is amended by adding a new subrule which provides that seated interviews may be conducted by use of the telephone as well as the in-person seated interview if they desire one. Secondly, the rule provides that the Division in its discretion may provide the opportunity for use of telephonic communications in lieu of a seated interview in the local office. The rule also reserves for the Division the right to call any interested party in for a face-to-face interview.

Subrule 4.22(1), paragraph "v," subparagraph (2), is amended to merely correct references to other rules.

Subrule 4.34(8) is amended to express the holding of the Iowa Supreme Court which states a lockout is not a labor dispute pursuant to Iowa Code section 96.5(4), if the claimant was willing to continue working under the conditions of the expired collective bargaining agreement for a reasonable period of time while negotiations are in progress. A claimant who is willing to work under such conditions, if otherwise eligible, would receive unemployment benefits pursuant to the terms of the rule.

Subrule 4.37(1), paragraph "d," subparagraph (2), is amended so that whenever another state transfers wages to Iowa to combine with Iowa wages and Iowa is the paying state, Iowa cannot again adjudicate a previously adjudicated issue of the transferring state. If the transferring state makes an allowance, Iowa need take no further action. However, if the transferring state has issued a disqualification, Iowa will apply the Iowa requalification criteria.

## JOB SERVICE DIVISION[345] (cont'd)

These rules were adopted by the Director of the Department of Employment Services on August 5, 1988, and will become effective September 28, 1988.

These rules are intended to implement Iowa Code sections 96.4, 96.4(1), 96.5, 96.5(3), 96.5(3)"b"(1), 96.5(4), 96.5(7), 96.6, 96.6(2), and 96.19(12)"a."

The amendments are as follows:

ITEM 1. Amend subrule 3.3(2) by adding new paragraph "h" as follows:

h. Sole proprietorship or partnership drawing accounts. The term "wages" shall not include any of the following:

(1) Any amount of personal compensation withdrawn by a bona fide sole proprietor from the business or profession.

(2) Any amount of personal compensation withdrawn by a bona fide partner or partners from their partnership entity.

ITEM 2. Amend subrule 4.1(48) as follows:

4.1(48) Fact-finding interview. A face-to-face or telephonic discussion between interested parties a claimant and a job service representative claims examiner for the purpose of obtaining from the claimant a statement containing information on a specific eligibility or disqualification issue. This differs from a an eligibility review periodic interview in that a specific issue must exist as a result of a statement made by either the claimant, the liable state, an employer, or the job service staff of the division.

ITEM 3. Amend subrule 4.2(1), paragraph "a," subparagraph (1), as follows:

(1) Any individual shall report in person at the office for filing an initial claim for benefits on any day from Monday through Friday during the posted hours between the hours of 8:00 a.m. and 4:00 p.m. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.

ITEM 4. Amend subrule 4.2(2) by adding new paragraph "e" as follows:

e. A claimant in a continuous reporting status, employed with the same employer, may exceed their weekly benefit amount plus \$15 for four consecutive weeks before the individual is required to file an additional claim for benefits Form 60-0150.

ITEM 5. Amend subrule 4.5(2), paragraph "h," as follows:

h. If the layoff is for vacation or inventory purposes, the area claims office shall advise the employer that it is required to notify the division of job service of the department of employment services in Des Moines, Iowa, in writing, within seven (7) days after a notice of the filing of an original or additional claim is mailed to the employer if the worker is entitled to vacation pay together with the amount and the exact period to which it applies shall follow the vacation pay procedure in rules 4.16(96) and 4.17(96).

ITEM 6. Add new subrule 4.8(9) as follows:

4.8(9) In the case of a wage combined claim in which another state transfers wages to Iowa and Iowa is the paying state, Iowa cannot again adjudicate a separation that has been previously adjudicated by the transferring state. The division shall respect the prior adjudication of the transferring state if the division is aware of the decision and will apply the Iowa requalification criteria,

unless the claimant has requalified pursuant to the liable state's requalification criteria.

ITEM 7. Amend rule 4.19(96) by renumbering subrule 4.19(2) as 4.19(3) and adding new subrule 4.19(2) as follows:

4.19(2) Each interested party will be afforded the opportunity to have an in-person interview regarding matters which are scheduled for a hearing. However, the opportunity for a fact-finding interview via telephonic communications may be provided at the discretion of the division. The division shall reserve the right to call any interested party in for an in-person fact-finding interview.

4.19(23) Upon receiving a written request for review or, on its own initiative and on the basis of such the facts as it may have in its possession or may acquire, the claims section may affirm, modify, or reverse the prior decision, or refer the claim to a hearing officer. The claimant or any such other party filing the request for review shall be promptly notified of such the decision or referral. Unless the claimant or any such other party files an appeal within ten (10) days after the date of mailing, such the latter decision shall be final and benefits shall be paid or denied in accordance therewith.

ITEM 8. Amend subrule 4.22(1), paragraph "v," subparagraph (2), as follows:

(2) The Claimants, except those covered by 4.2(1)"c"(1) and 4.2(1)"e"(2), will be referred to suitable work, when possible, at those employers who have outstanding requests with job service for referrals. The Claimants must meet the minimum lawful requirements of the employer. The claimant will apply to and obtain the signatures of the employers so designated on the form provided, unless the employers refuse to sign the form. The individual shall return the form to job service within seven (7) days from the date of issuance. The claimant's failure to obtain the signatures of designated employers, who have not refused to sign the form, shall disqualify the claimant from further benefits until requalified.

ITEM 9. Rescind subrule 4.34(8) and insert in lieu thereof the following:

4.34(8) A lockout is not a labor dispute if the claimant is willing to continue working under the preexisting terms and conditions of the expired collective bargaining agreement for a reasonable period of time while a new collective bargaining agreement is negotiated. A lockout is a cessation of the furnishing of work to employees or a withholding of work from them in an effort to get more desirable terms for the employer.

a. The test for determining whether a stoppage of work is a lockout or labor dispute is to determine the final cause and the party ultimately responsible for the work stoppage. If the employees have offered to continue working for a reasonable period of time under the preexisting terms and conditions of employment so as to avert a work stoppage pending the final settlement of the contract negotiations and the employer refuses to maintain the status quo by extending the expired contract, the resulting work stoppage constitutes a lockout and the claimants shall not be disqualified because of a labor dispute.

b. A cessation of employment by the employer is not a lockout if:

(1) The stoppage of work is in the same facility or another facility of the employer and the claimant is directly involved in the labor dispute because said

**JOB SERVICE DIVISION[345] (cont'd)**

claimant is in the same grade or class of workers or is a member of the striking union and the collective bargaining negotiations will directly affect their condition of employment, or

(2) The claimant or the certified collective bargaining agent declines to continue working under the terms and conditions of the expired collective bargaining agreement while negotiations continue for a reasonable period of time taking into consideration the nature of the employer's business, or

(3) The employer takes such action as the result of sabotage or damage to machinery or a work slowdown which was perpetrated by the claimants, individually or collectively, or

(4) The employer can demonstrate that its refusal to allow employees to continue working under the terms and conditions of the expired collective bargaining agreement is due to a compelling reason of such degree that the extension of the contract would be unreasonable under the circumstances.

ITEM 10. Amend subrule 4.37(1), paragraph "d," subparagraph (2), as follows:

(2) For the purposes of this regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction. *The division will respect the prior adjudication of a liable state if the agency is made aware of the decision and will apply the Iowa requalification criteria, unless the claimant has requalified pursuant to the liable state's requalification criteria.*

[Filed 8/5/88, effective 9/28/88]  
[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9143****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 106.3, the Natural Resource Commission at their regular meeting on August 4, 1988, adopted the following amendments to Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

These rules create a speed restriction zone on Brown's Lake and Snyder Bend Lake in Woodbury County.

Notice of Intended Action was published in the June 1, 1988, Iowa Administrative Bulletin as **ARC 8846**.

All written comments received were favorable. The only change from the Notice of Intended Action involves extending the zone on Brown's Lake an additional 600 feet needed to extend the zone past the swimming area.

These rules are intended to implement Iowa Code sections 106.17, 106.26 and 106.31.

These rules will become effective September 28, 1988.

The following rules are adopted:

**571—40.29(106) Speed restrictions on Brown's Lake.** No motorboat shall be operated at a speed to exceed five miles per hour within the zoned area 1,700 feet from the boat ramp east to the regulatory buoys on Brown's Lake in Woodbury County.

**571—40.30(106) Speed restrictions on Snyder Bend Lake.** No motorboat shall be operated at a speed to exceed five miles per hour within the zoned area 1,200 feet from the boat ramp south to the regulatory sign and buoys on Snyder Bend Lake in Woodbury County.

[Filed 8/5/88, effective 9/28/88]  
[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9147****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 106.3, the Natural Resource Commission at their regular meeting on August 4, 1988, adopted the following amendment to Chapter 45, "Boat Motor Regulations," Iowa Administrative Code.

This rule allows the use of motors of unrestricted horsepower operated at a no-wake speed only from September 8 through May 20 of each year on Lake Macbride.

Notice of Intended Action was published in the June 29, 1988, Iowa Administrative Bulletin, as **ARC 8933**.

Written and oral comments received were both favorable and opposed to the Notice. There are no changes from the Notice.

This rule is intended to implement Iowa Code section 106.31.

This rule will become effective September 28, 1988.

Amend subrule 45.4(2), paragraph "b," by adding the following:

Lake Macbride, Johnson County—unrestricted horsepower operated at a no-wake speed only from September 8 through May 20 of each year.

[Filed 8/5/88, effective 9/28/88]  
[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9104****NURSING BOARD[655]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Board of Nursing hereby adopts an amendment to Chapter 1, "Administrative and Regulatory Authority," Iowa Administrative Code.

**NURSING BOARD[655] (cont'd)**

This amendment removes a paragraph that should have been removed when a new Chapter 11 was established regarding public records.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 15, 1988, as **ARC 8853**. This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 17A.3.

This amendment will become effective September 28, 1988.

The following amendment is adopted.

Amend subrule 1.3(6) by deleting paragraph "b" and relettering paragraphs "c" and "d" as "b" and "c," respectively.

[Filed 8/4/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9105****NURSING BOARD[655]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3, 147.76, and 258A.3, the Iowa Board of Nursing hereby adopts amendments to Chapter 2, "Nursing Education Programs," Iowa Administrative Code.

These amendments relate to the qualifications of heads of programs and faculty members and eliminate any reference to rehiring.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 15, 1988, as **ARC 8854**. These amendments are identical to those published as Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 17A.3, 147.76, and 258A.3.

These rules will become effective September 28, 1988. The following amendments are adopted.

ITEM 1. Amend subrule 2.3(2), paragraph "d," subparagraph (1), by deleting the words "or rehired" in the first sentence.

ITEM 2. Amend subrule 2.3(2), paragraph "d," subparagraph (1), "2," by deleting the last sentence.

ITEM 3. Amend subrule 2.3(2), paragraph "d," subparagraph (2), by deleting the words "or rehired".

ITEM 4. Amend subrule 2.6(2), paragraph "c," subparagraph (1), "2," by deleting the last sentence.

ITEM 5. Amend subrule 2.6(2), paragraph "c," subparagraph (2), by deleting the words "or rehired" in the first sentence and deleting the last sentence.

ITEM 6. Amend subrule 2.6(2), paragraph "c," subparagraph (3), by deleting the words "or rehired" in the first sentence and deleting the last sentence.

ITEM 7. Amend subrule 2.6(2), paragraph "c," subparagraph (4), by deleting the words "or rehired".

ITEM 8. Amend subrule 2.6(2), paragraph "c," subparagraph (5), by deleting the words "or rehired" in the second sentence and deleting the last sentence.

[Filed 8/4/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9108****NURSING BOARD[655]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3, 147.2, and 147.76, the Iowa Board of Nursing hereby adopts an amendment to Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

This amendment provides for nurses actively licensed in another state to provide emergency services in Iowa while serving on a Red Cross disaster team without holding a current Iowa license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 20, 1988, as **ARC 8616**. This amendment is identical to that published as Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 17A.3, 147.2, and 147.76.

This amendment will become effective September 28, 1988.

The following amendment is adopted.

Amend subrule 3.2(2) by adding the following new paragraph "c":

c. A nurse who holds an active license in another state provides emergency services while serving on a Red Cross disaster team.

[Filed 8/4/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9106****NURSING BOARD[655]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3, 147.4, 147.53, and 147.80, the Iowa Board of Nursing hereby adopts amendments to Chapter 3, "Licensure to Practice — Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments eliminate the Board's responsibility to offer English language proficiency examinations and outline procedures for those with disciplinary action in another state who are seeking licensure by endorsement in Iowa.

**NURSING BOARD[655] (cont'd)**

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 15, 1988, as **ARC 8855**. These amendments are identical to those published as Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 17A.3, 147.4, 147.53, and 147.80.

These amendments will become effective September 28, 1988.

The following amendments are adopted.

**ITEM 1.** Amend subrule **3.4(6)**, paragraph "a," subparagraph (2), by striking the last two sentences.

**ITEM 2.** Amend subrule **3.5(2)** by relettering paragraph "d" as "e" and adding the following new paragraph "d":

d. An applicant for endorsement who has had disciplinary action in another state shall submit all the materials required for endorsement and appear before the board. The board shall review the reasons for the out-of-state sanction and determine whether to grant licensure in Iowa. The board may determine special conditions for licensure.

[Filed 8/4/88, effective 9/28/88]

[Published 8/24/88]

**EDITOR'S NOTE:** For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9107****NURSING BOARD[655]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 258A.2, the Iowa Board of Nursing hereby adopts an amendment to Chapter 5, "Continuing Education," Iowa Administrative Code.

This amendment requires two additional copies of applications from prospective continuing education providers to be submitted to the Board office for review.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 15, 1988, as **ARC 8856**. This amendment is identical to that published as Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 17A.3 and 258A.2.

This amendment will become effective September 28, 1988.

The following amendment is adopted.

Amend subrule **5.3(3)**, paragraph "b," to read as follows:

b. Upon receipt of the completed application *and two copies*, a review is held by a committee.

[Filed 8/4/88, effective 9/28/88]

[Published 8/24/88]

**EDITOR'S NOTE:** For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9134****PHARMACY EXAMINERS  
BOARD[657]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 258A.10, the Iowa Board of Pharmacy Examiners hereby amends Chapter 9, "Discipline," Iowa Administrative Code.

The amendment adds practicing pharmacy without an active current license as an act or offense for which disciplinary action could be taken by the board.

Notice of Intended Action was published in the May 18, 1988, Iowa Administrative Bulletin as **ARC 8723**. The adopted rule is identical to that published under Notice.

The amendment was approved during the July 12, 1988, meeting of the Iowa Board of Pharmacy Examiners, and will become effective September 28, 1988.

This rule is intended to implement Iowa Code section 258A.3 and 1987 Iowa Code supplement section 155A.12.

Amend subrule **9.1(4)** by adding new paragraph "v" as follows:

v. Practicing pharmacy without an active and current license.

[Filed 8/5/88, effective 9/28/88]

[Published 8/24/88]

**EDITOR'S NOTE:** For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9129****PROFESSIONAL LICENSURE  
DIVISION[645]**

**BOARD OF EXAMINERS FOR  
NURSING HOME ADMINISTRATORS**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Nursing Home Administrators hereby transfers 600—Chapters 1 to 3 from the former agency number 600 to the new agency number 645—Chapters 140 to 142. This change is to conform to the new agency identification numbering system adopted by the Code Editor as a result of state government reorganization. Minor editorial changes are also made to correct agency names and addresses.

These rules were published in the March 23, 1988, Iowa Administrative Bulletin as **ARC 8571**, and were adopted by the Board of Examiners for Nursing Home Administrators on April 27, 1988. There are no changes from the Notice except the uniform rules [ch 149] were adopted at an earlier date.

These rules implement Iowa Code section 147.76.

These rules shall become effective on September 28, 1988.

Transfer **600—Chapters 1 to 3** to the new agency number **645—Chapters 140 to 142**.

[Filed 8/5/88, effective 9/28/88]

[Published 8/24/88]

**EDITOR'S NOTE:** For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9126****PROFESSIONAL LICENSURE  
DIVISION[645]**

BOARD OF PSYCHOLOGY EXAMINERS

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology Examiners hereby transfers 470—Chapter 140 to the new agency number 645—Chapter 240. This change is to conform to the new agency identification numbering system adopted by the Code Editor as a result of state government reorganization. Minor editorial changes are also made to correct agency names, addresses, etc.

These rules were published in the March 23, 1988, Iowa Administrative Bulletin as **ARC 8575**, and were adopted by the Board of Psychology Examiners on April 27, 1988.

There are no changes from the Notice except the uniform rules [Ch 249] were adopted at an earlier date.

These rules implement Iowa Code section 147.76.

These rules will be effective on September 28, 1988.

Transfer **470—Chapter 140** to the new agency number **645—Chapter 240**.

[Filed 8/5/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

These amendments were adopted by the Board of Speech Pathology and Audiology Examiners on July 22, 1988, and are effective September 28, 1988.

These rules implement Iowa Code chapter 147.

ITEM 1. Transfer **470—Chapters 155 and 157** to new agency number **645—Chapters 300 and 302**.

ITEM 2. Amend rule **300.5(147)** by changing the catchwords from "Licensure by reciprocity" to "Licensure by equivalency."

ITEM 3. Amend rule **300.7(147)** by adding a new subrule **300.7(8)** as follows:

**300.7(8)** The penalty for failure to notify the board office of an address change within 30 days is \$15. If the penalty is not paid by the time of license renewal, the license may not be renewed.

[Filed 7/29/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

**ARC 9148****REVENUE AND FINANCE  
DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue and Finance hereby adopts amendments to Chapter 74, "Semiannual Mobile Home Tax," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 29, 1988, as **ARC 8952**.

These amendments are being made to implement 1987 Iowa Acts, chapter 210, which became effective July 1, 1988, and changes the mobile home tax from a semiannual to an annual basis and deletes the reduced tax rate for mobile homes more than five years old.

These amendments are identical to those published under Notice of Intended Action. The amendments will become effective September 28, 1988, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

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

The following amendments are adopted.

ITEM 1. Amend rule 701—74.1(135D) to read as follows:  
**701—74.1(135D) Computation of semiannual mobile home tax.** The ~~semiannual~~ mobile home tax shall be computed as provided in either Iowa Code sections subsection 135D.22(1) and or 135D.22(2) shall be computed prior to any reduction made pursuant to Iowa Code sections ~~135D.22(4) and 135D.22(5)~~.

This rule is intended to implement 1987 Iowa Code supplement section 135D.22.

**ARC 9099****PROFESSIONAL LICENSURE  
DIVISION[645]**

SPEECH PATHOLOGY AND AUDIOLOGY EXAMINERS

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Speech Pathology and Audiology Examiners hereby amends Chapter 155, "Board of Speech Pathology and Audiology Examiners" and transfers Chapters 155 and 157 from the former agency number 470 to the new number 645—Chapters 300 and 302.

The rules change a reference to "licensure by reciprocity" to "licensure by equivalency," and establish a \$15 fine for the failure of a licensee to notify the Board office of a change of address. The transfer of chapters is to conform to the new agency identification numbering system adopted by the Code Editor as a result of state government reorganization by 1986 Iowa Acts, chapter 1245.

Notices of Intended Action regarding these amendments were published in the Iowa Administrative Bulletin on March 23, 1988, as **ARC 8577** and May 4, 1988, as **ARC 8697**.

There are no changes from the Notices, except Chapter 309 in **ARC 8577** was adopted at an earlier date.

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

ITEM 2. Amend rule 701—74.2(135D) to read as follows:

**701—74.2(135D) Movement of mobile home to another county.** If *one or both installments of the semiannual tax for the current and subsequent six-month period has fiscal year have been made paid* and subsequently the mobile home is moved to another county, the tax ~~collected~~ *paid* shall remain in the county in which originally collected. No reimbursement shall be made either to the owner of the mobile home or to the county to which the mobile home ~~was is~~ moved. *If only the first installment has been paid and the mobile home is moved prior to January 1, the second installment shall be made to the county to which the mobile home is moved.*

*If the semiannual tax for the current six-month period has been paid and subsequently the mobile home is moved to another county, the entire tax payment shall remain in the county in which paid.*

This rule is intended to implement 1987 Iowa Code supplement section 135D.22.

ITEM 3. Amend rule 701—74.3(135D) to read as follows:

**701—74.3(135D) Sale of mobile home.** If the owner of a mobile home has paid *one or both installments of the semiannual tax for the current six-month period fiscal year* and subsequently sells the mobile home, no reimbursement shall be made to the seller for any portion of the tax paid. ~~This rule applies both to sales to private individuals and sales to dealers.~~ *If only the first installment has been paid and the mobile home is sold prior to January 1, the purchaser is responsible for the second installment.*

This rule is intended to implement 1987 Iowa Code supplement section 135D.22.

ITEM 4. Amend rule 701—74.4(135D), catchwords, to read as follows:

**701—74.4(135D) Reduced semiannual tax for the elderly and disabled.**

ITEM 5. Amend subrule 74.4(1) to read as follows:

**74.4(1) Qualified owner.** For purposes of receiving the reduced ~~semiannual~~ tax rate for the elderly and disabled, the term "qualified owner" means any Iowa resident whose name appears on the title to a mobile home as the owner or one of the owners of the mobile home.

ITEM 6. Amend subrule 74.4(5) to read as follows:

**74.4(5) Payment of claims.** On December 15 of each year the department of revenue and finance shall remit to each county treasurer an amount equal to the taxes not collected during the current ~~calendar~~ *fiscal* year as a result of the granting of the reduced tax rate.

This rule is intended to implement 1987 Iowa Code supplement section 135D.22.

ITEM 7. Amend rule 701—74.5(135D,441), introductory paragraph, to read as follows:

**701—74.5(135D,441) Conversion of mobile home to real estate.** If a mobile home has been converted to real estate, the assessor shall collect the title and return it to the county treasurer. As a condition of conversion, the assessor shall also collect any unpaid ~~semiannual~~ taxes due ~~for the current or prior six-month period on the mobile home.~~

ITEM 8. Amend rule 701—74.8(135D), catchwords, to read as follows:

**701—74.8(135D) Collection of semiannual tax.**

ITEM 9. Amend subrule 74.8(1), introductory paragraph, to read as follows:

**74.8(1) When delinquent.** The date on which unpaid ~~semiannual~~ mobile home taxes become delinquent is to be determined as follows:

ITEM 10. Amend subrule 74.8(2) to read as follows:

**74.8(2) Collection of delinquent tax.** Delinquent ~~semiannual~~ mobile home taxes shall be collected by offering the ~~property~~ *mobile home* at tax sale in accordance with Iowa Code chapter 446.

*This rule is intended to implement 1987 Iowa Code supplement sections 135D.24(1) and 135D.25.*

[Filed 8/5/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

## ARC 9094

TRANSPORTATION  
DEPARTMENT [761]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Department of Transportation, on July 26, 1988, rescinded Chapter 750, "Aircraft Registration," and adopted a new Chapter 750, "Aircraft Registration," Iowa Administrative Code.

A Notice of Intended Action for these rules was published in the June 15, 1988, Iowa Administrative Bulletin as **ARC 8865**.

This new chapter of rules is being adopted in compliance with 1988 Iowa Acts, House File 2156, which establishes staggered registration procedures for aircraft owned, rented or operated within Iowa. The rules describe the new registration procedure, the exception for aircraft that is not airworthy, and the renewal procedure. Pursuant to House File 2465, the rules also require the owner to present a use tax receipt or evidence of tax exemption when the aircraft is first registered.

These rules are identical to the ones published under Notice.

These rules are intended to implement Iowa Code chapter 328 and 1988 Iowa Acts, House Files 2156 and 2465.

These rules are to be published in the August 24, 1988, Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective September 28, 1988.

Rule-making actions:

Rescind Chapter 750, "Aircraft Registration," and insert in lieu thereof the following:

CHAPTER 750  
AIRCRAFT REGISTRATION

**761—750.1(328) Purpose.** This chapter establishes the procedures for registration of civil aircraft pursuant to Iowa Code chapter 328 and 1988 Iowa Acts, House Files 2156 and 2465.

## TRANSPORTATION DEPARTMENT[761] (cont'd)

**761—750.2(328) Definitions.** The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to this chapter of rules.

This rule is intended to implement Iowa Code section 328.1 and 1988 Iowa Acts, House File 2156, section 1.

**761—750.3(17A) Information and forms.** Information, instructions and forms are available from the air and transit division of the department at the address in 761—700.2(328). Application forms may also be obtained from aircraft dealers.

This rule is intended to implement Iowa Code section 17A.3.

750.4 to 750.9 Reserved.

**761—750.10(328) Registration procedure.**

**750.10(1) Registration requirement.** A civil aircraft which has an FAA-assigned N number is subject to registration in Iowa unless it is exempt by statute.

**750.10(2) Application.**

a. The owner of an unregistered aircraft shall submit Form 300038, "Aircraft Registration Application," to the department.

b. The owner shall submit with the application a copy of the use tax receipt from the Iowa department of revenue and finance or evidence of tax exemption.

c. The department shall review the application and may request additional information or documents from the owner. The department shall compute the registration fee for the registration year based on the month the aircraft became subject to registration in Iowa and shall send a fee statement to the owner.

d. Upon receipt of the registration fee, the department shall issue Form No. 300018, "Aircraft Registration Certificate," to the applicant.

**750.10(3) Fee.** The fee for a new aircraft shall be computed according to Iowa Code section 328.21. The fee for other aircraft shall be computed according to Iowa Code sections 328.21 and 328.22.

This rule is intended to implement Iowa Code sections 328.20 to 328.22, 328.25 to 328.27, 328.35, 328.37, 328.42, 328.46 and 328.56A and 1988 Iowa Acts, House File 2156, sections 2, 3, 5, 7 and 12 and House File 2465, section 18.

750.11 to 750.14 Reserved.

**761—750.15(328) Aircraft not airworthy.** If the aircraft is not airworthy, not in flying condition, the owner shall submit with the registration application a written, signed explanation of the aircraft's condition and an estimate of the date when the aircraft will be airworthy. The department shall issue a certificate and shall reissue the certificate annually until the owner notifies the department that the aircraft is airworthy or until the aircraft is no longer subject to registration in Iowa.

This rule is intended to implement Iowa Code section 328.21 as amended by 1988 Iowa Acts, House File 2156, section 5.

750.16 to 750.19 Reserved.

**761—750.20(328) Renewal.**

**750.20(1) Notice.** Thirty days before the beginning of the registration year, the department shall send a renewal application for each registered aircraft to the owner as shown on department records. The renewal application shall state the registration fee due for the

registration year and the descriptive data recorded for the aircraft.

**750.20(2) Submission.** If all data are correct, the renewal application and registration fee shall be returned to the department. If the data are incorrect, the renewal application shall be returned to the department with an explanation of the changes.

**750.20(3) Issuance.** The department shall issue the certificate of registration within 15 days after receipt of the renewal fee.

**750.20(4) Penalty.** A 5 percent penalty, as required by Iowa Code sections 328.50 and 328.51, shall accrue to a delinquent registration.

This rule is intended to implement Iowa Code sections 328.20, 328.27, 328.37, 328.50, 328.51, 328.56A and 1988 Iowa Acts, House File 2156, sections 3 and 11.

750.21 to 750.29 Reserved.

**761—750.30(328) Violations and penalties.** Violations and penalties are specified in Iowa Code chapter 328 and include authority for the department to record a lien against the federal aircraft title and sue to collect unpaid fees and penalties.

This rule is intended to implement Iowa Code sections 328.37, 328.40, 328.46 to 328.52 and 1988 Iowa Acts, House File 2156, sections 9 to 11.

[Filed 7/27/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.

## ARC 9112

### UTILITIES DIVISION[199]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 476.1, 476.2, and 17A.4, the Utilities Board hereby gives Notice that on August 4, 1988, the Utilities Board (Board) issued an order in Docket No. RMU-88-2, In Re: Telephone Rates—Shared Tenant Service, "Order Adopting Rules."

On March 7, 1988, the Board issued an order in this docket commencing a rule making to consider the adoption of an amendment to subrule 22.17 (1).

The Notice of Intended Action was published in the Iowa Administrative Bulletin on April 6, 1988, as ARC 8591. In order to allow for public comment on the proposed rule, a deadline of April 26, 1988, was set for filing written comments. Written comments were filed by Pathways Communications, Inc. (Pathways), Mid-America Investment Company (Mid-America), Enhanced Telemanagement, Inc. (Enhanced Telemanagement), Life Investors, Inc. (Life Investors), the Iowa Telephone Association (ITA), the Consumer Advocate Division of the Department of Justice (Consumer Advocate), GTE North, Inc. (GTE), United Telephone Company of Iowa (United), Northwestern Bell Telephone Company (Northwestern Bell), and Central Telephone Company (Centel).

Pathways, Mid-America, Enhanced Telemanagement, and Life Investors supported the amendment, arguing that current shared tenant service rates result in rates

## UTILITIES DIVISION[199] (cont'd)

that are not cost-based, discriminate against shared tenant service providers, are anticompetitive, and are not needed to prevent cross-subsidization. These commenters claim there is no evidence, either usage or cost-based, that justifies the requirement of mandatory local measured service rates for shared tenant service providers.

The Consumer Advocate filed comments which oppose mandatory local measured service rates. However, the Consumer Advocate recommended changes in the amendment to provide different rates for shared tenant service providers to the extent the local exchange company incurs different costs to provide service to them.

Comments opposing the amendment were filed by ITA, GTE North, United, Northwestern Bell, and Centel. These commenters claim that elimination of mandatory local measured service rates to shared tenant service providers may cause financial dislocations for local exchange companies. The change could result in the stranding of local loop plant constructed to serve customers who later become part of a shared tenant service system. They point to possible local revenue reductions for lines and trunks to new shared tenant service locations even though volumes of messages switched at the central office and terminated in the exchange remain constant. They argue that the purpose of requiring local measured service for STS providers is not to discourage market entry. Rather, the purpose is to prevent subsidization of shared tenant service by general customers.

The Board has determined that it is appropriate to remove the mandatory local measured service requirement from the shared tenant services rules. At the time these rules were first adopted the Board was concerned about the impact on local exchange company's revenues

from allowing shared tenant services. Nothing contained in the comments filed in this rule making is persuasive enough to justify continued mandatory local measured service rates for this one class of customers. Northwestern Bell comments that rates to shared tenant service providers should not be lower than cost. However, it is important to note that Northwestern Bell's cost support materials alleged to be a fully distributed cost study in Docket No. RPU-88-6 were rejected by the Board as totally inadequate. No local exchange telephone company has filed reliable cost support material for local measured service rates. That circumstance alone requires the elimination of mandatory local measured service rates for shared tenant service providers. In addition, the Board believes it is appropriate to postpone consideration of the Consumer Advocate's proposed amendment until such time as reliable cost information becomes available.

The Board will adopt the amendment in the form proposed. The amendment will become effective on September 28, 1988, pursuant to Iowa Code section 17A.5.

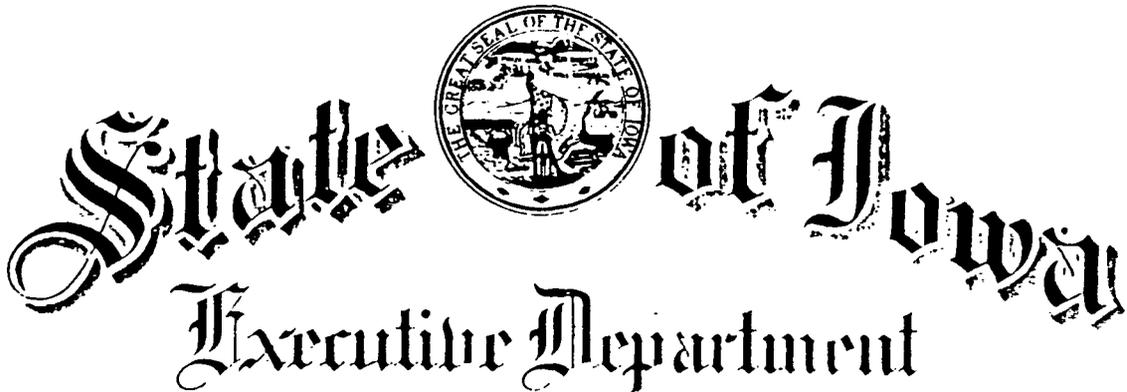
Amend subrule 22.17(1), paragraph "b," as follows:

b. Telephone rates charged to resale providers of communication services under this rule shall be made on a usage based methodology which is the same as for other similarly situated customers where technically possible and economically reasonable. A special rate adder for resale providers may be established in addition to the flat rate where measured service is not possible. *the same basis as business service.*

[Filed 8/5/88, effective 9/28/88]

[Published 8/24/88]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 8/24/88.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER 34

- WHEREAS, Executive Order Number Fifteen, dated April 2, 1973, Executive Order Number Eleven, dated March 30, 1984, and Iowa Code Chapter 601A, heretofore set forth the purpose and provisions for equal employment opportunity and affirmative action in state government, state services, and state contracts; and
- WHEREAS, 1986 Iowa Acts, Senate File 2175, signed into law on May 29, 1986 reorganized and realigned the departments for carrying out these commitments by abolishing and creating certain state agencies, repealing and modifying provisions of law relating to such agencies and altering the duties and powers of certain executive branch agencies; and
- WHEREAS, Iowa Code Section 19B.7 established as a responsibility of the Department of Management the promotion of equal opportunity in all state contracts and services; and
- WHEREAS, under the provisions of 1986 Iowa Acts, Senate File 2175 the Department of Management has the authority to develop a contract compliance policy for state agencies; and
- WHEREAS, it is necessary to require an affirmative action policy to be set forth in state contracts; and
- WHEREAS, it is necessary to maintain administrative consistency in the application of equal opportunity and affirmative action in all state contracts and services.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in my by the laws and Constitution of the State of Iowa, do hereby order that:

- I. The provisions of Executive Order Number Fifteen, dated April 2, 1973, remain in effect as a statement of basic policy and a code of fair practices as the state of Iowa.
- II. Executive Order Number Eleven, dated March 30, 1984, is hereby repealed.
- III. Nothing in this executive order shall affect the authority of the Civil Rights Commission to enforce Iowa Code Chapter 601A.
- IV. Article VIII entitled State Contracts and Subcontracts, Executive Order Number Fifteen, dated April 2, 1973, is hereby amended to read as follows:

Article VIII STATE CONTRACTS AND  
SUBCONTRACTS

To insure compliance with the provisions of the Iowa Civil Rights Act and Iowa Code Section 19B.7, every state official who is responsible to the Governor and who is authorized to make contracts or subcontracts for public works or for goods or services shall cause to be inserted into every such contract or subcontract a clause in which the contractor or subcontractor is required to make available upon request its Affirmative Action Program containing goals and time specifications. These contractual provisions shall be fully enforced. Any breach of them shall be regarded as a material breach of contract.

- V. Article IX entitled Compliance and Reporting, Executive Order Number Fifteen, dated April 2, 1973, is hereby amended to read as follows:

Article IX COMPLIANCE AND REPORTING

All state agencies responsible to the Governor shall cooperate fully with any persons authorized by the Governor to ensure compliance with Iowa Code Section 19B.7 and the Iowa Civil Rights Act. It shall be the duty of the Iowa Department of Management to monitor and take whatever action necessary to assure compliance with the Code of Iowa.

VI. Executive Order Number Fifteen is further amended to read as follows:

Article XI CONTRACT COMPLIANCE COORDINATING GROUP

The Department of Management is hereby authorized to establish a contract compliance coordinating group to develop cooperation and dialogue between the major departments involved in the Targeted Small Business program and the contract compliance program, and to identify and solve operational roadblocks.

The contract compliance coordinating group may assist the Department of Management in evaluating current state efforts to encourage participation by small business; minority business, and women business enterprises, and may submit recommendations to the Department of Management for any policy changes that may be required.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 22nd day of July in the year of our Lord one, thousand nine hundred eighty-eight.

Terry E. Branstad  
GOVERNOR

ATTEST:

Elaine Baxter  
SECRETARY OF STATE



State of Iowa  
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

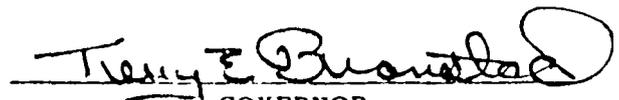
PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, A train derailement in Polk County occurred approximately at 11:45 A.M. on Saturday, July 30, 1988 causing a situation beyond local capability;

WHEREAS, Based upon reports by local officials and other state agencies that a state of emergency exists and the State has been asked to provide assistance;

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, do hereby proclaim a state of emergency to exist in Polk County, Iowa, and call upon the citizens and agencies of local, State, and Federal governments to render good and sufficient aid to assist local government in the response.

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 1st day of August nine hundred eighty-eight.

  
GOVERNOR

Attest:

  
Secretary of State



  
**State of Iowa**  
**Executive Department**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**PROCLAMATION OF DISASTER EMERGENCY EXTENDED**

**WHEREAS,** I declared a State of Disaster Emergency in Iowa on July 8, 1988 due to the drought conditions; and

**WHEREAS;** the conditions continue to exist within the state.

**NOW, THEREFORE,** I, Terry E. Branstad, Governor of the State of Iowa, do hereby extend the Proclamation of Disaster Emergency of July 8, 1988 for an additional period of 60 days.

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 5th day of August in the year of our Lord one thousand nine hundred eight-eight.



*Terry E. Branstad*  
\_\_\_\_\_  
GOVERNOR

Attest:

*Elaine Baxter*  
\_\_\_\_\_  
SECRETARY OF STATE





**IOWA ADMINISTRATIVE BULLETIN**

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