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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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(515) 281-8157

<u>ISSUE NUMBER</u>	<u>PRINTING SCHEDULE FOR IAB</u> <u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 9, 1989	June 28, 1989
1	Friday, June 23, 1989	July 12, 1989
2	Friday, July 7, 1989	July 26, 1989

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

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

First quarter	July 1, 1988, to June 30, 1989	\$160.95 plus \$6.45 sales tax
Second quarter	October 1, 1988, to June 30, 1989	\$120.45 plus \$5.01 sales tax
Third quarter	January 1, 1989, to June 30, 1989	\$ 81.40 plus \$3.26 sales tax
Fourth quarter	April 1, 1989, to June 30, 1989	\$ 40.70 plus \$1.63 sales tax

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

Iowa Administrative Code

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

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

Iowa Administrative Code - \$847.00 plus \$33.90 sales tax

(Price includes 16 volumes of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders can be purchased for \$3.30 plus \$0.13 tax.)

Iowa Administrative Code Supplement - \$255.20 plus \$10.21 sales tax

(Subscription expires June 30, 1989)

All checks should be made payable to the Iowa State Printing Division. Send all inquiries and subscription orders to:

Iowa State Printing Division
Grimes State Office Building
Des Moines, IA 50319
Phone: (515) 281-8796

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP

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Schedule for Rule Making 1989

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. 6	Jan. 25	Feb. 14	Mar. 1	Mar. 22	Apr. 26	July 24
Jan. 20	Feb. 8	Feb. 28	Mar. 15	Apr. 5	May 10	Aug. 7
Feb. 3	Feb. 22	Mar. 14	Mar. 29	Apr. 19	May 24	Aug. 21
Feb. 17	Mar. 8	Mar. 28	Apr. 12	May 3	June 7	Sep. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	May 17	June 21	Sep. 18
Mar. 17	Apr. 5	Apr. 25	May 10	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	July 12	Aug. 16	Nov. 13
May 12	May 31	June 20	July 5	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	Aug. 9	Sep. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 23	Sep. 27	Dec. 25
June 23	July 12	Aug. 1	Aug. 16	Sep. 6	Oct. 11	Jan. 8 '90
July 7	July 26	Aug. 15	Aug. 30	Sep. 20	Oct. 25	Jan. 22 '90
July 21	Aug. 9	Aug. 29	Sep. 13	Oct. 4	Nov. 8	Feb. 5 '90
Aug. 4	Aug. 23	Sep. 12	Sep. 27	Oct. 18	Nov. 22	Feb. 19 '90
Aug. 18	Sep. 6	Sep. 26	Oct. 11	Nov. 1	Dec. 6	Mar. 5 '90
Sep. 1	Sep. 20	Oct. 10	Oct. 25	Nov. 15	Dec. 20	Mar. 19 '90
Sep. 15	Oct. 4	Oct. 24	Nov. 8	Nov. 29	Jan. 3 '90	Apr. 2 '90
Sep. 29	Oct. 18	Nov. 7	Nov. 22	Dec. 13	Jan. 17 '90	Apr. 16 '90
Oct. 13	Nov. 1	Nov. 21	Dec. 6	Dec. 27	Jan. 31 '90	Apr. 30 '90
Oct. 27	Nov. 15	Dec. 5	Dec. 20	Jan. 10 '90	Feb. 14 '90	May 14 '90
Nov. 10	Nov. 29	Dec. 19	Jan. 3 '90	Jan. 24 '90	Feb. 28 '90	May 28 '90
Nov. 24	Dec. 13	Jan. 2 '90	Jan. 17 '90	Feb. 7 '90	Mar. 14 '90	June 11 '90
Dec. 8	Dec. 27	Jan. 16 '90	Jan. 31 '90	Feb. 21 '90	Mar. 28 '90	June 25 '90
Dec. 22	Jan. 10 '90	Jan. 30 '90	Feb. 14 '90	Mar. 7 '90	Apr. 11 '90	July 9 '90

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]

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
ATTORNEY GENERAL[61] Regulation of physical exercise clubs, ch 26 IAB 6/14/89 ARC 9927	Conference Room - 2nd Floor Hoover State Office Bldg. Des Moines, Iowa	July 7, 1989 1:30 p.m.
CIVIL RIGHTS COMMISSION[161] Public records and fair information practices, ch 11 IAB 6/14/89 ARC 9949 (See IAB 6/1/88, ARC 8825)	Conference Room - 2nd Floor 211 East Maple St. Des Moines, Iowa	July 28, 1989 9 a.m.
EDUCATION DEPARTMENT[281] Certification requirements, amendments to chs 73, 74, 81, 82 IAB 6/14/89 ARC 9940	Board Conference Room Grimes State Office Bldg. Des Moines, Iowa	July 12, 1989 9 a.m.
ENVIRONMENTAL PROTECTION COMMISSION[567] Effluent and pretreatment standards, 62.4, 62.5 IAB 6/14/89 ARC 9944	Conference Room Fifth Floor West Wallace State Office Bldg. Des Moines, Iowa	July 5, 1989 10 a.m.
HUMAN SERVICES DEPARTMENT[441] Medicaid program changes with respect to treatment of income and resources for institutionalized persons, amendments to chs 75, 76, 78, 80, 81, 82, 83, 85, 86 IAB 5/31/89 ARC 9919	Cedar Rapids District Office Conference Room - 6th Floor 221 4th Ave., S.E. Cedar Rapids, Iowa Council Bluffs District Office Lower Level 417 E. Kanessville Blvd. Council Bluffs, Iowa Davenport District Office Conference Room - 5th Floor 428 Western Ave. Davenport, Iowa Des Moines District Office City View Plaza Conference Room 100 1200 University Des Moines, Iowa Mason City District Office Mohawk Square 22 North Georgia Ave. Mason City, Iowa Ottumwa District Office Conference Room - 1st Floor 226 West Main Ottumwa, Iowa Sioux City District Office Suite 615-617 507-7th Street Sioux City, Iowa Waterloo District Office Black Hawk County Conference Room A 2nd Floor - KWVL Bldg. 500 East 4th Waterloo, Iowa	June 21, 1989 10 a.m. June 21, 1989 10 a.m. June 21, 1989 10 a.m. June 21, 1989 10 a.m. June 21, 1989 10 a.m. June 21, 1989 10 a.m. June 21, 1989 10 a.m. June 21, 1989 10 a.m. June 21, 1989 1 p.m. June 21, 1989 10 a.m.

HUMAN SERVICES DEPARTMENT[441] (cont'd)

Training requirements for licensure for foster family homes, process for training approval and change method of financial support for training, 113.8, 117.1, 117.3 to 117.8, 156.18
IAB 5/31/89 ARC 9909

Des Moines District Office
City View Plaza
Conference Room 100
1200 University
Des Moines, Iowa

June 22, 1989
9 a.m.

LABOR SERVICES DIVISION[347]

Occupational safety and health rules for general industry, 10.20
IAB 6/14/89 ARC 9931

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

July 11, 1989
10 a.m.
(If requested)

Occupational safety and health rules for construction, 26.1
IAB 6/14/89 ARC 9930

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

July 11, 1989
10 a.m.
(If requested)

Asbestos control procedures and licensing certification, chs 81, 82
IAB 6/14/89 ARC 9935
(See also ARC 9933, herein)

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

July 11, 1989
10:30 a.m.

Training educational agency employees in removal or encapsulation of asbestos, 82.1
IAB 6/14/89 ARC 9934

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

July 11, 1989
10:30 a.m.

NATURAL RESOURCE COMMISSION[571]

Development and management of recreation trails on state lands, 67.2
IAB 5/31/89 ARC 9906

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

June 21, 1989
10 a.m.

Commercial use of captive-reared waterfowl, ch 93
IAB 6/14/89 ARC 9945

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

July 6, 1989
10 a.m.

PERSONNEL DEPARTMENT[581]

Leave for military service, filing of grievances, approved leave, wearing of political buttons, amendments to chs 11, 12, 14, 16
IAB 5/17/89 ARC 9860

Conference Room - 1st Floor
Grimes State Office Bldg.
Des Moines, Iowa

June 28, 1989
10 a.m.

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Cosmetology examiners, sanitary conditions for beauty salons and schools of cosmetology, continuing education, amendments to chs 60, 61, 62
IAB 6/14/89 ARC 9939

Conference Room
Third Floor - Side 2
Lucas State Office Bldg.
Des Moines, Iowa

July 5, 1989
1 p.m.

PUBLIC HEALTH DEPARTMENT[641]

Strategy for drug control and system improvement for fiscal year 1990
IAB 5/31/89 ARC 9894

Conference Rooms - 1st Floor
Grimes State Office Bldg.
East 14th and Grand Ave.
Des Moines, Iowa

June 27, 1989
2 p.m.

SECRETARY OF STATE[721]

Election forms and instructions, 21.9
IAB 5/31/89 ARC 9882

Secretary of State Offices
Capitol Bldg.
Des Moines, Iowa

June 20, 1989
1:30 p.m.

SOIL CONSERVATION DIVISION[27]

Financial incentives
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control, 10.41, 10.42
IAB 6/14/89 ARC 9946

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

July 6, 1989
1 p.m.

TRANSPORTATION DEPARTMENT[761]

Rail assistance
program, 830.1 to 830.6
IAB 5/17/89 ARC 9848

Department of Transportation
Complex
800 Lincoln Way
Ames, Iowa

June 27, 1989

UTILITIES DIVISION[199]

Deregulation of InterLATA,
MTS, WATS, channel
service, and custom
network service
IAB 5/3/89 ARC 9819

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

June 29, 1989
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 autonomous agencies which were not included in the original reorganization legislation as “umbrella” 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]

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Soil Conservation Division[27]

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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]

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Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

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City Development Board[263]

Iowa Finance Authority[265]

High Technology Council[267]

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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]
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Status of Women Division[435]

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Employment Appeal Board[486]
Foster Care Review Board[489]
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LAW ENFORCEMENT ACADEMY[501]
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Appeal Board, State[543]
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PUBLIC EMPLOYMENT RELATIONS BOARD[621]

PUBLIC HEALTH DEPARTMENT[641]
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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]
Uniform State Laws Commission[791]
Veterinary Medicine Board[811]
Voter Registration Commission[821]

ARC 9927

ATTORNEY GENERAL[61]

DEPARTMENT OF JUSTICE

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 552.20, the Attorney General hereby gives Notice of Intended Action to rescind Chapter 26 and to adopt a new Chapter 26, “Regulation of Physical Exercise Clubs,” Iowa Administrative Code.

The Attorney General has concluded that these rules may have an impact on small business and, pursuant to Iowa Code section 17A.31, will consider the impact of these rules on small businesses.

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

Any interested person may make written suggestions or comments on these rules prior to July 5, 1989. Such written materials should be directed to: Cynthia A. Forsythe, Assistant Attorney General, Department of Justice, Hoover State Office Building, Des Moines, Iowa 50319.

There will be a public hearing on July 7, 1989, at 1:30 p.m. in the second floor conference room of the Hoover State Office Building. Persons may present their views orally or in writing at this hearing; however, persons wishing to schedule a time for oral presentations should so advise the Attorney General’s Office by contacting Cynthia A. Forsythe at (515) 281-5926 by July 5, 1989.

These rules are intended to implement Iowa Code chapter 552.

Rescind 61—Chapter 26 and insert the following in lieu thereof:

CHAPTER 26

REGULATION OF PHYSICAL EXERCISE CLUBS

61—26.1(552) Filing. Information required to be filed by the physical exercise club statute, Iowa Code chapter 552, or these rules shall be submitted to the Office of the Attorney General, Consumer Protection Division, Hoover Building, Second Floor, Des Moines, Iowa 50319. When these rules require that a document be filed by a specific time, that requirement is met by delivery to this office, by delivery to an established courier service for immediate delivery, or by mailing within the required time period provided that the document is accompanied by adequate proof of mailing. Adequate proof of mailing includes the following: a legible United States Postal Service postmark on the envelope, a certificate of service signed by an attorney, or a certification in the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed a copy of (describe document) addressed to the Office of the Attorney General, Consumer Protection Division, Hoover Building, Second

Floor, Des Moines, Iowa 50319, by depositing the same in a United States post office mailbox with correct postage properly affixed.

(Date)

(Signature)

61—26.2(552) Definitions. The terms used in these rules have the definitions found in Iowa Code section 552.1.

61—26.3(552) Registration.

26.3(1) Who must register. A person operating or intending to open or operate a physical exercise club within this state must file a registration statement at least 30 days before the use of any services or facilities is offered for sale by the physical exercise club and annually thereafter. The registration statement must be filed with the Consumer Protection Division, 1300 East Walnut, Hoover Building, Second Floor, Des Moines, Iowa 50319.

26.3(2) Contents of statement. The registration statement must contain all of the information required by Iowa Code section 552.15. An Application for Registration of Physical Exercise Clubs may be obtained from the consumer protection division. If an alternative form is used, the information must be supplied in a readable, coherent, and complete manner, or the application will be denied.

26.3(3) Fee. The registration statement must be accompanied by a nonrefundable fee of \$20. Registration statements which are received without payment will be returned to the sender.

26.3(4) Filing date. The registration shall be filed at least 30 days before the physical exercise club offers the use of any services or facilities for sale.

26.3(5) Updating. The registration statement shall be updated annually, on or before the anniversary date of the initial registration. The update must be accompanied by a nonrefundable fee of \$20. The update must include all changes in the information previously filed.

61—26.4(552) Escrow.

26.4(1) Who must establish escrow accounts. A physical exercise club or its assignee or agent that accepts prepayments shall deposit all of the funds received as prepayments in an escrow account established with a financial institution located in this state whose accounts are insured by the federal deposit insurance corporation, the national credit union administration, or the federal savings and loan corporation, which shall hold the funds as escrow agent for the benefit of the buyers that prepay. The physical exercise club shall deposit all prepayments received at least biweekly and shall make the first deposit not later than the fourteenth day after the day on which the physical exercise club accepts the first prepayment.

26.4(2) Material to be submitted. A physical exercise club or its assignee or agent, as defined in Iowa Code section 552.1(5), that accepts prepayments shall submit to the attorney general’s office at the address indicated in rule 26.1(552) the following:

a. If an escrow account is established, a notarized statement that identifies the financial institution in which the prepayments are held in escrow, the name and account number in which the account is held, and a copy of the escrow agreement.

b. If a bond is posted in lieu of establishing an escrow account, a copy of the bond.

c. The date the first contract was signed.

d. A customer list with current addresses and telephone numbers shall be submitted biweekly.

ATTORNEY GENERAL[61] (cont'd)

26.4(3) Submission date. The material as set forth in 26.4(2) shall be submitted not later than the fourteenth day after the first prepayment is received.

26.4(4) Release of escrow. The physical exercise club shall give notice to the consumer protection division at least ten days before it plans to request the release of the funds held in escrow. The financial institution shall not release the escrow account without verification from the consumer protection division that it has received this notice. Release procedures shall not begin until after verification from the consumer protection division that the physical exercise club is fully open for business. These release provisions shall be included as part of the escrow agreement.

26.4(5) Buyer's right. The buyer retains ownership of all moneys and interest held in escrow under these rules. These rules do not limit a buyer's right to cancel and receive a refund pursuant to Iowa Code section 552.5 or 537.3310, if applicable.

26.4(6) Hearing. If the escrow agent fails to make full refund to a buyer when required by Iowa Code section 552.13 or either the buyer or seller contests the consumer protection division's determination as to whether or not the physical exercise club is fully opened for business, the attorney general's designee shall hold a hearing and determine whether the physical exercise club has fully opened and has remained open for 30 days, and if not, determine those persons who, as buyers, are entitled to a refund and, if appropriate, distribute the escrow proceeds. A hearing can be held on motion by the consumer protection division or a request by other parties. This rule shall not preclude the attorney general from taking other appropriate legal action to protect the interest of the buyer or other parties pending the outcome of the hearing.

26.4(7) Notice of hearing. The physical exercise club shall be provided notice of hearing at its place of business as shown on its registration statement. All buyers who have funds in the escrow account shall be provided notice of the hearing at their last known address with costs assessed to the physical exercise club. Notice of hearing will include:

- a. The date, time, place and nature of the hearing.
- b. A statement that the party may be represented by legal counsel.
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- d. A reference to the statute or rules involved.
- e. A short and plain statement of the matters asserted.

26.4(8) Conduct of hearings. Hearings under this rule will be conducted as contested case proceedings under the Iowa administrative procedure Act. These hearings will generally be conducted according to the following format, subject to modification at the discretion of the presiding officer:

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

f. Rebuttal evidence, if any, on behalf of the respondent(s) is presented.

g. Each party may make a closing argument.

26.4(9) Continuances. No ex parte continuance shall be granted to any party.

26.4(10) Discovery and subpoenas. The provisions of Iowa Code section 17A.13 relating to discovery and subpoenas shall govern in contested cases held pursuant to these rules. If the department of inspections and appeals provides an administrative law judge to conduct the hearing, the provisions of 481—4.5(10A) shall not apply.

26.4(11) Proposed decision. The presiding officer will render a proposed decision which shall be in writing or stated in the record. The decision may include any of the following:

- a. Finding that the physical exercise club has fully opened for business.
- b. Finding that the physical exercise club has not fully opened for business.
- c. Finding that the physical exercise club has not remained open for 30 days.
- d. A determination of those persons who, as buyers, are entitled to a refund.
- e. Distribution of the escrow proceeds.

26.4(12) Further review. Any party who is adversely affected by a proposed decision or the consumer protection division may seek further review with the attorney general by complying with the following procedure:

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

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

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

d. In the event that a party does not seek further review, the proposed decision shall become the final decision.

26.4(13) Notification of decision. The physical exercise club shall be promptly furnished with a copy of any final or proposed decision either by personal service or by certified mail. All buyers who have funds in the escrow account shall be furnished with a copy of any final or proposed decision by ordinary mail at their last known address.

26.4(14) Judicial review. A party who has exhausted administrative remedies may seek judicial review of the decision pursuant to the Iowa administrative procedure Act.

61—26.5(552) Bond.

26.5(1) Bond required. A physical exercise club that accepts prepayments and does not establish an escrow account must post a bond in the amount of \$150,000 with the office of the attorney general, in a form deemed acceptable by the attorney general.

26.5(2) Notice. Notice of the existence of the bond must be disclosed to the buyer in the physical exercise club contract.

ATTORNEY GENERAL[61] (cont'd)

26.5(3) Collection on the bond. Either the attorney general or a buyer may collect on the bond in the same manner and on the same terms as provided for an escrow account. The aggregate liability of the surety for all refunds shall not exceed the amount of the bond. If refunds exceed the amount of the bond, distribution will be on a pro rata basis.

61—26.6(552) Certification. Upon application by the physical exercise club, the attorney general may certify that a physical exercise club is fully open for business if substantially all of the promised equipment and services are available for use and the physical exercise club has made a diligent effort to provide the remaining equipment and services.

ARC 9949

CIVIL RIGHTS COMMISSION[161]

Notice of Intended Action
and
Termination of Notice

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 22.11 and 601A.5(10), the Iowa Civil Rights Commission hereby gives Notice of Intended Action to add Chapter 11, "Public Records and Fair Information Practices," Iowa Administrative Code. The substance of the rules was published as Adopted and Filed Emergency Rules in the Iowa Administrative Code, June 1, 1988. The rules were published in the Iowa Administrative Bulletin as ARC 8825.

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

The Notice of Intended Action on Chapter 11 which was published as ARC 8826 in the June 1, 1988, Iowa Administrative Bulletin is hereby terminated pursuant to Iowa Code section 17A.4(1)"b".

Any interested persons may make written suggestions or comments on these proposed rules prior to July 21, 1989. Written materials should be directed to the Director, Iowa Civil Rights Commission, 211 East Maple Street, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Director, Iowa Civil Rights Commission at (515) 281-4121, or in the offices on the second floor of the building at 211 East Maple Street.

There will also be a public hearing on Friday, July 28, 1989, at 9 a.m. in the conference room on the second floor of the Iowa Civil Rights offices at 211 East Maple Street in Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations should contact the director of the Civil Rights Commission at least one day prior to the date of the public hearing.

These rules are intended to implement Iowa Code sections 22.11 and 601A.5.

ARC 9940

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(3), the Iowa State Board of Education hereby gives Notice of Intended Action to amend Chapter 73, "Issuance of Certificates and Endorsements"; Chapter 74, "Renewal of Certificates"; Chapter 81, "Requirements for Special Education Endorsements"; and Chapter 82, "Occupational and Postsecondary Certification and Endorsements," Iowa Administrative Code.

These amendments include modifications to the new certification structure which will benefit new and experienced school professionals, complete and update the chapters for special education and occupational and postsecondary certification, and include the guidelines for the approval of staff development programs leading to certificate renewal.

Interested persons may submit written comments on these proposed amendments through July 14, 1989, to the Chief, Bureau of Teacher Education and Certification, Grimes State Office Building, Des Moines, Iowa 50319-0146. There will be a public hearing on July 12, 1989, at 9 a.m. in the State Board Conference Room, East 14th Street at Grand Avenue, Des Moines. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing must contact the Bureau Chief of Teacher Education and Certification prior to the date of the public hearing in order to be scheduled for an appearance.

These rules are intended to implement Iowa Code section 256.7(3).

The following amendments are proposed:

ITEM 1. Amend rule 73.11(256) by adding a new numbered paragraph as follows:

5. Meets the recency requirement of 73.15"3."

ITEM 2. Amend rule 73.12(256) by adding a new numbered paragraph as follows:

3. Meets the recency requirement of 73.15"3."

ITEM 3. Amend rule 73.15(256)"3" to read as follows:

3. Recency—Meets the requirement(s) for a valid certificate but has had less than 160 days of teaching experience during the five-year period immediately preceding the date of application or has not completed six semester hours of college credit from a recognized institution within the five-year period.

To obtain the desired certificate, the applicant must complete recent credit, and where recent credits are required, these credits shall be taken in professional education or in the applicant's endorsement area(s).

ITEM 4. Amend rule 73.15(256) by adding new numbered paragraphs as follows:

5. Based on an expired Iowa certificate, exclusive of a conditional certificate. The holder of an expired Iowa certificate, exclusive of a conditional certificate, shall be eligible to receive a conditional certificate upon

EDUCATION DEPARTMENT[281] (cont'd)

application. This certificate shall be endorsed for the type of service authorized by the expired certificate on which it is based.

6. Based on an administrative decision. The bureau of teacher education and certification is authorized to issue a conditional certificate to applicants whose services are needed to fill positions in unique need circumstances.

ITEM 5. Amend rule 73.17(256), second unnumbered paragraph, as follows:

Has successfully completed all requirements of an approved teacher education program and is eligible for the provisional certificate, but has not applied for and been issued this certificate, or *who meets all requirements for the provisional certificate with the exception of the degree but whose degree will be granted at the next regular commencement.*

ITEM 6. Amend rule 74.4(256) to read as follows:

281—74.4(256) Recency of units for renewal. If a certificate is renewed at, or before date of expiration (a person may file for renewal as early as twelve months prior to expiration date), the units for renewal are acceptable if earned during the term of the certificate. Persons have until August 31 of the year in which the certificate expires to meet this recency requirement; however, if a person is employed at any time from July 1 to August 31 of that year, they must hold a certificate valid for that position. If a certificate is not renewed at date of expiration, the units for renewal must have been completed within the ~~two-year~~ *five-year* period immediately preceding the date of application for the renewal.

ITEM 7. Amend Chapter 74 by adding a new rule 74.11(256).

281—74.11(256) Guidelines for approval of staff development programs. Following are the guidelines to be followed in the preparation and submission of proposals for staff development programs for certificate renewal. The application materials must be returned to the bureau of teacher education and certification for review and approval.

Once the application has been submitted, it will be reviewed and the applicant agency will be notified of approval or nonapproval and any deficiencies.

74.11(1) Eligible agency/institutions.

a. Teacher renewal:

(1) Local education agencies, individually or in consortium arrangements.

(2) Area education agencies.

(3) Area education agency programs initiated and operated by an AEA on behalf of local education agency member districts.

(4) Approved colleges and universities.

(5) Approved nonpublic districts.

b. Administrator renewal:

(1) Local education agencies, individually or in consortium arrangements.

(2) Area education agencies.

(3) Area education agencies initiated and operated by an AEA on behalf of local education agency member districts.

(4) Approved colleges and universities.

(5) Recognized professional organizations.

(6) Approved nonpublic districts.

(7) All merged area schools.

74.11(2) Authority. Subrules 74.5(5), 74.6(5) and 74.7(5), Iowa Administrative Code, provide for the acceptance of staff development credit for certificate renewal.

74.11(3) Staff development courses.

a. Staff development courses for certification renewal are planned experiences, activities and studies designed to increase professional educators' knowledge and improve their skills. Approved courses and programs must be designed in terms of the renewal requirements set forth for teacher and administrator renewal in subrules 74.5(3), 74.6(3) and 74.7(3).

Such courses must be based on documented need, clearly developed program objectives, and the means to evaluate the attainment of these objectives.

Approved programs must offer and conduct a minimum of twenty courses for teachers and a minimum of ten courses for administrators during the calendar year.

b. Clock hours. Fifteen clock hours of contact equal one renewal unit. Only whole units can be submitted to the department of education for certificate renewal.

c. Only renewal units offered through approved department of education staff development programs will be accepted for certificate renewal.

74.11(4) Staff development advisory committee. Staff development programs for certificate renewal must be developed with the assistance of a staff development advisory committee. There shall be a separate advisory committee for each program area: teacher renewal and administrator renewal.

a. Membership of the advisory committee. Once the advisory committee is established, matters pertaining to maintenance of membership shall be spelled out through established procedures.

b. Each advisory committee shall consist of no less than five members.

No later than January 15 of each year, the staff development coordinator shall forward the current updated list of staff development advisory committee members, using Form DE100, to the bureau of teacher education and certification.

The following persons shall be appointed to the staff development advisory committee:

(1) Teacher renewal programs.

- Elementary and secondary classroom teachers.

- Local administrators: elementary or secondary principals.

- Higher education representative: must be from a college or university offering an approved teacher education program.

- Other categories may also be appointed: community college teaching faculty, students, AEA staff members, school board members, business/industry representatives, community representatives, representatives of substitute teachers.

- No one category of memberships of the committee shall exceed in number the teacher members of the committee.

(2) Administrative renewal programs.

- Elementary principal, secondary principal and local superintendent.

- Classroom teachers.

- Higher education representative: must be from a college or university approved for teacher education.

- Other category may also be appointed: community college, administrative or faculty, students, AEA staff,

EDUCATION DEPARTMENT[281] (cont'd)

business/industry representatives, community representatives.

• No one category membership of the advisory committee shall exceed in number the administrative members of the committee.

• The staff development coordinator shall not serve as an advisory committee member.

• Disputes about the appropriate composition of the membership of the staff development advisory committees shall be resolved through committee action.

c. Responsibilities of staff development advisory committees.

(1) Staff development advisory committees shall be involved in the ongoing needs assessment.

(2) The advisory committee shall be involved in the design and development of an original application for a certificate renewal program.

(3) The advisory committee shall be involved in the development of criteria for the selection of course instructors; these criteria shall include, but not be limited to, academic preparation, experience and certification status.

(4) The advisory committee shall be involved in the annual evaluation of staff development programs.

(5) The advisory committee shall meet at least twice annually and shall maintain records of each meeting. These records shall be available for review by department staff.

74.11(6) Staff development coordinator. Each agency or organization offering an approved staff development program shall identify a professional staff member who shall be designated as coordinator for the program and who shall serve in this capacity at least 50 percent of the time. This function must be assigned; no application will be approved unless this responsibility has been assigned.

Responsibility of staff development coordinators.

a. File all reports as requested by the department of education.

b. Submit an annual report on program offerings, participants and related information on or before September 1.

c. Serve as a contact person for the department of education.

d. Be responsible for the development of staff development programs which address the professional growth concerns of the clientele.

e. Be responsible for the approval of all courses or units offered for staff development certificate renewal.

f. Maintain records of approved courses as conducted and of the names of the qualifying participants.

g. Maintain a list of all course offerings and approved instructors and forward to the department of education as offered.

h. Provide a record of credit for each participant; maintain a cumulative record of credits earned for each participant for a minimum of ten years.

i. Be responsible for informing participants of the reporting procedures for renewal credits/units earned.

74.11(7) Organization and administration.

a. Local school districts are encouraged to work cooperatively with their respective area education agency in assessing needs and designing and conducting courses.

b. The department of education reserves the right to evaluate any course, to require submission of evaluation data and to conduct sufficient on-site evaluation to ensure

a high quality of certificate renewal staff development programs.

c. Currently approved staff development programs will continue in force until August 31, 1989. On or before that date, each approved program shall submit an application for program approval.

d. Agencies or institutions developing new programs shall submit a letter of intent prior to the submission of an application. The application must be filed at least three months prior to the initiation of any planned staff development certificate renewal program.

e. Once a program is approved, the coordinator shall approve all course offerings for staff development certificate renewal units.

f. Initial approval may be for one to three years. Continuing approval may be granted for five-year terms. Continuing approval may involve department of education sponsored team visits.

g. Records retention. Each approved staff development agency/institution shall retain program descriptions, course activities, documentation of the qualifications of delivery personnel, evaluation reports, and completed renewal units for a period of ten years. This information shall be made available to the department upon request.

h. Monitoring and evaluation. Each approved staff development program will be monitored by the department of education to determine the extent to which the program meets/continues to meet program standards and is moving toward the attainment of program objectives. This will include an annual report.

74.11(8) Application for certificate renewal program.

a. Application approval. The application shall contain evidence that the board of directors (the boards of directors in consortium-based applications) has given formal approval to the development and implementation of the program and the allocation of program resources.

b. The application shall identify the criteria used in selecting faculty/instructors for the staff development programs. These criteria shall include qualifications, experiences (relevant to the nature of the program), preparation and certification status.

c. There must be evidence of a survey of staff needs and an explanation of procedures used to derive such needs; this documentation must be furnished as a part of the application for a certificate renewal staff development program.

d. Programs developed by eligible agencies shall be based on evidence gathered from a survey of staff needs of the personnel to be served by the staff development program.

e. Program objectives must be derived from identified staff needs in the district or districts or special groups to be served; these objectives shall be developed by the eligible agency seeking approval under certificate renewal staff development programs.

f. Each application must include procedures for program evaluation; this evaluation must include faculty/instructor as well as course/activity evaluation. Program and course/activity evaluation shall include, but not be limited to, participant perceptions.

g. Evaluation, including perception and, whenever possible, observation data collection techniques and analyses, is required for each approved staff development program.

ITEM 8. Amend subrule 81.3(15), Option 2, by rewriting the second paragraph as follows:

EDUCATION DEPARTMENT[281] (cont'd)

The special education director (or designee) of the area education agency must submit a letter requesting that the authorization be issued. Additionally, an official transcript reflecting the master's in social work must be included. If a person qualifies for a regular license, that must also be submitted. A temporary SPR will then be issued for one school year. An approved human relations course must be completed before the start of the next school year. The applicant must provide evidence that the human relations component has been fulfilled within the required time frame. ~~A temporary SPR will be granted for one additional school year if the person does not qualify for a license. At the end of the second school year the applicant must submit a copy of a regular license. A temporary SPR will be granted for two additional school years to allow the person time to complete the two years' supervised practice experience that are required before taking the social work license examination and to allow sufficient time to complete successfully the examination and be issued the license. At the end of the third school year, the applicant must submit a copy of a social work license issued by the Iowa department of public health.~~

ITEM 9. Amend Chapter 81 by adding a new rule 81.4(256), "Conditional special education certificate.

281—81.4(256) Conditional special education certificate. A conditional special education certificate may be issued to an individual under the following conditions:

1. Holds of a valid certificate.
2. Has completed at least one-half of the credits necessary for a special education endorsement.
3. Files a written request from the employing school official supported by the respective area education agency special education officials.
4. Files a statement from the college/university outlining the course work to be completed for the endorsement.

This conditional certificate may be issued for a term of up to three years based on the amount of preparation needed to complete the requirements for the endorsement.

ITEM 10. Amend subrule 82.9(2), paragraphs "a" and "b," as follows:

a. Preparatory vocational/adjunct—completion of a state or nationally recognized examination or 6,000 hours of recent, relevant, part-time or full-time experience in the occupational area to be taught, *and completion of a locally or consortia designed staff development workshop to meet specific competencies.*

b. Preparatory vocational/part-time—completion of a state or nationally recognized examination or 6,000 hours of recent, relevant, part-time or full-time experience in the occupational area to be taught, *and completion of a locally or consortia designed staff development workshop to meet specific competencies.*

ITEM 11. Amend Chapter 82 by adding a new rule 82.11(256).

281—82.11(256) Conditional occupational and postsecondary certificates.

82.11(1) Conditional occupational certificate. A two-year conditional occupational certificate may be issued to an applicant who has not met all of the experience requirements for the provisional occupational certificate.

82.11(2) Conditional postsecondary certificate. A two-year conditional postsecondary certificate may be issued

to an applicant who has not met all of the initial requirements for a provisional postsecondary certificate or holds the provisional or regular postsecondary certificate with an endorsement and is seeking an endorsement in another teaching field.

ITEM 12. Amend Chapter 82 by adding a new rule.

281—82.13(256) Guidelines for approval of staff development and technical update programs for occupational and postsecondary certificates. The following guidelines shall be followed in the preparation and submission of proposals for staff development and technical update programs for certificate renewal. The application materials must be returned to the bureau of teacher education and certification for review and approval.

Once the application has been submitted, it will be reviewed and the applicant agency will be notified of approval or nonapproval and any deficiencies.

82.13(1) Eligible agency/institutions. Merged area schools are authorized to develop and offer staff development and technical update programs for certificate renewal.

Staff development courses for certification renewal are planned experiences, activities and studies designed to increase professional educators' knowledge and improve their skills. Approved courses and programs must be designed in terms of the renewal requirements set forth in 82.5(1)"b"(3).

82.13(2) Clock hours. Fifteen clock hours of contact equal one renewal unit. Only whole units can be submitted to the department of education for certificate renewal.

82.13(3) Only renewal units offered through approved department of education staff development programs will be accepted for certificate renewal.

82.13(4) Staff development advisory committee. Staff development programs for certificate renewal must be developed with the assistance of a staff development advisory committee.

a. Membership of the advisory committee. Once the advisory committee is established, matters pertaining to maintenance of membership shall be spelled out through established procedures.

b. Each advisory committee shall consist of no less than five members. No later than January 15 of each year, the staff development coordinator shall forward the current updated list of staff development advisory committee members, using Form DE100, to the bureau of teacher education and certification.

c. The following persons shall be appointed to the staff development advisory committee: Three members who represent the instructional staff at the postsecondary level and who are currently teaching. One of these members must hold an occupational certificate and one must hold a postsecondary endorsement.

Other members may represent the following:

- o Instructional administrators
- o Student personnel staff
- o Higher education representative: must be from a college or university offering an approved occupational/technical teacher education program
- o These categories may also be appointed:
- o School board members
- o Business/industry representatives
- o Community representatives.

EDUCATION DEPARTMENT[281] (cont'd)

• No one category of memberships of the committee shall exceed in number the instructor members of the committee.

• Disputes about the appropriate composition of the membership of the staff development advisory committees shall be resolved through committee action.

d. Responsibilities of the merged area school staff development advisory committees.

(1) Staff development advisory committees shall be involved in the ongoing needs assessment.

(2) The advisory committee shall be involved in the design and development of an original application for a certificate renewal program.

(3) The advisory committee shall be involved in the development of criteria for the selection of instructors. These criteria shall include, but not be limited to, academic preparation, experience and certification status.

(4) The advisory committee shall be involved in the annual evaluation of staff development programs.

(5) The advisory committee shall review and approve planned professional development experiences on the basis of these guidelines and the instructor's needs.

(6) The advisory committee shall meet at least twice annually and shall maintain records of each meeting. These records shall be available for review by department staff.

82.13(5) Staff development coordinator. Each merged area school offering a staff development program must identify a professional staff member who shall serve as coordinator for the program. This function must be assigned; no application will be approved unless this responsibility has been assigned.

a. Responsibility of staff development coordinators.

(1) File all reports as requested by the department of education.

(2) Maintain records of approved courses conducted and of the names of the qualifying participants.

(3) Maintain a list of all course offerings and approved instructors.

(4) Provide a record of credit for each participant; maintain a cumulative record of credit earned for each participant for at least ten years.

(5) Be responsible for informing participants of the reporting procedures for renewal credits/units earned.

b. Organization and administration.

(1) The department of education reserves the right to evaluate any course, to require submission of evaluation data and to conduct sufficient on-site evaluation to ensure a high quality of certificate renewal staff development programs.

(2) Currently approved staff development programs will continue in force until August 31, 1989. On or before that date, each approved program shall submit an application for program approval.

(3) Merged area schools developing new programs shall submit a letter of intent prior to the submission of an application. The application must be filed at least three months prior to the initiation of any planned staff development certificate renewal program.

(4) Initial approval may be for one to three years. Continuing approval may be granted for five-year terms. Continuing approval may involve department of education sponsored team visits.

(5) Records retention. Each merged area school approved to offer staff development programs shall retain program descriptions, course activities, documen-

tation of the qualifications of delivery personnel, evaluation reports, and completed renewal units for a period of ten years. This information shall be made available to the department upon request.

(6) Monitoring and evaluation. Each approved staff development program will be monitored by the department of education to determine the extent to which the program meets/continues to meet program standards and is moving toward the attainment of program objectives. This will include an annual report.

c. Application for certificate renewal program.

(1) Application approval. The application shall contain evidence that the local board of directors (the boards of directors in consortium-based applications) has given formal approval to the development and implementation of the program and the allocation of program resources.

(2) The application shall identify the criteria used in selecting faculty/instructors for the staff development programs. These criteria shall include qualifications, experiences (relevant to the nature of the program), preparation and certification status.

(3) There must be evidence of a survey of staff needs and an explanation of procedures used to derive such needs; this documentation must be furnished as a part of the application for a certificate renewal staff development program.

(4) Programs developed by eligible agencies shall be based on evidence gathered from a survey of staff needs of the personnel to be served by the staff development program.

(5) Program objectives must be derived from identified staff needs in the district or districts or special groups to be served; these objectives shall be developed by the eligible agency seeking approval under certificate renewal staff development programs.

(6) Each application must include procedures for program evaluation; this evaluation must include faculty/instructor as well as course/activity evaluation. Program and course/activity evaluation shall include, but not be limited to, participant perceptions.

(7) Evaluation, including perception and, whenever possible, observation data collection techniques and analyses, is required for each approved staff development program.

ARC 9944

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission gives Notice of Intended Action to amend 567—Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions," Iowa Administrative Code.

ENVIRONMENTAL PROTECTION COMMISSION[567] (cont'd)

The purpose of the proposed rule making is to update references in rules 62.4 (455B) and 62.5 (455B) to federal effluent and pretreatment standards found in 40 Code of Federal Regulations (CFR) which need to be changed due to federal amendments and revisions to 40 CFR.

The effluent and pretreatment standards adopted by the Commission are required to be at least as stringent as the enumerated promulgated federal standards in order to have the continued approval by the federal Environmental Protection Agency of the Department's NPDES program. Iowa Code section 455B.173(3) requires that the effluent and pretreatment standards adopted by the Commission not be more stringent than the enumerated promulgated federal standards.

Any interested person may submit written suggestions or comments on the proposed amendments through July 15, 1989. Such written materials should be directed to Steve Williams, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034. Persons who have questions may contact Steve Williams at (515) 281-8884.

Persons are also invited to present oral or written comments at a public hearing which will be held on July 5, 1989, at 10 a.m. in Conference Room 5 West, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa.

These rules may have an impact upon small businesses.

Copies of these proposed rules may be obtained from Sarah Detmer, Records Center, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034.

These rules are intended to implement Iowa Code chapter 455B, Division III, Part I.

ITEM 1. Amend rule 62.4(455B), introductory paragraph, to read as follows:

567—62.4(455B) Federal effluent and pretreatment standards. The federal standards, 40 Code of Federal Regulations (CFR), revised as of July 1, 1986 1988, are applicable to the following categories:

ITEM 2. Amend subrule 62.4(3) as follows:

62.4(3) General pretreatment regulations for existing and new sources of pollution. The following is adopted by reference: 40 CFR 403 as amended on July 1, 1986 (51 FR 23759); October 9, 1986 (51 FR 36368), and January 14, 1987 (52 FR 1600) October 17, 1988 (53 FR 40562), and January 4, 1989 (54 FR 246).

ITEM 3. Amend subrule 62.4(5) to read as follows:

62.4(5) Dairy products processing industry point source category. The following is adopted by reference: 40 CFR part 405 as revised on July 9, 1986 (51 FR 24974).

ITEM 4. Amend subrule 62.4(6) to read as follows:

62.4(6) Grain mills point source category. The following is adopted by reference: 40 CFR part 406 as revised on July 9, 1986 (51 FR 24974).

ITEM 5. Amend subrule 62.4(7) to read as follows:

62.4(7) Canned and preserved fruits and vegetables processing point source category. The following is adopted by reference: 40 CFR part 407 as revised on July 9, 1986 (51 FR 24974).

ITEM 6. Amend subrule 62.4(8) to read as follows:

62.4(8) Canned and preserved seafood processing point source category. The following is adopted by reference: 40 CFR part 408 as revised on July 9, 1986 (51 FR 24974).

ITEM 7. Amend subrule 62.4(9) to read as follows:

62.4(9) Sugar processing point source category. The following is adopted by reference: 40 CFR part 409 as revised on July 9, 1986 (51 FR 24974).

ITEM 8. Amend subrule 62.4(11) as follows:

62.4(11) Cement manufacturing point source category. The following is adopted by reference: 40 CFR part 411 as revised on July 9, 1986 (51 FR 24974).

ITEM 9. Amend subrule 62.4(12) as follows:

62.4(12) Feedlots point source category. The following is adopted by reference: 40 CFR part 412 as revised on July 9, 1986 (51 FR 24974).

ITEM 10. Amend subrule 62.4(13) as follows:

62.4(13) Electroplating point source category. The following is adopted by reference: 40 CFR part 413 as amended on November 7, 1986 (51 FR 40420).

ITEM 11. Amend subrule 62.4(18) as follows:

62.4(18) Fertilizer manufacturing point source category. The following is adopted by reference: 40 CFR part 418 as revised on July 9, 1986 (51 FR 24974).

ITEM 12. Amend subrule 62.4(21) as follows:

62.4(21) Nonferrous metals manufacturing point source category. The following is adopted by reference: 40 CFR part 421 as revised on February 3, 1987 (52 FR 3230).

ITEM 13. Amend subrule 62.4(22) as follows:

62.4(22) Phosphate manufacturing point source category. The following is adopted by reference: 40 CFR part 422 as revised on July 9, 1986 (51 FR 24974).

ITEM 14. Amend subrule 62.4(24) as follows:

62.4(24) Ferroalloy manufacturing point source category. The following is adopted by reference: 40 CFR part 424 as revised on July 9, 1986 (51 FR 24974).

ITEM 15. Amend subrule 62.4(26) as follows:

62.4(26) Glass manufacturing point source category. The following is adopted by reference: 40 CFR part 426 as revised on July 9, 1986 (51 FR 24974).

ITEM 16. Amend subrule 62.4(30) as follows:

62.4(30) Pulp, paper and paperboard point source category. The following is adopted by reference: 40 CFR part 430 as amended on December 17, 1986 (51 FR 45282).

ITEM 17. Amend subrule 62.4(31) as follows:

62.4(31) Builders paper and roofing felt segment of the builders paper and board mills point source category. The following is adopted by reference: 40 CFR part 431 as amended on December 17, 1986 (51 FR 45282).

ITEM 18. Amend subrule 62.4(32) as follows:

62.4(32) Meat products point source category. The following is adopted by reference: 40 CFR part 432 as amended on July 9, 1986 (51 FR 24974).

ITEM 19. Amend subrule 62.4(33) as follows:

62.4(33) Metal finishing point source category. The following is adopted by reference: 40 CFR part 433 as amended on November 7, 1986 (51 FR 40420).

ITEM 20. Amend subrule 62.4(34) as follows:

62.4(34) Coal mining point source category. The following is adopted by reference: 40 CFR part 434 as revised on October 9, 1985 (50 FR 41305).

ITEM 21. Amend subrule 62.4(39) as follows:

62.4(39) Pharmaceutical manufacturing point source

ENVIRONMENTAL PROTECTION COMMISSION[567] (cont'd)

category. The following is adopted by reference: 40 CFR 439 as amended on December 16, 1986 (51 FR 45094).

ITEM 22. Amend subrule 62.4(55) as follows:

62.4(55) Pesticide chemicals manufacturing point source category. The following is adopted by reference: 40 CFR part 455 as revised on December 16, 1986 (51 FR 44911).

ITEM 23. Amend subrule 62.4(61) as follows:

62.4(61) Battery manufacturing point source category. The following is adopted by reference: 40 CFR part 461 as amended on August 28, 1986 (51 FR 30814).

ITEM 24. Amend subrule 62.4(64) as follows:

62.4(64) Metal molding and castings point source category. The following is adopted by reference: 40 CFR part 464 as promulgated October 30, 1985 (50 FR 45247) and corrected on June 16, 1986 (51 FR 21760).

ITEM 25. Amend subrule 62.4(66) as follows:

62.4(66) Porcelain enameling point source category. The following is adopted by reference: 40 CFR part 466 as amended on September 6, 1985 (50 FR 36540).

ITEM 26. Amend subrule 62.4(67) as follows:

62.4(67) Aluminum forming point source category. The following is adopted by reference: 40 CFR part 467 as amended on December 27, 1988 (53 FR 52366).

ITEM 27. Amend subrule 62.4(68) as follows:

62.4(68) Copper forming point source category. The following is adopted by reference: 40 CFR part 468 as amended on August 23, 1985 (50 FR 34334) and March 5, 1986 (51 FR 7570), and June 20, 1986 (51 FR 22520).

ITEM 28. Amend subrule 62.4(71) as follows:

62.4(71) Nonferrous metals forming and metal powders. The following is adopted by reference: 40 CFR part 471 as promulgated August 23, 1985 (50 FR 34270), and corrected on January 22, 1986 (51 FR 2884) as amended on March 17, 1989 (54 FR 11346) and corrected on April 4, 1989 (54 FR 13606).

ITEM 29. Amend rule 567—62.5(455B) to read as follows:

567—62.5(455B) Federal toxic effluent standards. The following is adopted by reference: 40 CFR part 129, revised as of July 1, 1986 1988.

HEALTH DATA COMMISSION[411]

ATTENTION

Iowa Physicians:

The Iowa Health Data Commission has compiled a report of selected 1988 surgical procedures. This statewide report includes the total number of cases and total, mean and percentile charges for each procedure. The compilation is available to physicians for review and verification by submitting a written request to:

Physician Compilation
Iowa Health Data Commission
601 Locust, Suite 330
Des Moines, Iowa 50309

A payment of \$3.00 for costs associated with the compilation should accompany the request. All requests must be postmarked by June 28, 1989.

EDITOR'S NOTE: Published pursuant to Iowa Code section 17A.6(1)"c"

ARC 9948

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 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.

The proposed amendments set the violation level of standards for infection control in Iowa health care facilities.

Subrules relating to the use of enteral feeding bags and urine collection bags are amended. Enteral feeding bags are deleted from these subrules, and use of urine collection bags is clarified. Urine collection bags may be reused for the same person.

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 July 4, 1989.

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

The following amendments are proposed:

ITEM 1. Amend subrule 57.11(3) to read as follows:

57.11(3) 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. (I, II, III)

b. Employees shall have a physical examination at least every four years, including an assessment of tuberculosis status. (I, II, III)

ITEM 2. Amend subrule 58.10(3), to read as follows:

58.10(3) 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. (I, II, III)

b. Employees shall have a physical examination at least every four years, including an assessment of tuberculosis status. (I, II, III)

ITEM 3. Amend subrule 59.12(3) to read as follows:

59.12(3) 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. (I, II, III)

b. Employees shall have a physical examination at least every four years, including an assessment of tuberculosis status. (I, II, III)

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

ITEM 4. Amend subrule 63.9(3) to read as follows:

63.9(3) 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. *(I, II, III)*

b. Employees shall have a physical examination at least every four years, including an assessment of tuberculosis status. *(I, II, III)*

ITEM 5. Amend subrule 64.13(15) to read as follows:

64.13(15) 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. *(I, II, III)*

b. Employees shall have a physical examination at least every four years, including an assessment of tuberculosis status. *(I, II, III)*

ITEM 6. Amend subrule 58.38(3), paragraph "b," to read as follows:

b. 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." *(I, II, III)*

ITEM 7. Amend subrule 59.43(3), paragraph "b," to read as follows:

b. 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." *(I, II, III)*

ITEM 8. Amend subrule 64.26(8), paragraph "b," to read as follows:

b. 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." *(I, II, III)*

ITEM 9. Amend subrule 57.12(1), paragraph "c," to read as follows:

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, *(I, II, III)*

(2) Which presents a significant risk of infecting others, *(I, II, III)*

(3) Which presents a substantial possibility of harming others, and *(I, II, III)*

(4) For which no reasonable accommodation can eliminate the risk. *(I, II, III)*

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

ITEM 10. Amend subrule 58.11(1), paragraph "c," to read as follows:

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, *(I, II, III)*

(2) Which presents a significant risk of infecting others, *(I, II, III)*

(3) Which presents a substantial possibility of harming others, and *(I, II, III)*

(4) For which no reasonable accommodation can eliminate the risk. *(I, II, III)*

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

ITEM 11. Amend subrule 59.13(1), paragraph "c," to read as follows:

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, *(I, II, III)*

(2) Which presents a significant risk of infecting others, *(I, II, III)*

(3) Which presents a substantial possibility of harming others, and *(I, II, III)*

(4) For which no reasonable accommodation can eliminate the risk. *(I, II, III)*

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

ITEM 12. Amend subrule 63.11(1), paragraph "c," to read as follows:

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, *(I, II, III)*

(2) Which presents a significant risk of infecting others, *(I, II, III)*

(3) Which presents a substantial possibility of harming others, and *(I, II, III)*

(4) For which no reasonable accommodation can eliminate the risk. *(I, II, III)*

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

ITEM 13. Amend subrule 64.13(12) to read as follows:

64.13(12) No person shall be allowed to provide services in a facility if the person has a disease:

a. Which is transmissible through required workplace contact, *(I, II, III)*

b. Which presents a significant risk of infecting others, *(I, II, III)*

c. Which presents a substantial possibility of harming others, and *(I, II, III)*

d. For which no reasonable accommodation can eliminate the risk. *(I, II, III)*

Refer to 1983 CDC Guidelines PN85-923401-LL to determine "a," "b," and "c."

ITEM 14. Amend subrule 62.9(2), paragraph "a," to read as follows:

a. 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, *(I, II, III)*

(2) Which presents a significant risk of infecting others, *(I, II, III)*

(3) Which presents a substantial possibility of harming others, and *(I, II, III)*

(4) For which no reasonable accommodation can eliminate the risk. *(I, II, III)*

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

ITEM 15. Amend subrule 58.10(8) to read as follows:

58.10(8) 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; *(I, II, III)*

b. Techniques for handling of blood, body fluids, and body wastes consistent with 1987 CDC Guidelines; *(I, II, III)*

c. Decubitus care; *(I, II, III)*

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

- d. Infection identification; *(I, II, III)*
 - e. Resident care procedures consistent with 1987 CDC Guidelines to be used when there is an infection present; *(I, II, III)*
 - f. Sanitation techniques for resident care equipment; *(I, II, III)*
 - g. Techniques for sanitary use and reuse of **enteral feeding bags**, of feeding syringes and *single-resident use and reuse of urine collection bags*; *(I, II, III)*
 - h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with 1987 CDC Guidelines and 567—100.3(2) and 102.14(455B) Iowa Administrative Code; *(I, II, III)*
 - i. Aseptic techniques when using: *(I, II, III)*
 - (1) Intravenous or central line catheter, *(I, II, III)*
 - (2) Urinary catheter, *(I, II, III)*
 - (3) Respiratory suction, oxygen or humidification, *(I, II, III)*
 - (4) Dressings, soaks, or packs, *(I, II, III)*
 - (5) Tracheostomy, *(I, II, III)*
 - (6) Nasogastric or gastrostomy tubes. *(I, II, III)*
- CDC 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)281-4115.

ITEM 16. Amend subrule 59.12(11) to read as follows:

59.12(11) 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; *(I, II, III)*
- b. Techniques for handling of blood, body fluids, and body wastes consistent with 1987 CDC Guidelines; *(I, II, III)*
- c. Decubitus care; *(I, II, III)*
- d. Infection identification; *(I, II, III)*
- e. Resident care procedures consistent with 1987 CDC Guidelines to be used when there is an infection present; *(I, II, III)*
- f. Sanitation techniques for resident care equipment; *(I, II, III)*
- g. Techniques for sanitary use and reuse of **enteral feeding bags**, of feeding syringes and *single-resident use and reuse of urine collection bags*; *(I, II, III)*
- h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with 1987 CDC Guidelines and 567—100.3(2) and 102.14(455B) Iowa Administrative Code; *(I, II, III)*
- i. Aseptic techniques when using: *(I, II, III)*
 - (1) Intravenous or central line catheter, *(I, II, III)*
 - (2) Urinary catheter, *(I, II, III)*
 - (3) Respiratory suction, oxygen or humidification, *(I, II, III)*
 - (4) Dressings, soaks, or packs, *(I, II, III)*
 - (5) Tracheostomy, *(I, II, III)*
 - (6) Nasogastric or gastrostomy tubes. *(I, II, III)*

CDC 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)281-4115.

ITEM 17. Amend subrule 64.12(14) to read as follows:

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; *(I, II, III)*

- b. Techniques for handling of blood, body fluids, and body wastes consistent with 1987 CDC Guidelines; *(I, II, III)*

- c. Decubitus care; *(I, II, III)*

- d. Infection identification; *(I, II, III)*

- e. Resident care procedures consistent with 1987 CDC Guidelines to be used when there is an infection present; *(I, II, III)*

- f. Sanitation techniques for resident care equipment; *(I, II, III)*

- g. Techniques for sanitary use and reuse of **enteral feeding bags**, of feeding syringes and *single-resident use and reuse of urine collection bags*; *(I, II, III)*

- h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with 1987 CDC Guidelines and 567—100.3(2) and 102.14(455B) Iowa Administrative Code; *(I, II, III)*

- i. Aseptic techniques when using: *(I, II, III)*

- (1) Intravenous or central line catheter, *(I, II, III)*

- (2) Urinary catheter, *(I, II, III)*

- (3) Respiratory suction, oxygen or humidification, *(I, II, III)*

- (4) Dressings, soaks, or packs, *(I, II, III)*

- (5) Tracheostomy, *(I, II, III)*

- (6) Nasogastric or gastrostomy tubes. *(I, II, III)*

CDC 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)281-4115.

ITEM 18. Amend subrule 62.19(4) to read as follows:

62.19(4) 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; *(I, II, III)*

- b. Techniques for handling of blood, body fluids, and body wastes consistent with 1987 CDC Guidelines; *(I, II, III)*

- c. Decubitus care; *(I, II, III)*

- d. Infection identification; *(I, II, III)*

- e. Resident care procedures consistent with 1987 CDC Guidelines to be used when there is an infection present; *(I, II, III)*

- f. Sanitation techniques for resident care equipment; *(I, II, III)*

- g. Techniques for sanitary use and reuse of **enteral feeding bags**, feeding syringes and *single-resident use and reuse of urine collection bags*; *(I, II, III)*

- h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with 1987 CDC Guidelines. *(I, II, III)*

CDC 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)281-4115.

ITEM 19. Amend subrule 57.11(11) to read as follows:

57.11(11) 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; *(I, II, III)*

- b. Techniques for handling of blood, body fluids, and body wastes consistent with 1987 CDC Guidelines; *(I, II, III)*

- c. Decubitus care; *(I, II, III)*

- d. Infection identification; *(I, II, III)*

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

e. Resident care procedures consistent with 1987 CDC Guidelines to be used when there is an infection present; (I, II, III)

f. Sanitation techniques for resident care equipment; (I, II, III)

g. Techniques for sanitary use and reuse of ~~enteral feeding bags~~, feeding syringes and *single-resident use and reuse of urine collection bags*; (I, II, III)

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with 1987 CDC Guidelines. (I, II, III)

CDC 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)281-4115.

ITEM 20. Amend subrule 63.9(10) to read as follows:

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; (I, II, III)

b. Techniques for handling of blood, body fluids, and body wastes consistent with 1987 CDC Guidelines; (I, II, III)

c. Decubitus care; (I, II, III)

d. Infection identification; (I, II, III)

e. Resident care procedures consistent with 1987 CDC Guidelines to be used when there is an infection present; (I, II, III)

f. Sanitation techniques for resident care equipment; (I, II, III)

g. Techniques for sanitary use and reuse of ~~enteral feeding bags~~, feeding syringes and *single-resident use and reuse of urine collection bags*; (I, II, III)

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with 1987 CDC Guidelines. (I, II, III)

CDC 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)281-4115.

ITEM 21. Amend subrule 57.11(12) as follows:

57.11(12) Aseptic techniques. If a resident needs any of the treatment or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

1. Intravenous or central line catheter, (I, II, III)

2. Urinary catheter, (I, II, III)

3. Respiratory suction, oxygen or humidification, (I, II, III)

4. Dressings, soaks, or packs, (I, II, III)

5. Tracheostomy, (I, II, III)

6. Nasogastric or gastrostomy tubes. (I, II, III)

ITEM 22. Amend subrule 62.19(5) as follows:

62.19(5) Aseptic techniques. If a resident needs any of the treatment or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

1. Intravenous or central line catheter, (I, II, III)

2. Urinary catheter, (I, II, III)

3. Respiratory suction, oxygen or humidification, (I, II, III)

4. Dressings, soaks, or packs, (I, II, III)

5. Tracheostomy, (I, II, III)

6. Nasogastric or gastrostomy tubes. (I, II, III)

ITEM 23. Amend subrule 63.9(11) as follows:

63.9(11) Aseptic techniques. If a resident needs any of the treatment or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

1. Intravenous or central line catheter, (I, II, III)

2. Urinary catheter, (I, II, III)

3. Respiratory suction, oxygen or humidification, (I, II, III)

4. Dressings, soaks, or packs, (I, II, III)

5. Tracheostomy, (I, II, III)

6. Nasogastric or gastrostomy tubes. (I, II, III)

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

ARC 9941

INSURANCE DIVISION[191]

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 505.8, the Insurance Division hereby gives Notice of Intended Action to adopt a new Chapter 17, "Life Reinsurance Agreements," Iowa Administrative Code.

This proposed new chapter will regulate the manner in which life insurers may treat reinsurance in financial statements.

Any person may make written comments not later than July 5, 1989, to Kevin Howe, Iowa Division of Insurance, Lucas State Office Building, Des Moines, Iowa 50319.

The following new chapter is proposed:

CHAPTER 17

LIFE REINSURANCE AGREEMENTS

191—17.1(508) Authority and purpose. This rule is adopted and promulgated by the commissioner of insurance pursuant to Iowa Code section 505.8 and chapter 508.

The insurance division recognizes that life insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

However, the division has become aware that some life insurers, in the capacity of ceding insurer, have at times entered into reinsurance agreements, for the principal purpose of producing significant surplus aid for the ceding insurer, which provide little or no indemnification of policy benefits by the reinsurer. In addition, the division is concerned with reserve credits taken under reinsurance agreements which provide some indemnification of policy benefits where those policy benefits are not included in the gross reserves established by the ceding insurer, such as catastrophic mortality or extraordinary survival. The terms of the agreements referred to herein and described in rule 17.3(508) would violate:

1. Iowa Code section 508.11 relating to financial statements of insurers, thus, resulting in distorted

INSURANCE DIVISION[191] (cont'd)

financial statements which do not properly reflect the financial condition of the ceding life insurer;

2. Iowa Code section 508.20 relating to reinsurance reserve credits, thus, resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded; and

3. Iowa Code section 508.19 relating to creating a situation that may be hazardous to policyholders and the people of this state.

191—17.2(508) Scope. This rule shall apply to all domestic life insurers and to all other licensed life insurers who are not subject to a substantially similar regulation in their domiciliary state.

191—17.3(508) Accounting requirements.

17.3(1) No life insurer subject to this rule shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement with the division if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

a. The primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for significant participation by the reinsurer in one or more of the following risks: mortality, morbidity, investment or surrender benefit.

b. The reserve credit taken by the ceding insurer is not in compliance with the insurance code or rules, including actuarial interpretations or standards adopted by the insurance division.

c. The reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding company supporting the policy obligations transferred under the reinsurance agreement;

d. The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience;

e. The ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums shall not be considered to be such a deprivation of surplus;

f. The ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

g. No cash payment is due from the reinsurer, throughout the lifetime of the reinsurance agreement, with all settlements prior to the termination date of the agreement made only in a "reinsurance account," and no funds in the reinsurance account are available for the payment of benefits; or

h. The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.

17.3(2) Notwithstanding subrule 17.3(1), a life insurer subject to this rule may, with the prior approval of the commissioner, take a reserve credit as the commissioner may deem consistent with the insurance code or rules,

including actuarial interpretations or standards adopted by the insurance division.

191—17.4(508) Written agreements.

17.4(1) No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish in any financial statement filed with the division, unless the agreement, amendment or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

17.4(2) In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

191—17.5(508) Existing agreements. Life insurers subject to this rule may continue to reduce liabilities or establish assets in financial statements filed with the division for reinsurance ceded under types of reinsurance agreements described in rules 17.1(508) and 17.3(508), provided:

17.5(1) The agreements were executed and in force prior to the effective date of this rule;

17.5(2) No new business is ceded under the agreements after the effective date of this rule;

17.5(3) The reduction of the liability or the asset established for the reinsurance ceded is reduced to zero by December 31, 1989, or a later date approved by the commissioner as a result of an application made by the ceding insurer prior to December 31 of the year in which this rule becomes effective;

17.5(4) The reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the insurance code or rules, including actuarial interpretations or standards adopted by the insurance division;

17.5(5) The department is notified, within 90 days following the effective date of this rule, of the existence of the reinsurance agreements and all corresponding credits taken in the ceding insurer's 1988 annual statement.

ARC 9931

LABOR SERVICES DIVISION[347]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to adopt an amendment to rule 347—10.20(88) relating to occupational safety and health rules for general industry. The amendment adopts a bibliography and guide to the air contaminants regulation.

If requested in writing by July 5, 1989, a hearing will be held on July 11, 1989, at 10 a.m. in the office of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given

LABOR SERVICES DIVISION[347] (cont'd)

the opportunity to make oral or written submissions concerning the proposed rule. Written data or arguments to be considered in adoption may be submitted by interested persons no later than July 5, 1989, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

The agency has determined that this Notice of Intended Action may have an impact on small business. The agency has considered the factors listed in Iowa Code section 17A.31. The agency will issue a regulatory flexibility analysis as provided in Iowa Code section 17A.31 if a written request is filed by delivery or by mailing postmarked no later than July 5, 1989, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

This rule is intended to implement Iowa Code section 88.5.

Amend rule 347—10.20(88) by inserting at the end thereof:

54 Fed. Reg. 12792 (March 28, 1989)

ARC 9930**LABOR SERVICES DIVISION[347]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to adopt an amendment to rule 347—26.1(88) relating to occupational safety and health rules for construction. The amendment adopts a correction to the crane and suspended personnel platform regulation.

If requested in writing by July 5, 1989, a hearing will be held on July 11, 1989, at 10 a.m. in the office of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed rules. Written data or arguments to be considered in adoption may be submitted by interested persons no later than July 5, 1989, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

The agency has determined that this Notice of Intended Action may have an impact on small business. The agency has considered the factors listed in Iowa Code section 17A.31. The agency will issue a regulatory flexibility analysis as provided in Iowa Code section 17A.31 if a written request is filed by delivery or by mailing postmarked no later than July 5, 1989, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The

request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

This rule is intended to implement Iowa Code section 88.5.

Amend rule 347—26.1(88) by inserting at the end thereof:

54 Fed. Reg. 15405 (April 18, 1989)

ARC 9935**LABOR SERVICES DIVISION[347]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 88B.3, the Labor Commissioner hereby gives Notice of Intended Action to amend rules appearing in 347—Chapters 81 and 82 relating to asbestos control procedures and licensing certification of specified businesses and persons.

These amendments are made to conform with 1989 Iowa Acts, Senate File 435.

A public hearing will be held on July 11, 1989, at 10:30 a.m. in the office of the Department of Employment Services, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed rules. Written data or arguments to be considered in adoption may be submitted by interested persons no later than July 5, 1989, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

The agency has determined that this Notice of Intended Action may have an impact on small business. The agency has considered the factors listed in Iowa Code section 17A.31. The agency will issue a regulatory flexibility analysis as provided in Iowa Code section 17A.31 if a written request is filed by delivery or by mailing postmarked no later than July 5, 1989, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

These rules are similar to those published as adopted and filed emergency rules to be effective on July 1, 1989. The emergency rules do not contain updated changes to federal rules adopted by reference or fee changes for the permit and worker and supervisor/contractor licenses which are included in this Notice of Intended

LABOR SERVICES DIVISION[347] (cont'd)

Action. The adopted and filed emergency rules are published herein as **ARC 9933**.

These rules are intended to implement Iowa Code chapter 88B and 1989 Iowa Acts, Senate File 435.

The following amendments are proposed:

ITEM 1. Amend rule 347—81.1(88B) by inserting at the end of subrule **81.1(2)** the words “and 53 Fed. Reg. 35625 (September 14, 1988).”

ITEM 2. Amend rule 347—81.2(88B) by inserting at the end of subrule **81.2(2)** the words “and 53 Fed. Reg. 35627 (September 14, 1988).”

ITEM 3. Amend rule 347—81.4(88B) to read as follows:
347—81.4(88B) Supervision requirements. At least one ~~supervisor certified supervisor/contractor licensed~~ under rule 347—82.6(88B) shall be at an asbestos project at all times while work is in progress. For the purposes of this rule, a ~~supervisor supervisor/contractor~~ includes those persons who provide supervision and direction to workers engaged in the asbestos removal, encapsulation, enclosure, and repair. Asbestos workers shall have access to a ~~certified supervisor supervisor/contractor~~ throughout the duration of the project.

ITEM 4. Amend rule **347—82.1(88B)** by amending the definition of “business entity” as follows:

“Business entity” means a partnership, firm, association, corporation, sole proprietorship, or other business concern. This definition does not apply to a business entity which uses its own employees in removing or encapsulating asbestos for the purpose of renovating, maintaining or repairing its own facilities, except that a business entity exempted from Iowa Code chapter 88B who assigns an employee to remove or encapsulate asbestos shall provide training which complies with ~~rule 347—82.7(88B)~~. *Iowa department of education rule 281—96.10(256), subrules 96.10(5) and 96.10(6) and rule 281—96.12(256).*

Further amend rule **347—82.1(88B)** by striking the definitions “Certificate” and “License” and inserting in the proper alphabetical order the following new definitions:

“License” means an authorization issued by the division permitting an individual to be employed as a worker, supervisor/contractor, inspector, management planner, abatement project designer, or combination thereof.

“Permit” means an authorization issued by the division permitting a business entity to remove or encapsulate asbestos.

ITEM 5. Amend rule 347—82.2(88B) to read as follows:
347—82.2(88B) Business entity licensing permit. A business entity may not engage in any asbestos project unless it is ~~licensed~~ *has been issued a permit* by the division under this chapter.

ITEM 6. Amend rule **347—82.3(88B)**, catchwords, and subrule **82.3(1)** by striking the word “license” and inserting the word “permit”.

ITEM 7. Amend subrule **82.3(1)**, paragraph “a,” subparagraph (10), as follows:

(10) An affirmation that the business entity will ensure that each employee or agent of the business entity who will come in contact with asbestos or will be responsible for an asbestos project is ~~certified licensed~~ by the division.

ITEM 8. Rescind subrule **82.3(2)** and insert in lieu thereof the following:

82.3(2) Permit fee. The annual fee for a permit is \$500.

ITEM 9. Amend subrules **82.3(3)** and **82.3(4)** by striking the word “license” and inserting the word “permit” and striking the word “licensee” and inserting the words “permit holder”.

ITEM 10. Amend rule **347—82.5(88B)**, by striking the word “licensee” and inserting the words “permit holder” and amend numbered paragraph “1” by striking the word “certificate” and inserting the word “license”.

ITEM 11. Rescind rule 347—82.6(88B) and insert the following:

347—82.6(88B) License and application procedures.

82.6(1) Worker licensing procedures. All persons seeking a license as an asbestos abatement worker shall complete an initial three-day training course and thereafter an annual refresher one-day training course as specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(6) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

a. Name, home address and telephone number of the applicant;

b. The applicant's social security number;

c. The applicant's date of birth or statement that the applicant is at least 18 years of age;

d. The name and address of the asbestos training course;

e. A copy of certification of satisfactory completion from the training course;

f. A certificate and declaration from a physician that an examination was conducted within the preceding 12 months following the guidelines in 29 C.F.R. 1910.134, 1910.1001, and 1926.58, which indicated the applicant to be physically capable of working while wearing a respirator; and

g. A statement from a person competent to administer a respirator fit test that a respirator fit test was successfully passed within the preceding 12 months and the respirator(s) on which the applicant was successfully fit tested in accordance with Appendix C of 29 C.F.R. 1910.1000 (July 1, 1988) or 29 C.F.R. 1926.58(July 1, 1988).

The application shall be accompanied by a nonrefundable fee of \$20.

82.6(2) Supervisor/contractor licensing procedures. All persons seeking a license as an asbestos abatement supervisor/contractor shall complete an initial four-day training course and thereafter an annual refresher one-day training course as specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(5) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

a. Name, home address and telephone number of the applicant;

b. The applicant's social security number;

c. The applicant's date of birth or statement that the applicant is at least 18 years of age;

d. The name and address of the asbestos training course;

e. A copy of certification of satisfactory completion from the training course;

f. A certificate and declaration from a physician that an examination was conducted within the preceding 12 months following the guidelines in 29 C.F.R. 1910.134, 1910.1001, and 1926.58, which indicated the applicant to be physically capable of working while wearing a respirator; and

LABOR SERVICES DIVISION[347] (cont'd)

g. A statement from a person competent to administer a respirator fit test that a respirator fit test was successfully passed within the preceding 12 months and the respirator(s) on which the applicant was successfully fit tested in accordance with Appendix C of 29 C.F.R. 1910.1000 (July 1, 1988) or 29 C.F.R. 1926.58 (July 1, 1988).

The application shall be accompanied by a nonrefundable fee of \$50.

82.6(3) Inspector licensing procedures. All persons seeking a license as an asbestos inspector shall complete an initial three-day training course and thereafter an annual refresher one half-day training course as specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(1) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

a. Name, home address and telephone number of the applicant;

b. The applicant's social security number;

c. The applicant's date of birth or statement that the applicant is at least 18 years of age;

d. The name and address of the asbestos training course; and

e. A copy of certification of satisfactory completion from the training course.

The application shall be accompanied by a nonrefundable fee of \$20. This license can be combined with the management planner license. The cost of a combined license is \$30.

82.6(4) Management planner licensing procedures. All persons seeking a license as an asbestos management planner shall complete an initial inspector three-day training course and an initial management planning training course. Thereafter an annual refresher one-day training course is required. The training courses are specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(2) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

a. Name, home address and telephone number of the applicant;

b. The applicant's social security number;

c. The applicant's date of birth or statement that the applicant is at least 18 years of age;

d. The name and address of the asbestos training course; and

e. A copy of certification of satisfactory completion from the training course.

The application shall be accompanied by a nonrefundable fee of \$20. This license can be combined with the inspector license. The cost of a combined license is \$30.

82.6(5) Abatement project designer licensing procedures. All persons seeking a license as an asbestos abatement project designer shall complete either an initial abatement project designer three-day training course or an initial asbestos abatement supervisor/contractor four-day training course. Thereafter an annual refresher one-day training course is required. The training courses are specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(2) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

a. Name, home address and telephone number of the applicant;

b. The applicant's social security number;

c. The applicant's date of birth or statement that the applicant is at least 18 years of age;

d. The name and address of the asbestos training course; and

e. A copy of certification of satisfactory completion from the training course.

The application shall be accompanied by a nonrefundable fee of \$50.

82.6(6) Action on application. Within 30 days of receiving a completed application, the division will issue a license or deny the application. The division will deny an application if it determines the applicant has not successfully completed within the 12 months prior to the submission of the application the required training course. Renewal applications shall be submitted 30 days prior to the expiration of an existing license.

82.6(7) Duration. A license issued by the division shall be valid for one year from the date of issuance. To renew the license, the applicant shall comply with all aspects of this rule.

ITEM 12. Rescind and reserve rules 347—82.7(88B) and 347—82.9(88B).

ITEM 13. Amend rule 347—82.10(88B) to read as follows:

347—82.10(88B) Reciprocity. Each applicant for ~~certification a license~~ who is licensed or certified as a ~~worker or supervisor~~ in another state may request ~~certification a license~~ from the division. The division shall evaluate the requirements for licensure or certification in the other state and shall issue the ~~a certificate license~~ if the requirements for licensure or certification in the other state are equal to or greater than the requirements for this chapter. The application shall be submitted as required by rule 82.6(88B).

ITEM 14. Rescind rule 347—82.11(88B).

ARC 9934

LABOR SERVICES DIVISION[347]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 88B.3 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to adopt an amendment to Iowa Administrative Code rule 347—82.1(88B) relating to training of employees of local educational agencies involved in the removal or encapsulation of asbestos for purpose of maintaining or repairing facilities.

The Labor Commissioner has received a petition for rule making filed pursuant to Iowa Administrative Code rule 347—1.21(17A) from CHART Services, Ltd. CHART Services, Ltd. seeks an amendment of the definition of “business entity” contained in rule 347—82.1(88B) which presently provides as follows:

LABOR SERVICES DIVISION[347] (cont'd)

“Business entity” means a partnership, firm, association, corporation, sole proprietorship, or other business concern. This definition does not apply to a business entity which uses its own employees in removing or encapsulating asbestos for the purpose of renovating, maintaining or repairing its own facilities, except that a business entity exempted from Iowa Code chapter 88B who assigns an employee to remove or encapsulate asbestos shall be provided training which complies with rule 347—82.7(88B).”

Petitioner requests that this definition be amended by adding the following sentence at the end of the definition:

“Notwithstanding the foregoing, a business entity exempted from Iowa Code chapter 88B that is an ‘LEA’ (local education agency) as defined in rule 281—96.2(256) that assigns an employee to perform the small-scale, short-duration operations maintenance and repair activities set forth in 40 CFR Part 763 Subpart E, Appendix B, shall provide training which complies with rule 281—96.7(256).”

Training which complies with present rule 347—82.7(88B) is required to be at least three days in length for a worker (subrule 82.7(1)) and four days in length for a supervisor (subrule 82.7(2)). Each training course is to include at least six hours of hands-on training. In addition, workers and supervisors are required to successfully complete a one-day annual refresher course pursuant to subrule 82.7(3).

Since school districts are “business entities” within the meaning of Iowa Code chapter 88B, the training requirements in rule 347—82.7(88B) apply to employees of a school district who engage in small-scale, short duration asbestos removal or encapsulation in connection with maintenance or repair operations in buildings under the control of that school district. The Petitioner asserts that as applied to these employees, the Iowa Division of Labor’s training requirement is inconsistent with the Iowa Department of Education rules promulgated and adopted pursuant to Asbestos Hazard Emergency Response Act which allows members of a local education agency’s maintenance and custodial staff, who conduct any activities that will result in the disturbance of asbestos containing building material, to conduct that activity if the employee has received 16 hours of training.

Petitioner further asserts that Appendix B of the AHERA regulations establishes strict procedures and limitations upon the asbestos activities that can be performed under an asbestos operations and maintenance program by individuals who have completed the 16-hour training. Since the 16-hour training required by AHERA is sufficient to safely perform the limited asbestos maintenance activities described in Appendix B of the AHERA regulation, the 3-day training required under rule 347—82.7(88B) is not necessary for the safe performance of this work. Workers performing asbestos removal projects more extensive than those set forth in Appendix B will continue to be bound by the training requirements of rule 347—82.7(88B).

Training shall be provided prior to or at the time of an initial assignment, unless the employee has received equivalent training within the previous 12 months, and at least annually thereafter.

In lieu of the Petitioner’s request, the Labor Commissioner would consider comments on addressing the Petitioner’s concerns by adding an additional subrule to the

rule 347—82.6(88B) as published in this Iowa Administrative Bulletin as **ARC 9935**. Additionally, the Labor Commissioner requests comments on the application of the annual training requirement contained in 29 C.F.R. 1910.1001(j)(5) and 29 C.F.R. 1926.58(k)(3) for these persons.

A public hearing will be held on July 11, 1989, at 10:30 a.m. in the office of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa. Any interested person will be given the opportunity to make oral or written submissions concerning the proposed rules. Written data or arguments to be considered in adoption may be submitted by interested persons no later than July 5, 1989, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

The agency has determined that this Notice of Intended Action may have an impact on small business. The agency has considered the factors listed in Iowa Code section 17A.31. The agency will issue a regulatory flexibility analysis as provided in Iowa Code section 17A.31 if a written request is filed by delivery or by mailing post-marked no later than July 5, 1989, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

Amend the definition of “Business entity” in rule 347—82.1(88B) to read as follows:

“Business entity” means a partnership, firm, association, corporation, sole proprietorship, or other business concern. This definition does not apply to a business entity which uses its own employees in removing or encapsulating asbestos for the purpose of renovating, maintaining or repairing its own facilities, except that a business entity exempted from Iowa Code chapter 88B who assigns an employee to remove or encapsulate asbestos shall be provided training which complies with rule 347—82.7(88B). *Notwithstanding the foregoing, a business entity exempted from Iowa Code chapter 88B that is a local education agency (LEA) as defined in rule 281—96.2(256) that assigns an employee to perform the small-scale, short-duration operations maintenance and repair activities set forth in 40 CFR Part 763 Subpart E, Appendix B, shall provide training which complies with rule 281—96.7(256).*

ARC 9945**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 109.48, the Natural Resource Commission hereby gives Notice of Intended Action to rescind Chapter 93 and adopt a

NATURAL RESOURCE COMMISSION[571] (cont'd)

new Chapter 93, "Commercial Use of Captive-Reared Waterfowl," Iowa Administrative Code.

These rules provide procedures for obtaining captive-reared waterfowl for shooting or for taxidermy purposes.

Any interested person may make written suggestions or comments on these proposed rules prior to July 6, 1989. Such written materials should be directed to the Chief of the Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact the Chief of Enforcement at (515) 281-8524 or at the bureau offices on the fourth floor of the Wallace Building prior to the above date.

Also, there will be a public hearing on July 6, 1989, at 10 a.m. in the fifth floor west 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 the provisions of Iowa Code sections 109.55, 109.126, and 110A.3.

Rescind Chapter 93 and adopt in lieu thereof the following:

CHAPTER 93

COMMERCIAL USE OF
CAPTIVE-REARED WATERFOWL

571—93.1(109) General. Nothing in this chapter shall be construed to permit the taking of live waterfowl or their eggs from the wild.

571—93.2(109) Required markings. All waterfowl released for shooting purposes or sold by a licensed taxidermist must be captive-reared and marked pursuant to Iowa Code section 109.22 and these rules.

571—93.3(109) Definitions. In addition to definitions contained in Iowa Code section 109.1, as used in this chapter:

"Bred in captivity" or "captive-reared" refers to waterfowl, including eggs hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

"Captivity" means that live waterfowl are held in a controlled environment that is intensively manipulated by man for the purpose of producing waterfowl of selected species, and that has boundaries designed to prevent waterfowl, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include, but are not limited to, artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Waterfowl" means any goose, brant, or duck.

571—93.4(110A) Marked for shooting. All waterfowl released for shooting purposes shall be physically marked by removal of the hind toe from the right foot at not more than four weeks of age.

571—93.5(109) Commercial sale of captive-reared waterfowl by a taxidermist.

93.5(1) Taxidermist permit required. A taxidermist permit is required before any person may perform taxidermy services on migratory birds or their parts, nests, or eggs for any reason other than personal use.

93.5(2) In addition to the records required by Iowa Code section 109.126, the permittee must maintain files containing the original of federal Form 3-186, Notice of Waterfowl Sale or Transfer, confirming acquisition of captive-reared, properly marked waterfowl from the holder of a current waterfowl sale and disposal permit. Properly marked, captive-reared mallards are exempt from this requirement.

93.5(3) All captive-reared waterfowl being purchased or held by a taxidermist for mounting and resale shall have been physically marked by at least one of the following methods:

a. Removal of the hind toe from the right foot.

b. Pinioning of a wing: Provided, this method shall be the removal of the metacarpal bones of one wing or a portion of the metacarpal bones which renders the bird permanently incapable of flight.

c. Banding of one metatarsus with a seamless metal band.

d. Tattooing of a readily discernible number or letter or combination thereof on the web of one foot.

93.5(4) When any mounted captive bred waterfowl (except captive bred, properly marked mallards) are acquired from a taxidermist, the taxidermist shall furnish a copy of federal Form 3-186, Notice of Waterfowl Sale or Transfer, indicating all information required by the form and the method or methods by which individual birds are marked as required in subrule 93.5(3).

93.5(5) The buyer shall retain Form 3-186 on file for the duration of the buyer's possession of such mounted, captive-reared waterfowl.

These rules are intended to implement Iowa Code sections 109.55, 109.126, and 110A.3.

ARC 9922

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 155A.31, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 6, "General Pharmacy Licenses," Chapter 7, "Hospital Pharmacy Licenses," and Chapter 15, "Correctional Facility Pharmacy Licenses," Iowa Administrative Code.

The amendments were approved at the April 18, 1989, meeting of the Iowa Board of Pharmacy Examiners.

The amendments delete the requirement of the latest edition and supplements to the USP/NF as part of the reference library.

Any interested person may submit data, views, and arguments, orally or in writing, on or before July 4, 1989, to Norman C. Johnson, Executive Secretary, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Des Moines, Iowa 50319.

PHARMACY EXAMINERS BOARD[657] (cont'd)

These rules are intended to implement Iowa Code section 155A.31.

The following amendments are proposed:

ITEM 1. Amend 657—6.3(155A) by deleting paragraph "1" and renumbering the remaining paragraphs.

ITEM 2. Amend 657—7.3(155A) by deleting paragraph "1" and renumbering the remaining paragraphs.

ITEM 3. Amend 657—15.3(155A,203,204) by deleting paragraph "1" and renumbering the remaining paragraphs.

ARC 9939

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF COSMETOLOGY EXAMINERS

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in 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 157.14, the Board of Cosmetology Examiners hereby gives Notice of Intended Action to amend Chapter 60, "Cosmetology Examiners," Chapter 61, "Sanitary Conditions for Beauty Salons and Schools of Cosmetology," and Chapter 62, "Cosmetology Continuing Education," Iowa Administrative Code.

The proposed rules establish definitions and clarify application procedures and requirements for cosmetologists, cosmetology schools and salons. The proposed rules provide for duplicate licenses for purposes of display at a cosmetologist's place of business and establish a penalty fee for a lapsed license. The proposed rules also clarify continuing education requirements and procedures and clarify discipline.

Any interested person may make written comments on the proposed rules on or before July 5, 1989. Comments should be addressed to Susan Osmann, Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

A public hearing will be held on the proposed rules on July 5, 1989, at 1 p.m. in the Third Floor Conference Room - Side 2, Lucas State Office Building. Parties commenting at the hearing are encouraged to bring written copies of their comments.

The proposed rules are intended to implement Iowa Code chapter 157 and Iowa Code section 258A.2.

ITEM 1. Rescind the existing rule 60.1(147) and insert the following rules 60.1(157) to 60.6(157) in lieu thereof:

645—60.1(157) Definitions. As used in this chapter:

"Beauty salon" means a fixed establishment or place where one or more persons engage in the practice of cosmetology.

"Board" means the Iowa board of cosmetology examiners.

"Cosmetologist" means a person who performs practices of cosmetology or by occupation holds himself or herself out as having knowledge or skill peculiar to the practice of cosmetology.

"Cosmetology" means practices performed with or without compensation by cosmetologists which include the practices listed in Iowa Code chapter 157.

"Cosmetology school" means an establishment operated by a person for the purpose of teaching cosmetology.

"Department" means the Iowa department of public health.

645—60.2(157) Cosmetology schools. The board will grant approval for the issuance of an original cosmetology school license to be issued by the department when the conditions set out in rule 60.3(157) have been fully met. The annual renewal of a cosmetology school license will be recommended by the board to the department when there is full compliance with rule 60.3(157), pertaining to the operation of an approved school.

645—60.3(157) Requirements for cosmetology school licensure.

60.3(1) Application. An application shall be in writing and submitted to the Board of Cosmetology Examiners, Iowa Department of Public Health, Professional Licensure Division, Lucas State Office Building, Des Moines, Iowa 50319-0075. The school owner will be requested to appear before the board for a personal interview regarding the school. At the interview the applicant shall submit to the board the following information in typed or printed form:

- a. The exact location of the proposed school;
- b. A complete plan of the physical facilities to be utilized and as applied to areas relative to classroom and clinic space;
- c. A list of a minimum of ten student applications; and
- d. A list of the names of licensed instructors for the proposed school. The number of instructors submitted must meet the requirement as outlined in Iowa Code section 157.8.

60.3(2) No student shall be accepted until the above requirements are met and approval granted and the board has received the original license fee as outlined in rule 60.14(157).

645—60.4(157) Physical requirements. A cosmetology school, before being issued a license, shall meet the following physical requirements:

60.4(1) Facility requirements.

a. A minimum floor space of 3000 square feet in any school premises and, when the enrollment in a school exceeds 30 students, additional floor space of 30 square feet for each student over 30 will be required to adequately take care of that student;

b. Each licensed school shall be limited to providing one clinic floor where the paying public will receive their services; said clinic floor shall be confined to the premises occupied by the school.

c. A school room shall be large enough and be so equipped as to provide for practical work, lectures and demonstration purposes. A room or rooms separate from the clinic floor must be maintained for study, lecture, and practical class purposes.

d. A dispensary shall be equipped with lavatory and adequate closed storage for keeping sanitized articles. Chemicals and lotions shall be kept in the dispensary. A wet sterilizer and any other sanitation items that are required under 645—Chapter 61 shall be in place in the dispensary;

e. Two toilets, one for females and one for males, shall be equipped with lavatories, soap and towel dispensers;

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

- f. A laundry room shall be separated by a full wall or partition from the clinic area;
- g. Locker facilities for each student;
- h. Closed cabinets or separate room for extra supplies;
- i. Covered waste containers; and
- j. An administrative office.

60.4(2) Equipment requirements. Each cosmetology school shall have the following minimum equipment:

- a. Work stations equipped with chair, dresserette, closed drawer for sanitized articles, and mirror (maximum of 2 students per unit);
- b. One set of textbooks of cosmetology for each student and instructor;
- c. A minimum of five shampoo bowls;
- d. One large chalkboard or equivalent for each classroom;
- e. Facial room equipment for instruction and practice (a separate area is recommended for this);
- f. One set of files for all required records;
- g. Adequate chair and table area for students in classroom; and
- h. Adequate equipment and supplies.

60.4(3) Miscellaneous requirements. Each cosmetology school must also meet the following requirements:

- a. Instructors shall familiarize students with the different standard supplies and equipment used in cosmetology salons.

b. No student shall receive pay or be allowed any rebates, refunds or commissions on any money taken at the cosmetology chair for service rendered to patrons.

c. When school services are displayed or in any manner advertised by a school of cosmetology, they shall be followed by the words "STUDENT WORK" in prominent lettering.

d. Students shall be attired in clean and neat uniforms at all times during school hours. Instructors shall be attired in distinct and identifiable attire.

e. All bottles and containers in use must be distinctly and correctly labeled, showing the intended use of the contents.

f. The daily class schedule shall consist of not more than eight hours of instruction or work per day for five or six days a week. Instruction shall not be given on Sunday. The daily class hours schedule shall be posted in the classroom. In special circumstances, students absent for legitimate reasons shall be allowed to make up time not to exceed six hours during any one week to permit them to complete their training with their regular class.

g. Each school of cosmetology shall maintain a library for the students enrolled therein consisting of textbooks, current trade publications and business management materials. A list approved by the board shall be obtained from the board office.

645—60.5(157) Course of study. The course of study in an approved school of cosmetology shall consist of not less than 2100 hours training, and no school of cosmetology will be approved by the board of cosmetology examiners unless it complies with the requirement of study as provided in the following curriculum.

CURRICULUM

DEMONSTRATIONS AND LECTURES	500 hours
Sanitation and sterilization	
Hygiene and grooming	
Professional ethics	

- Salesmanship
- Public relations and psychology
- Anatomy
- Dermatology
- Trichology
- Nails
- Chemistry and chemical hair straightening
- Safety precautions
- State law and rules

SUPERVISED PRACTICAL INSTRUCTION 1200 hours

- Sanitation and sterilization
- Shampoos and rinses
- Scalp and hair treatments
- Hair shaping
- Hair styling
- Wiggery
- Manicuring
- Permanent waving
- Hair coloring and lightening
- Facial treatment and makeup
- Safety precautions

UNASSIGNED - Specific needs 400 hours

TOTAL HOURS 2100 hours

645—60.6(157) Cosmetology salons shall not be operated in connection with the school. The licensed cosmetology school premises shall not be used during scheduled cosmetology instruction time or cosmetology work experience time for any use other than for student cosmetology instruction.

ITEM 2. Renumber the existing rule 60.2(147) as 60.7(157).

ITEM 3. Renumber the existing rule 60.3(147) as 60.8(157), and amend renumbered subrules 60.8(7) and 60.8(9) as follows:

60.8(7) The student, upon successfully passing the school examination and receiving the school diploma may, pending taking the state board examination, begin the instructor training course. *Student instructors shall not be in charge of classes without direct supervision by a licensed instructor.*

60.8(9) All licensed schools of cosmetology shall prominently display in the entrance room a sign indicating that all work is done exclusively by students.

ITEM 4. Rescind the existing rules 60.4(147) to 60.6(147) in their entirety, renumber the existing rule 60.7(147) as 60.9(157), and amend renumbered subrule 60.9(1) to read as follows:

60.9(1) Rules and regulations of the board pertaining to examinations. All applications for examination shall be made upon the official form supplied by the Iowa department of public health and filed with the cosmetology board at least 45 days preceding the date of examination. Students who can complete their training prior to the date of the examination may qualify by complying with the above requirements; however, the exact date of graduation shall be shown on the application. *Upon request, a temporary permit shall be granted to practice until the next examination following the date of graduation or the date of issuance of the permit.*

ITEM 5. Rescind existing subrules 60.7(2) and 60.7(4) in their entirety, and renumber the remaining subrules accordingly.

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

ITEM 6. Renumber the existing rule 60.8(147) as **60.10(157)** and renumber the existing rule **60.9(147)** as **60.14(157)** and insert the following new rules 60.11 to 60.13.

645—60.11(157) Licensure of applicants licensed in other states.

60.11(1) The board may enter into reciprocal agreements with other states pursuant to the provisions of Iowa Code sections 147.44 to 147.49.

a. Reciprocal agreements. The board shall enter into a full reciprocal agreement with any state which, as determined by the examining board, has similar educational and examining standards and which shall reciprocate with this state. Each applicant shall show proof of license validity in the state with which this state has a full reciprocal agreement; upon acceptance of said proof, the applicant shall be issued a license to practice in this state.

b. Conditional reciprocal agreements. The board may enter into conditional reciprocal agreements with another state which conducts examinations. Every person licensed in that state when applying for a license to practice in this state shall comply with one or both of the following:

(1) Furnish satisfactory proof to the department that the applicant has been licensed and actively engaged in the practice of any of the professions under the jurisdiction of the board, for the period 12 months just prior to application.

(2) Pass a practical examination in the practice of any of the professions under the jurisdiction of the board.

c. For applicants licensed in a state having reciprocity with Iowa, the application procedures shall be as follows:

(1) Applicant must submit a completed application form prescribed by the board and accompanied by the fee specified in rule 60.14(157).

(2) Applicant must submit with the application proof of licensure in another state with which Iowa has a reciprocal agreement.

(3) If the applicant satisfies proof of licensure by a state with which the Iowa board has a reciprocal agreement, the examination requirement for licensure will be waived for that applicant.

60.11(2) For applicants licensed in states which do not have reciprocity with Iowa, the application procedure shall be as follows:

a. Applicant must submit a completed application form prescribed by the board and accompanied by the fee as specified in rule 60.14(157).

b. Applicant must submit proof of licensure in another state for at least 12 months in the 24-month period preceding the application.

c. If the applicant completes the requirements of 60.11(2) "a" and "b," the applicant shall be allowed to take the practical and theory examinations given by the board.

60.11(3) Any applicant licensed in another state who does not meet the requirements of subrule 60.11(1) or 60.11(2) shall meet the requirements for licensure outlined in rules 60.9(157) and 60.10(157).

This rule implements Iowa Code sections 147.46, 147.47 and 157.3.

645—60.12(157) Rules for establishing a cosmetology salon.

60.12(1) An application for salon licensing shall be made in writing to the Board of Cosmetology Examiners,

Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Application forms may be obtained from the board. The following information shall be required on these forms:

a. A floor plan of proposed salon showing all entrances and exits, reception, styling, cleaning, and toilet areas.

b. If the salon area is in a facility where other businesses are located, the salon relationship to the other businesses must be shown on the floor plan. (See also subrule 645—61.4(2))

c. If the salon is located in a residence, its relationship to the residence must be indicated. (See also subrule 645—61.3(1)).

60.12(2) The application shall be accompanied by the license fee prescribed in rule 60.14(157).

60.12(3) Business may commence at the salon following receipt of written approval of the board and receipt of license.

60.12(4) Every cosmetology salon shall adhere to the sanitary rules established in 645—Chapter 61.

645—60.13(157) Display of license

60.13(1) Each cosmetologist practicing in a salon shall display his or her license in an area visible to the public, attesting that the cosmetologist is currently licensed to practice cosmetology in the state of Iowa.

60.13(2) If a cosmetologist practices in more than one salon, a duplicate license may be obtained for the purpose of displaying the license in the additional salon(s).

60.13(3) A duplicate license shall be renewed at the same time as the license to practice cosmetology.

ITEM 7. Amend renumbered subrules 60.14(12) and 60.14(13), and add a new subrule 60.14(17) as follows:

60.14(12) Delinquent penalty for nonpayment of renewal fee *within* 30 days after due date is \$10.

60.14(13) Restoration of license after delinquent two years in addition to delinquent fees is ten dollars. *Penalty fee for lapsed license is \$20 per year.*

60.14(17) Renewal for a biennial period of a duplicate license is \$10.

ITEM 8. Amend rule 61.2(157) as follows:

645—61.2(157) License. Each cosmetologist shall visibly display at his or her work station the original license, *duplicate license or temporary permit*, and the annual renewal certifying that the practitioner is a licensed cosmetologist or trainee. Beauty salon licenses shall be posted visible to the public therein.

ITEM 9. Amend rule 62.2(258A) by adding a new subrule 62.2(6) as follows:

62.2(6) Cosmetologists currently licensed in Iowa but practicing in another state may comply with Iowa continuing education requirements for license renewal and reinstatement by meeting the continuing education requirements of the licensee's place of practice.

ITEM 10. Amend subrules 62.3(2) and 62.3(3) as follows:

62.3(2) It pertains to subjects which integrally relate to the practice of cosmetology and shall include such topics for instruction as prescribed by the board; and

62.3(3) It is conducted by individuals who hold an active cosmetology license and have special education, training and experience or by other persons who by reason of special education, training and experience said individuals would be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or written outline which substantively

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

pertains to the subject matter of the program. A resume of all continuing education instructors shall be on file with the board.

ITEM 11. Amend subrule 62.4(1) by adding at the end of the subrule the following sentence: "All accredited sponsors shall submit to the board at least 90 days in advance the dates, locations and instructors of intended educational programs."

ITEM 12. Amend rule 62.6(258A) as follows:

645—62.6(258A) Report of licensee. Each licensee shall file with the license renewal application a certificate of attendance form furnished by the board signed by the educational institution or organization sponsoring the continuing education no later than November 1 of the year in which claimed continuing education hours were completed. The report shall be sent to the Board of Cosmetology Examiners, Iowa Department of Public Health, Executive Secretary, Cosmetology Board, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 13. Amend rule 62.8(258A) as follows:

645—62.8(258A) Attendance record report. The educational institution or organization sponsoring continuing education activities shall make a written record of the Iowa licensees in attendance and send a signed copy of such attendance record to the executive secretary of the cosmetology board upon completion of the educational activity, but in no case later than November March 1 of following the year in which the date of the continuing education activities took place. The report shall be sent to the Iowa Department of Public Health, Executive Secretary, Cosmetology Board, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 14. Amend subrule 62.11(2), paragraph "b," as follows:

b. Completion of a total number of hours of accredited continuing education computed by multiplying eight four hours by the number of years, with a maximum of four years, a certificate of exemption shall have been in effect for the applicant; or completion of a refresher course approved by the board; or

ITEM 15. Amend rule 62.12(258A) by inserting a new subrule 62.12(1) as follows and by renumbering 62.12(1) and 62.12(2) as 62.12(2) and 62.12(3), respectively.

62.12(1) A license issued by the department pursuant to Iowa Code chapter 157 shall be lapsed if not renewed within 30 days of renewal date.

ITEM 16. Amend rule 62.113(258A), introductory paragraph, as follows:

645—62.113(258A) Suspension, revocation or probation. Discipline. For all acts and offenses listed in this rule, the board may impose any of the disciplinary methods outlined in Iowa Code section 258A.3(2) "a" through "f" including the imposition of a civil penalty which shall not exceed \$1000. The board may revoke or suspend a license, or place a licensee on probation discipline a licensee for any of the following reasons:

ARC 9946

SOIL CONSERVATION
DIVISION[27]

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 467A.4(1), the Division of Soil Conservation gives Notice of Intended Action to amend Chapter 10, "Iowa Financial Incentives Program for Soil Erosion Control," Iowa Administrative Code.

This Notice of Intended Action proposes rules to implement new appropriations to the Iowa Financial Incentives Program for Soil Erosion Control for the 1989-90 fiscal year. These proposed rules make provision to apply existing Chapter 10 program rules to funds provided in 1989 Iowa Acts, House File 778, section 1, subsection 6, paragraphs "d," "e," and "f." The proposed rules also amend language for the Wind Erosion Control Incentive Program to coincide with the termination of any further funding to the program as provided for in 1989 Iowa Acts, House File 723.

Since the Division has four years to expend funds appropriated to the financial incentives program, the rules apply at any one time to the present fiscal year and the three previous fiscal years. Therefore, all references to fiscal year 1985-86 are deleted.

These rules will allow funds appropriated by the General Assembly for the financial incentives program to be available for this year's summer and fall construction season. To ensure the availability of funds for allocation to soil conservation districts, the Division plans to seek emergency implementation of these rules after notice and a public hearing.

Any interested person may submit written suggestions or comments on the rules proposed in this Notice of Intended Action. Comments conveyed by mail should be forwarded to the Administrator, Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, and must be received by the Division no later than 4:30 p.m., Wednesday, July 5, 1989.

A public hearing will be held on Thursday, July 6, 1989, at 1 p.m. in the east half of the third floor conference room of the Wallace State Office Building, East 9th and Grand Avenue, Des Moines, Iowa. Comments presented at the hearing may be presented either orally or in writing.

Rules set forth in this Notice are intended to implement Iowa Code chapters 312 and 467A, and 1989 Iowa Acts, House File 778, section 1, subsection 6, paragraphs "d," "e," and "f," and House File 723.

The following are proposed as amendments to Part 4 of the Division's Financial Incentives Program rules:

Part 4

10.40 Reserved.

27—10.41(467A) Appropriations. The department of agriculture and land stewardship, division of soil conservation, has received appropriations for conserva-

SOIL CONSERVATION DIVISION[27] (cont'd)

tion cost-sharing since 1973, and appropriations to fund certain incentive programs for soil erosion control since 1979. The Seventy-first General Assembly provided \$8,888,736 for fiscal 1986 and \$6,546,519 for fiscal 1987. The Seventy-second General Assembly provided \$6,539,972 for fiscal 1988 and \$6,789,972 for fiscal 1989. The Seventy-third General Assembly provided \$6,789,972 for fiscal 1990.

The amount available for distribution for fiscal 1986 and 1987 is qualified by subrule 10.41(6). Funds available for distribution for all years are qualified by subrule 10.41(7). Fiscal 1987 funds available for distribution are further qualified by subrule 10.41(9).

The division has four years to encumber or obligate these funds before they revert to the state's general fund. This rule addresses the distribution of these appropriations among the incentive programs for soil erosion control established by the division in accordance with the *authority authorities extended in Iowa Code chapter 467A*. The rule is also consistent with the restrictions imposed by language of the appropriations bills.

Except for the programs authorized in subrules 10.41(2), 10.41(3), 10.41(4), 10.41(5), 10.41(7), and 10.41(8), these funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than 50 percent of the approved cost for permanent soil conservation practices.

10.41(1) Voluntary program. Ninety percent of the appropriation is to be used for cost-sharing to provide state funding of not more than 50 percent of the approved cost of permanent soil and water conservation practices or for incentive payments to encourage management practices to control soil erosion on land that is now row-cropped.

An incentive payment for no-till may not exceed 10 percent of a district's original and supplemental allocation for fiscal 1986. For fiscal 1987, 1988 and 1989 not more than 30 percent of a district's original and supplemental allocation may be used for the establishment of management practices listed in subrules 10.82(1) and 10.82(2).

10.41(2) Publicly owned lakes. Five percent of the amount appropriated is to be set aside for cost-sharing not to exceed 75 percent of the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes.

10.41(3) Mandatory program. Five percent of the appropriation is to be set aside for cost-sharing with landowners or farm operators who are required to install soil erosion control practices as a result of an administrative order from the district to abate complaints filed under Iowa Code section 467A.47 or 467D.23.

10.41(4) Special watershed projects. Iowa Code section 467A.7 permits cost-sharing up to 60 percent of the cost of a project including five or more contiguous farm units which have at least 500 or more acres of farmland and which constitute at least 75 percent of the agricultural land lying within a watershed or subwatershed, where the owners jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plan.

10.41(5) Summer construction incentives (SCI). Unspent funds distributed to the voluntary program in any fiscal year may be used for SCI cost-share up to 60 percent if there are not adequate requests for permanent practices to obligate the balance.

10.41(6) Southeastern Iowa tillage research program. \$62,500 from the fiscal 1986 funds, and \$30,000 from the fiscal 1987 funds, are to be provided to Iowa State University and the Southeast Iowa Community College for continuation of the southeastern Iowa tillage research program.

10.41(7) Nonpoint source pollution control practices. \$70,000 from fiscal 1986, \$70,000 from fiscal 1987 funds, \$70,000 from fiscal 1988 funds, and \$70,000 from fiscal 1989 funds, and \$70,000 from fiscal 1990 funds are to be used for implementing nonpoint source pollution control practices in the Big Spring basin located in Clayton County.

10.41(8) Funds distributed to annual programs and provided to districts may be used in combination with department of natural resources funds in accordance with the following:

a. Proposals to allow an overall cost-share rate of greater than 50 percent to the landowner must be submitted by districts and approved on a project-by-project basis by the state soil conservation committee.

b. The maximum cost-share rate realized by the landowner shall not exceed 75 percent when state cost-share funds appropriated to the division and districts are utilized in combination with such department of natural resources funds.

c. Funds utilized by districts in conjunction with such special projects shall come from the district's regular allocation.

d. Only those permanent practices listed in subrule 10.82(3) shall be eligible for financial incentive payments.

(1) Any practices to be installed on public land must meet the requirements of subrule 10.73(3) and be installed and paid for by the adjoining private landowner.

(2) Subrule 10.81(6) on upland treatment shall also apply.

e. In accordance with subrule 10.73(4), paragraph "a," no cost-sharing with other government agencies is allowed.

10.41(9) Woodland fencing program. \$20,000 from the fiscal 1987 funds is set aside for the woodland fencing program established in rule 27—10.53(467A). (This program was funded for fiscal 1986 after the initial distribution provided for in these rules had been completed.)

This rule is intended to implement Iowa Code chapter 467A and 1987 Iowa Acts, Senate File 511, section 201, subsection 5, paragraphs "c," "d," and "e" and 1988 Iowa Acts, House File 2440, section 1, subsection 6, paragraphs "c," "d," and "e." 1986 Iowa Acts, chapter 1246, section 504, subsection 2, paragraph "b," and subsections 3 and 4; 1987 Iowa Acts, chapter 233, section 201, subsection 5, paragraphs "c," "d," and "e"; 1988 Iowa Acts, chapter 1272, section 1, subsection 6, paragraphs "c," "d," and "e"; and 1989 Iowa Acts, House File 778, section 1, subsection 6, paragraphs "d," "e," and "f."

27—10.42(312) Wind Erosion Control Incentive Program (WECIP). Iowa Code section 312.2(9) allocates \$500,000 annually prior to July 1, 1983; and \$250,000 per annum until July 1, 1988, and \$150,000 per annum thereafter until July 1, 1989, from the road use tax fund to the division of soil conservation for providing incentive payments for the installation and maintenance of wind erosion control practices designed to reduce wind erosion which interferes with the maintenance of highways and the safe operation of vehicles.

10.43 to 10.49 Reserved.

ARC 9926**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby emergency adopts and implements amendments to Chapter 23, "Community Development Block Grant Nonentitlement Program," Iowa Administrative Code.

These amendments propose to use up to \$2.2 million from the economic development set-aside program to establish a drought relief fund. The program was developed to respond to the increasing problems precipitated by continuing drought conditions.

In compliance with Iowa Code section 17A.4(2), the Department finds that public notice and participation are unnecessary, impracticable and contrary to the public interest because the rules implement an emergency drought relief assistance program and any delay would withhold the availability of funds to Iowa communities.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the rules, 35 days after publication, should be waived and the rules be made effective upon filing with the Administrative Rules Coordinator because the rules confer a benefit on the public by making assistance immediately accessible to communities to address drought related problems.

These rules are intended to implement Iowa Code section 15.108(1)"a" and Public Law 93-383 as amended to July 1, 1989.

These rules were adopted by the Department of Economic Development Board on May 18, 1989, and became effective immediately upon filing, May 19, 1989.

The following amendments are adopted:

ITEM 1. Amend subrule 23.6(3) as follows:

23.6(3) Funds reserved for economic development set-aside. Up to 25 percent of total program funds will be reserved each year for the economic development set-aside program. If this allocation for the current fiscal year is not fully allocated, the excess will be reallocated to the economic development set-aside program for the following program year. *For fiscal years 1989 and 1990 only, the director may reallocate up to \$2.2 million of the economic development set-aside allocation to the special drought relief fund as established in rule 23.14(15).* For fiscal year 1989 only, at the director's discretion, funds may be reallocated which have been carried forward from previous years' reserves for the economic development set-aside program to the general competitive program upon receipt of the funding allocation for fiscal year 1989.

ITEM 2. Add the following new rule:

261—23.14(15) Special drought relief fund.

23.14(1) This rule applies to all projects awarded funds under the special drought relief fund. Up to \$2.2 million may be allocated to the special drought relief fund to provide assistance to communities in extraordinary circumstances related to water problems precipitated by drought conditions.

23.14(2) The director of the department of economic development, in consultation with representatives of the farmers home administration, shall determine the award

of these funds based on mutually agreed upon criteria of need. These criteria shall include:

- a. Severity of drought related water shortage;
- b. Financial need;
- c. Efficiency and effectiveness of proposed solution; and
- d. Level of local participation.

23.14(3) Communities awarded funds must submit application information as requested by the department. At a minimum, this information will include a project summary, explanation of need for and impact of the proposed project and a detailed project budget. The project budget must reflect complete costs of the project and all sources of funding.

23.14(4) Any community receiving funds under the special drought relief program must comply with all laws, rules, and regulations applicable to the community development block grant nonentitlement program, except that the department may choose to waive those state administrative rules for the CDBG nonentitlement program not required by federal law.

This rule is intended to implement Iowa Code section 15.108(1)"a" and Public Law 93-383 as amended to July 1, 1989.

[Filed emergency 5/19/89, effective 5/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9947**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed Emergency**

Pursuant to the authority of 1989 Iowa Acts, House File 490, section 3, and Iowa Code section 10A.104(5), the Division of Racing and Gaming transfers rules in 491—Chapter 20, "Administration"; Chapter 21, "Amusement Concessions"; Chapter 22, "Gambling Where Liquor and Beer are Sold"; Chapter 23, "Qualified Organization"; Chapter 24, "Gambling in Public Places"; and Chapter 25, "Annual Game Night," and the Department of Inspections and Appeals adopts these rules as 481—Chapters 100 to 105, Iowa Administrative Code, with exceptions noted below.

1989 Iowa Acts, House File 490 provides that administration of gambling laws in Iowa Code chapter 99B is the responsibility of the Department of Inspections and Appeals as of July 1, 1989. The requirement that 70 percent of receipts be dedicated for specific uses has been changed to 75 percent. There are other nonsubstantive changes in the transferred rules.

The Division of Racing and Gaming and the Department of Inspections and Appeals find, pursuant to Iowa Code section 17A.4(2), that the public will benefit when the rules being enforced are incorporated within the rules of the responsible agency.

Because there are no substantive changes which might abridge the rights of citizens, the Division and the Department find that notice and public participation are unnecessary.

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

It is also found, pursuant to Iowa Code section 17A.5(2)"b"(1), that these rules should become effective July 1, 1989.

This transfer implements 1989 Iowa Acts, House File 490, sections 5 and 16.

[Filed emergency 5/26/89, effective 7/1/89]
[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9933**LABOR SERVICES DIVISION[347]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 88B.3, the Labor Commissioner hereby amends rules appearing in 347—Chapters 81 and 82 relating to asbestos control procedures and licensing certification of specified businesses and persons.

These amendments are made to conform with 1989 Iowa Acts, Senate File 435.

Pursuant to Iowa Code section 17A.4(2), notice and public participation regarding these amendments are not necessary. The amendments are minor in nature. These amendments change "licenses" to "permits", "certificates" to "licenses" and transfer provisions currently in effect under Department of Education rules to the Division of Labor.

Notice of Intended Action regarding the adoption of these amendments and others is being published herein as **ARC 9935**. Portions of the Notice of Intended Action which are not a part of this emergency adoption and filing include updating of references to federal regulations, the cost of the permit fee, and the cost of licenses.

A public hearing will be held on July 11, 1989, pursuant to the Notice of Intended Action published herein.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the normal effective date of these amendments, 35 days after publication, should be waived and the amendments be made effective upon July 1, 1989. This filing of the emergency rules permits implementation of 1989 Iowa Acts, Senate File 435, on its effective date. For the reasons stated above, significant changes are not made in the rules.

These rules are intended to implement Iowa Code chapter 88B and 1989 Iowa Acts, Senate File 435.

The following amendments are adopted:

ITEM 1. Amend rule 347—81.4(88B) to read as follows:
347—81.4(88B) Supervision requirements. At least one ~~supervisor~~ *certified supervisor/contractor licensed* under rule 347—82.6(88B) shall be at an asbestos project at all times while work is in progress. For the purposes of this rule, a ~~supervisor~~ *supervisor/contractor* includes those persons who provide supervision and direction to workers engaged in the asbestos removal, encapsulation, enclosure, and repair. Asbestos workers shall have access to a ~~certified supervisor~~ *supervisor/contractor* throughout the duration of the project.

ITEM 2. Amend rule 347—82.1(88B), definition of "business entity," by striking from the end thereof the

words "rule 347—82.7(88B)" and inserting in lieu thereof the words "Iowa department of education rule 281—96.10(256), subrules 96.10(5) and 96.10(6), and rule 281—96.12(256)".

Further amend rule **347—82.1(88B)** by striking the definitions of "Certificate" and "License" and inserting in the proper alphabetical order the following new definitions:

"License" means an authorization issued by the division permitting an individual to be employed as a worker, supervisor/contractor, inspector, management planner, abatement project designer, or combination thereof.

"Permit" means an authorization issued by the division permitting a business entity to remove or encapsulate asbestos.

ITEM 3. Amend rule 347—82.2(88B) to read as follows:
347—82.2(88B) Business entity licensing permit. A business entity may not engage in any asbestos project unless it is ~~licensed~~ *has been issued a permit* by the division under this chapter.

ITEM 4. Amend rule 347—82.3(88B), catchwords, and subrule 82.3(1) by striking the word "license" and inserting the word "permit".

ITEM 5. Amend subrule 82.3(1), paragraph "a," subparagraph (10), as follows:

(10) An affirmation that the business entity will ensure that each employee or agent of the business entity who will come in contact with asbestos or will be responsible for an asbestos project is ~~certified~~ *licensed* by the division.

ITEM 6. Amend subrules 82.3(2), 82.3(3) and 82.3(4) by striking the word "license" and inserting the word "permit" and striking the word "licensee" and inserting the words "permit holder".

ITEM 7. Amend rule 347—82.5(88B) by striking the word "licensee" and inserting the words "permit holder" and amend numbered paragraph "1" by striking the word "certificate" and inserting the word "license".

ITEM 8. Rescind rule 347—82.6(88B) and insert the following:

347—82.6(88B) License and application procedures.

82.6(1) Worker licensing procedures. All persons seeking a license as an asbestos abatement worker shall complete an initial three-day training course and thereafter an annual refresher one-day training course as specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(6) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

- a. Name, home address and telephone number of the applicant;
- b. The applicant's social security number;
- c. The applicant's date of birth or statement that the applicant is at least 18 years of age;
- d. The name and address of the asbestos training course;
- e. A copy of certification of satisfactory completion from the training course;
- f. A certificate and declaration from a physician that an examination was conducted within the preceding 12 months which indicated the applicant to be physically capable of working while wearing a respirator; and
- g. A statement from a person competent to administer a respirator fit test that a respirator fit test was

LABOR SERVICES DIVISION[347] (cont'd)

successfully passed within the preceding 12 months and the respirator(s) on which the applicant was successfully fit tested in accordance with Appendix C of 29 C.F.R. 1910.1000 (July 1, 1988) or 29 C.F.R. 1926.58(July 1, 1988).

The application shall be accompanied by a nonrefundable fee of \$15.

82.6(2) Supervisor/contractor licensing procedures. All persons seeking a license as an asbestos abatement supervisor/contractor shall complete an initial four-day training course and thereafter an annual refresher one-day training course as specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(5) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

a. Name, home address and telephone number of the applicant;

b. The applicant's social security number;

c. The applicant's date of birth or statement that the applicant is at least 18 years of age;

d. The name and address of the asbestos training course;

e. A copy of certification of satisfactory completion from the training course;

f. A certificate and declaration from a physician that an examination was conducted within the preceding 12 months which indicated the applicant to be physically capable of working while wearing a respirator; and

g. A statement from a person competent to administer a respirator fit test that a respirator fit test was successfully passed within the preceding 12 months and the respirator(s) on which the applicant was successfully fit tested in accordance with Appendix C of 29 C.F.R. 1910.1000 (July 1, 1988) or 29 C.F.R. 1926.58 (July 1, 1988).

The application shall be accompanied by a nonrefundable fee of \$150.

82.6(3) Inspector licensing procedures. All persons seeking a license as an asbestos inspector shall complete an initial three-day training course and thereafter an annual refresher one half-day training course as specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(1) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

a. Name, home address and telephone number of the applicant;

b. The applicant's social security number;

c. The applicant's date of birth or statement that the applicant is at least 18 years of age;

d. The name and address of the asbestos training course; and

e. A copy of certification of satisfactory completion from the training course.

The application shall be accompanied by a nonrefundable fee of \$20. This license can be combined with the management planner license. The cost of a combined license is \$30.

82.6(4) Management planner licensing procedures. All persons seeking a license as an asbestos management planner shall complete an initial inspector three-day training course and an initial management planning training course. Thereafter an annual refresher one-day training course is required. The training courses are specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(2) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

a. Name, home address and telephone number of the applicant;

b. The applicant's social security number;

c. The applicant's date of birth or statement that the applicant is at least 18 years of age;

d. The name and address of the asbestos training course; and

e. A copy of certification of satisfactory completion from the training course.

The application shall be accompanied by a nonrefundable fee of \$20. This license can be combined with the inspector license. The cost of a combined license is \$30.

82.6(5) Abatement project designer licensing procedures. All persons seeking a license as an asbestos abatement project designer shall complete either an initial abatement project designer three-day training course or an initial asbestos abatement supervisor/contractor four-day training course. Thereafter an annual refresher one-day training course is required. The training courses are specified by the Iowa department of education in rule 281—96.10(256), subrule 96.10(2) and rule 281—96.12(256). The application shall be made on a form provided by the division which shall include:

a. Name, home address and telephone number of the applicant;

b. The applicant's social security number;

c. The applicant's date of birth or statement that the applicant is at least 18 years of age;

d. The name and address of the asbestos training course; and

e. A copy of certification of satisfactory completion from the training course.

The application shall be accompanied by a nonrefundable fee of \$50.

82.6(6) Action on application. Within 30 days of receiving a completed application, the division will issue a license or deny the application. The division will deny an application if it determines the applicant has not successfully completed within the 12 months prior to the submission of the application the required training course. Renewal applications shall be submitted 30 days prior to the expiration of an existing license.

82.6(7) Duration. A license issued by the division shall be valid for one year from the date of issuance. To renew the license, the applicant shall comply with all aspects of this rule.

ITEM 9. Rescind and reserve rules 347—82.7(88B) and 347—82.9(88B).

ITEM 10. Amend rule 347—82.10(88B) to read as follows:

347—82.10(88B) Reciprocity. Each applicant for ~~certification a license~~ who is licensed or certified as a ~~worker or supervisor~~ in another state may request ~~certification a license~~ from the division. The division shall evaluate the requirements for licensure or certification in the other state and shall issue a ~~certificate license~~ if the requirements for licensure or certification in the other state are equal to or greater than the requirements for this chapter. The application shall be submitted as required by rule 82.6(88B).

ITEM 11. Rescind rule 347—82.11(88B).

[Filed emergency 5/25/89, effective 7/1/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9921
PHARMACY EXAMINERS
BOARD[657]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3, 22.11, 147.36, 147.76, 155A.6, 155A.8, 155A.9, 155A.10, 155A.12, 155A.13, 155A.14, 155A.28, 155A.35, 155A.37, 203A.15, 204.201, 204.301, 204.306, and 205.11, 657— Chapters 1 to 16, Iowa Administrative Code, are amended to reflect a change in authority to adopt rules from 1987 Iowa Code Supplement chapter 155A to Iowa Code chapter 155A, and Iowa Administrative Code Chapter 6 is amended to correct an incorrect reference.

In compliance with Iowa Code subsection 17A.4(2), the Board finds that notice and public participation are unnecessary. These are technical changes and do not reflect any program provision.

The Board also finds, pursuant to Iowa Code subparagraph 17A.5(2)“b”(2), that the normal effective date of these rules, 35 days after publication, should be waived. These changes confer a benefit to the public by eliminating incorrect references and should become effective upon filing with the Administrative Rules Coordinator on May 17, 1989.

These rules were adopted by the Board of Pharmacy Examiners on February 21, 1989, and implement various sections of Iowa Code chapters 17A, 22, 147, 155A, 203A, 204, and 205.

ITEM 1. Change all references in 657 Iowa Administrative Code from “1987 Iowa Code supplement chapter 155A” to “Iowa Code chapter 155A” as follows:

Subrule 1.1(1)
 Paragraph 1.1(3)“a”
 Paragraph 1.1(3)“c”
 Rule 6.8(155A)
 Subrule 9.1(1)
 Paragraph 9.1(4)“h”
 Subrule 14.14(1)
 Subrule 14.14(2)
 Subrule 14.14(3)
 Subrule 14.14(7)
 Subrule 14.14(9)
 Subrule 14.14(10)
 Subrule 14.14(13)
 Subrule 14.15(4)

Rule 15.7(155A,203A,204)
 Rule 16.1(155A)

ITEM 2. Delete the words “1987” and “supplement” as in “1987 Iowa Code supplement chapter 155A” as follows:

Subrule 1.2(1)
 Reference at end of Chapter 1 following rule 1.4(155A)
 Reference following subrule 2.10(2)
 Reference following subrule 2.11(2)
 Subrule 2.12(1)
 Reference following subrule 2.12(2)
 Reference following rule 3.2(155A)
 Reference following subrule 3.4(7)
 Reference following rule 3.5(155A)
 Rule 4.1, first paragraph
 Reference following subrule 4.9(3)
 Reference following rule 6.11(155A)
 Subrule 7.11(1)
 Rule 7.13(155A)
 Reference following subrule 7.13(5)
 Subparagraph 8.2(4)“b”(2)
 Subrule 8.5(2)
 Reference following subrule 8.9(6)
 Rule 8.10(155A)
 Reference following subrule 8.11(11)
 Reference following subrule 8.12(2)
 Reference following subrule 8.13(5)
 Rule 8.15(155A)
 Reference following subrule 8.16(2)
 Reference following rule 8.17(155A)
 Paragraph 9.1(4)“u”
 Rule 10.18(204)
 Rule 13.7(155A), first paragraph
 Reference following rule 13.8(155A)
 Subrule 14.14(8)
 Subrule 14.14(14)
 Subrule 15.8(4)
 Reference following subrule 15.11(2)
 Reference following rule 16.6(155A)

ITEM 3. Change reference in 657—6.10(155A) from “8.11(6)” to “8.9(6).”

[Filed emergency 5/16/89, effective 5/17/89]
 [Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9932**LABOR SERVICES DIVISION[347]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts an amendment to rule 347—10.20(88) relating to occupational safety and health rules for general industry.

The amendment relates to access to employee exposure and medical records; hazard communication correction; occupational exposure to formaldehyde; approval of information collection requirements; start-up date; clarification; technical amendment; request for comment; occupational exposure to formaldehyde, start-up date; access to employee exposure and medical records; effective date and approval of information collection requirements; air contaminants; hazard communication; and hazardous waste operations and emergency response.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 5, 1989, as **ARC 9788**.

A hearing was scheduled for April 27, 1989. No comments were presented. No written comments were received.

This rule shall become effective July 20, 1989.

This rule is intended to implement Iowa Code section 88.5.

Amend rule **347—10.20(88)** by inserting at the end thereof:

53 Fed. Reg. 38162 (September 29, 1988)

53 Fed. Reg. 39581 (October 7, 1988)

53 Fed. Reg. 45080 (November 8, 1988)

53 Fed. Reg. 47188 (November 22, 1988)

53 Fed. Reg. 49981 (December 13, 1988)

54 Fed. Reg. 2920 (January 19, 1989)

54 Fed. Reg. 6888 (February 15, 1989)

54 Fed. Reg. 9317 (March 6, 1989)

These rules are intended to implement Iowa Code section 88.5.

[Filed 5/25/89, effective 7/20/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

These amendments are intended to implement Iowa Code sections 17A.3, 147.76, 147.80, 152.1, and 152.10.

These amendments will become effective July 19, 1989. The following amendments are adopted:

ITEM 1. Amend rule **655—3.1(17A,147,152,258A)**, definition of "Fees," paragraph 4, to read as follows:

4. For a certified statement that a registered nurse/licensed practical nurse is licensed in this state, \$12. This fee shall be paid by certified check, or money order or commercial check; if paid in person in the board office, the fee may be paid in cash. No personal checks shall be accepted as payment.

ITEM 2. Rescind subrule 3.2(1) and insert in lieu thereof the following:

3.2(1) A person who practices nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of one's family, shall have a current Iowa license, whether or not the employer is in Iowa and whether or not the person receives compensation. The license shall be available for public inspection.

a. A person denied licensure or not having a current active Iowa license because of disciplinary action by the board, or having an encumbered license in another state, may not take a nursing course with a clinical component.

b. A nurse who has been licensed in another country and does not hold a current active license because of disciplinary action may not take a nursing course with a clinical component.

ITEM 3. Amend subrule 3.2(2) by adding the following new paragraph "d."

d. A nurse who holds an active license in another state or who has completed a nursing education course of study in another country, who is providing nursing services incidental to a course of study while enrolled in an approved nursing education program.

[Filed 5/26/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9942**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 removes the requirement for request for special approval of informal continuing education offerings outside of Iowa by a nonapproved provider prior to completion of the program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 22, 1989, as **ARC 9674**. The only change from the amendment published under Notice is in the language to clarify the procedures to obtain the application form.

This amendment is intended to implement Iowa Code sections 17A.3 and 258A.2.

This amendment will become effective July 19, 1989.

ARC 9943**NURSING BOARD[655]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3, 147.76, 147.80, 152.1 and 152.10, the Iowa Board of Nursing hereby adopts amendments to Chapter 3, "Licensure to Practice — Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments prohibit a nurse who has an encumbered license in another state or country because of disciplinary action from enrolling in a nursing course with a clinical component, and provide for the acceptance of a commercial check for verification of license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 22, 1989, as **ARC 9675**. These amendments are identical to those published as Notice of Intended Action.

NURSING BOARD[655] (cont'd)

The following amendment is adopted:

Amend subrule 5.2(2), paragraph "e," subparagraph (2), to read as follows:

(2) Informal offerings offered outside of Iowa by a non-approved provider shall be accepted when specially approved by the board for an individual licensee. A licensee shall obtain special approval from the board office in order to receive credit acceptable to fulfill the requirements. A request in writing or by telephone for special approval shall be received in the board office prior to the completion of the offering. The special approval application form is available from the board office upon request. Special approval requires submission of a completed application and a brochure, advertisement, or course description prior to the completion of the licensure period. Course content shall meet the qualifications of appropriate subject matter as specified in subrule 5.3(2), paragraph "a." The licensee shall retain the approval letter from the board office, in addition to the certificate of attendance received from the nonapproved provider. A denial of approval may be appealed to the board within one month of the denial.

[Filed 5/26/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9938

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF COSMETOLOGY EXAMINERS

Adopted and Filed

Pursuant to the authority of Iowa Code section 157.14, the Board of Cosmetology Examiners amends Chapter 62, "Cosmetology Continuing Education," Iowa Administrative Code.

The amendments decrease the continuing education requirements for a two-year period from 16 hours to 8 hours for licensees, and from 32 hours to 16 hours for instructors.

Notice of Intended Action was published in the Iowa Administrative Bulletin, April 5, 1989, as ARC 9780. There are no changes from the Noticed rule.

The amendments were adopted by the Board of Cosmetology Examiners on May 14, 1989.

This rule is intended to implement Iowa Code sections 258A.2, 258A.2A, 258A.3 and 157.14.

This rule will become effective on July 19, 1989.

Amend rule 645—62.2(258A) as follows:

Amend subrule 62.2(1) by rescinding the first unnumbered paragraph and amending the second unnumbered paragraph as follows:

Beginning January 1, 1988 1989, each person licensed to practice cosmetology in this state shall complete during each compliance period license renewal period (January 1 of each odd-numbered year to November 1 of the next even-numbered year) a minimum of 16 8 hours of continuing education approved by the board. Each person holding an instructor's license shall complete a minimum of 32 16 hours of continuing education at the advanced instructor's institutes prescribed by the board

during each compliance period license renewal period, which will also fulfill the continuing education required for their cosmetology license. Compliance with the requirement of continuing education is a prerequisite for license renewal in the next license renewal period.

Rescind the existing subrule 62.2(2) and insert the following in lieu thereof:

62.2(2) The current license renewal period shall consist of a two-year period from January 1, 1989, through December 31, 1990.

Beginning January 1, 1991, the license renewal period shall consist of a period of two years, from April 1 of one year to March 31 of the second year following.

To establish this license renewal period and implement a staggered schedule for license renewals the board will:

a. Renew licenses for half of the licensees for a period of January 1, 1991, to March 31, 1992. Continuing education requirements and license fees will be prorated accordingly. The continuing education requirements for licensees will be 4 hours instead of the 8 hours stated in subrule 62.2(1). The continuing education requirements for instructors will be 8 hours instead of the 16 hours stated in subrule 62.2(1). The license renewal fee for each will be \$12 instead of the \$20 stated in rule 645—60.9(147).

b. Renew licenses for half of the licensees for a period of January 1, 1991, to March 31, 1993. Continuing education requirements and fees will be prorated accordingly. The continuing education requirement for licensees will be 8 hours. The continuing education requirements for instructors will be 16 hours. The license renewal fee for each will be \$22 instead of the \$20 stated in rule 645—60.9(147).

c. Notify all licensees at time of renewal whether they will be licensed according to 62.2(2), paragraph "a" or "b."

d. Renew licenses thereafter on a biennial basis, from April 1 of one year to March 31 of the second year following.

[Filed 5/25/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9936

REGENTS BOARD[681]

Adopted and Filed

Pursuant to the authority of Iowa Code section 262.9, the State Board of Regents hereby amends Chapter 9, "Policies, Practices and Procedures"; Chapter 11, "Administrative Procedures"; Chapter 12, "University of Iowa Procedures"; Chapter 13, "Iowa State University of Science and Technology Procedures"; Chapter 15, "Iowa Braille and Sight-Saving School"; Chapter 16, "Iowa School for the Deaf," Iowa Administrative Code.

The amendments define the meaning of "appropriate hearing," delete the reference to a manual which is no longer used, and substitute the words "administrative law judge" for "hearing officer".

The amendments clarify procedures when the rules of personal conduct are violated and remove reference to a manual no longer utilized by the person hearing

REGENTS BOARD[681] (cont'd)

disciplinary cases which are not contested cases in the Regents-approved judicial system.

The balance of the amendments comply with the requirements of 1988 Iowa Acts, chapter 1109, which changed the term "hearing officer" to "administrative law judge."

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 22, 1989, as ARC 9750.

No comments were received in writing or at the public hearing held on April 11, 1989. These amendments are identical to those published under Notice of Intended Action.

These rules will become effective on July 19, 1989.

These rules are intended to implement Iowa Code chapter 262 and 1988 Iowa Acts, chapter 1109.

ITEM 1. Amend subrule 9.1(3), paragraph "a," by adding an unnumbered paragraph following the first sentence:

NOTE: "Appropriate hearing" as used throughout these rules means pursuant to existing hearing procedures in effect at the university for students and members of the faculty and staff.

ITEM 2. Rescind subrule 9.3(3).

ITEM 3. Amend subrules 11.5(2), 11.5(3), 12.5(2), 12.5(4), 12.5(5), 13.5(2), 13.5(4), 13.5(5), 15.5(2), 15.5(4), 15.5(5), 16.5(2), 16.5(4), and 16.5(5) by substituting the term "administrative law judge" for the term "hearing officer".

[Filed 5/25/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9937

REGENTS BOARD[681]

Adopted and Filed

Pursuant to the authority of Iowa Code section 262.9, the State Board of Regents hereby amends Chapter 9, "Policies, Practices and Procedures," Iowa Administrative Code.

The new rule 9.5(262) provides the Board of Regents policy on telecommunications as well as policies on and procedures for the use of telecommunications as an instructional tool at Board of Regents institutions.

The policies and procedures include, but are not limited to, program and educational policy practices, staff development, and the use of pilot projects in instruction application.

The rule complies with the requirements of 1987 Iowa Acts, chapter 207, "Telecommunications Use by Schools, Area Schools, and Regents Institutions."

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 22, 1989, as ARC 9751.

No comments were received in writing or at the public hearing held on April 11, 1989.

The Administrative Rules Review Committee did not request any revisions.

The University of Iowa has revised paragraphs 9.5(2)"c," 9.5(2)"f," and 9.5(2)"g." Paragraph 9.5(2)"h"

has been deleted and paragraph 9.5(2)"i," which contains a minor revision, is relettered as 9.5(2)"h."

Changes in 9.5(2)"c" and the new 9.5(2)"h" include the assignment of responsibility to coordinate access to the Iowa educational telecommunications network and to promote collaborative telecommunications efforts among Regents universities to the Division of Continuing Education. The university notes that designation of those responsibilities to the Associate Dean for Educational Telecommunications did not allow for possible title changes. The last sentence in 9.5(2)"c" has been eliminated because it contained a level of detail which was unnecessary.

Paragraphs 9.5(2)"f" and 9.5(2)"g" have been simplified to eliminate detail on administrative matters which the university may wish to change without rule amendment, such as faculty compensation for interactive television courses and tuition and fees.

Paragraph 9.5(2)"h," which related to internal use of telecommunications, has been deleted.

This rule was adopted May 24, 1989.

This rule will become effective on July 19, 1989.

This rule is intended to implement Iowa Code section 262.9(18).

Adopt the following new rule:

681—9.5(262) Policy on telecommunications.

9.5(1) General. The regents institutions will cooperate with the Iowa telecommunications network by seeking opportunities for access to its various delivery systems. Each institution will assign the responsibility for coordinating access to a specific agency on campus. The regents institutions will collaborate, as appropriate, in research efforts and pilot projects designed to explore innovative and cost-effective ways to utilize telecommunications as an instructional tool for the benefit of education in Iowa.

Each institution will encourage its colleges and departments to consider appropriate uses for instructional applications of telecommunications and related technology, as well as to encourage its faculty, staff, and administration to consider telecommunications for the distribution and reception of educational communications as, for example, professional development seminars and workshops.

Current policies and procedures within each institution governing the planning and offering of courses will apply to utilization of delivery systems available through statewide and other telecommunications networks. In such applications, each institution's colleges and departments will retain all prescribed autonomy in the choice of subject matter content, faculty, credit, and student requirements, as well as the right to withdraw a course in the interests of accuracy and currency.

9.5(2) University of Iowa telecommunications policy.

a. General. It is the policy of the university to integrate the use of telecommunications and associated technology for credit and noncredit activities into existing academic and administrative structures, relying on established policies and procedures whenever possible. The various electronic media provide additional means for program delivery for courses in which the content and instructional method can be adapted with no loss of quality or effectiveness. University origination and transmission facilities have been designed to intrude as little as possible in the process of instruction and to allow maximum flexibility in faculty teaching styles and

REGENTS BOARD[681] (cont'd)

preferences. The university encourages its colleges and departments to consider the use of instructional telecommunications for the distribution and reception of credit and noncredit activities as appropriate.

b. Administration. The division of continuing education will coordinate the use, operation, and maintenance of university telecommunications origination and transmission facilities. As part of the coordination, the division will establish liaison with appropriate state, regional, and national networks; serve as the university contact for and promote collaborative efforts among the regents universities and other appropriate agencies and institutions; and serve in an advisory capacity for those who utilize university instructional telecommunications facilities.

c. Coordination of access to the Iowa educational telecommunications network. As a means of facilitating efficient and effective utilization of the statewide telecommunications network by faculty and staff, overall coordination responsibility has been assigned to the division of continuing education.

d. Video origination and production facilities and services. The university video center has primary responsibility for providing video production and origination services for university faculty and staff.

e. Audio origination and production facilities and services. The university broadcasting services has primary responsibility for providing audio production and origination services for university faculty and staff, and for the operation and maintenance of university audio and video transmission systems.

f. Credit courses. The approval of courses for delivery by telecommunications media will conform to established procedures for off-campus offerings. The appropriate academic departments and colleges approve the offering of all proposed courses.

g. Noncredit courses, conferences, and institutes. The approval of noncredit activities for delivery or reception by telecommunications media will conform to established guidelines and procedures for on-campus activities as specified in the university operations manual (section 40.070), and the following center for conferences and institutes guidelines:

The primary purpose of a university conference is to provide a learning experience at university level. . . not to conduct organizational business, hold conventions or sales meetings, elect officers, or pass public resolutions. The program must be educational in nature and academically acceptable to the university.

The conference must be sponsored by an academic division or service unit of the university or, if interdisciplinary, by the director of conferences.

Video conferences may be sponsored by the center for conferences and institutes in cooperation with a department, when appropriate, or the division of continuing education.

An appropriate part of the program should be conducted by faculty members of the University of Iowa.

h. Interregental cooperation. To ensure the design, development, and distribution of accessible and affordable programs through cooperative use of the collective resources of the regents institutions, the University of Iowa will cooperate with the other regents universities in an effort to contain costs in the delivery of courses by telecommunications, to achieve effective utilization and coordination of the expertise and resources available

at each of the institutions, and to minimize duplication in programming among the institutions.

The division of continuing education will serve as the university contact in promoting and coordinating collaborative efforts with the other regents universities.

9.5(3) Iowa State University telecommunications policy and procedures.

a. Commitment to instructional technology. Iowa State University has recognized the need to support and encourage the use of telecommunications and instructional technology since the 1960s. More than three decades ago, a campus cable network was installed to provide TV instruction to selected classrooms, originating in WOITV studios. In the late 1960s, the College of Engineering began to produce and distribute videotaped lectures to distant learners in industry. More recently, broadcast television, audio telebridge, and videotaped programs have been used to present off-campus credit and noncredit courses in all disciplines to Iowans in every part of the state. The university has constructed the first video satellite uplink in Iowa for instructional, informational, and extension applications; established a campus-wide telecommunications system encompassing telephone, digital and broadband video communications, as well as fiber optics capability; and added a second video satellite uplink.

b. Promoting telecommunications. The advent of a statewide telecommunications network, established in conformance with 1987 Iowa Acts, chapters 211 and 207, is viewed on campus as one more alternative for expanding the university's ability to provide instruction and other information affecting social and economic development throughout Iowa. The university will provide funding for the technical and electronic support necessary to establish communication links between the campus and the network. Iowa State University will encourage collaborative efforts among the regents institutions involving the statewide telecommunications network. Requisite to this objective will be early establishment of liaison and communication links with the appropriate telecommunication representatives at each institution and designated state agencies.

Consistent with its past and present performance, Iowa State University will promote strong consideration among its various colleges, departments, and agencies for using the state's network wherever appropriate and cost-effective. When the complete network is operational, the university will use systematic means to advertise its existence among campus interest groups through existing brochures and pamphlets and new informational materials, through designating an existing campus agency as a permanent source of information about the network, and through routinely reporting to faculty and staff on its use by colleagues.

c. Credit and noncredit courses. All credit and noncredit courses prepared for off-campus use are administered through the office of continuing education (OCE). This agency has the concomitant responsibility for selecting, in conjunction with the originating department, the delivery system through which to reach the target audience. Use of the statewide telecommunications network for the university's continuing education programming will fall within the province of OCE's decision-making responsibilities. As with the current use of technology, the principal determinants for selecting the statewide telecommunications network will be as follows:

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- (1) Comparative study of available delivery systems;
- (2) Cost savings;
- (3) Ease of access, operation, and audience attendance;
- (4) Logistical assistance in reaching audience;
- (5) Special course requirements; and
- (6) Cancellation contingencies.

d. Continuing current policies and procedures. When the statewide telecommunications network is selected as the delivery system, as with alternative systems, the originating college and department will retain exclusive jurisdiction over all decisions pertaining to the instructional development process, including the choice of subject matter content, faculty, credit, CEU's student/participant requirements, and course or conference revision or withdrawal. In further recognition of faculty and staff concerns, the educational materials involved in statewide telecommunication applications will be subject to the "Policy on University Sponsored Educational Materials," as approved by the state board of regents and reproduced in the faculty handbook.

e. Designated coordinating agency. As a means of facilitating efficient and effective utilization of the statewide telecommunications network by ISU faculty and staff, the university has appointed the media resources center as its principal agency on campus responsible for arranging access to the system. This agency will assume an advisory role to interested users as well as represent a campus information source on statewide telecommunications. Additional responsibilities will include: establishing liaison with the network's management; maintaining scheduling information; conducting financial transactions; engaging the campus technical support required for origination or reception of telecommunications transmissions; and handling ISU's part in any collaborative effort among the regents institutions involving the statewide telecommunications network.

f. College of education. Since the statewide telecommunications network will likely function as a major source of elementary and secondary school curricula and instruction, ISU's college of education will continue to explore ways in which its faculty members are able to use this delivery system as a direct channel for teacher training and improvement, curriculum information, teleconferencing with school personnel and, where appropriate, teaching K-12 subject matter.

g. Central administration support. Innovative applications of instructional technology depend frequently on encouragement and support from the central administration. To stimulate interest in using telecommunications for instructional—as well as other informational—applications, the institution will explore all possibilities for funding selected pilot projects, research studies, outreach programming, administrative meetings, professional development seminars, and teleconferences involving the statewide telecommunications network. The media resources center will be responsible for soliciting and processing such requests on behalf of the central administration.

9.5(4) University of Northern Iowa telecommunications policies and procedures.

a. The University of Northern Iowa supports the development of the statewide educational telecommunications network as a means of voice, picture, and data

communications with other educational institutions within the state and on a national and international basis. The university views the use of the network as an additional alternative delivery system for academic and nonacademic outreach activities including, but not limited to, credit and noncredit courses, conferences, professional development seminars, workshops, cultural events, and economic development activities. In addition, the university's Malcolm Price Laboratory School is uniquely qualified to offer innovative and specialized elementary and secondary classes.

b. The university encourages departments/colleges/administrative units to consider all delivery alternatives for outreach activities. The choice of a delivery system will be based upon the capability of a system to effectively and to efficiently deliver communication to a specified audience.

c. The university encourages the use of the state educational telecommunications network as a delivery system for outreach activities when appropriate.

d. Consistent with current education policies, the originating department/college/administrative unit will be responsible for all decisions related to program objectives, content, audience identification, staffing, credit, participant requirements, and program revisions.

e. All university credit and noncredit courses, conferences, and workshops offered off campus will be coordinated through continuing education. Choice of delivery system and other logistical arrangements will be the joint responsibility of the originating department/college/administrative unit and continuing education.

f. The university will support a campus system for the origination, distribution, and use of telecommunications. The campus telecommunications system will have complete interface capability with the state educational telecommunications network.

g. The educational media center will have administrative responsibility for the campus telecommunications system and will serve as a coordinating agency with the state educational telecommunications network. Coordinating responsibilities will include consultation on network utilization; planning, scheduling, and providing access to the network; managing financial transactions necessary for network utilization; providing technical support for origination, distribution, and utilization of telecommunications; and collaborative efforts with other educational institutions.

h. The university will support innovative applications of educational technology including telecommunications by funding selected research studies, pilot projects, professional development activities, and conferences.

i. The university will encourage and support interinstitutional and statewide cooperation in the use of educational telecommunications.

This rule is intended to implement Iowa Code section 262.9(18).

[Filed 5/25/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9924**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Department of Transportation, on May 16, 1989, adopted amendments to 761—Chapter 150, "Improvements and Maintenance on Primary Road Extensions," Iowa Administrative Code.

A Notice of Intended Action for these amendments was published in the April 5, 1989, Iowa Administrative Bulletin as **ARC 9791**.

The amendments allow the Department some flexibility in participating in the costs of local service roads or streets and in the costs of lighting on extensions of expressway, arterial, and arterial connector highways.

These amendments are identical to the ones published under Notice.

These amendments are intended to implement Iowa Code chapters 306, 313 and 314.

These amendments will become effective July 19, 1989.

Rule-making actions:

ITEM 1. Amend subrule **150.3(1)**, paragraph "e," as follows:

e. *Unless otherwise mutually agreed to and specified in the agreement:*

(1) The department shall be responsible for one-half of the right-of-way and construction costs of local service roads or streets only when these local service roads or streets are developed as a part of the initial construction of the through traffic lanes. The city shall be expected to be responsible for the remainder of the right-of-way and construction costs.

(2) The storm sewer construction costs for local service roads or streets shall be shared equally between the department and the city.

ITEM 2. Amend subrule **150.3(3)**, paragraph "a," as follows:

a. The department shall not be responsible for the installation, energy, and maintenance costs of lighting on extensions of expressway, arterial and arterial connector highways. The city may elect to provide this lighting at its own expense. *However:*

(1) ~~However,~~ For a smaller city, the department may elect for smaller cities to install interchange lighting and to be responsible for or to participate in the energy and maintenance costs of this lighting.

(2) *On a new construction project that results in a predominately fully controlled access highway, but incorporates some expressway or arterial segments, the department may elect to participate in the installation of lighting at conflict points if the city agrees to be responsible for the energy and maintenance costs of this lighting.*

[Filed 5/19/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9923**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2 and subsection 312.2(18), the Department of Transportation, on May 16, 1989, adopted Chapter 165, "Recreational Trails Program," Iowa Administrative Code.

A Notice of Intended Action for these rules was published in the February 8, 1989, Iowa Administrative Bulletin as **ARC 9637**, and the rules were emergency adopted as **ARC 9636**.

Iowa Code subsection 312.2(18) provides for an annual appropriation of \$1 million to the Department for the purpose of acquiring, constructing and improving recreational trails within the state. These rules govern the expenditure of those funds.

The rules have been developed in consultation with the Departments of Natural Resources, Economic Development and Cultural Affairs.

These rules are identical to the ones published under Notice except that evaluation points have been added to subrule 165.26(2) at the suggestion of the Administrative Rules Review Committee.

These rules are intended to implement Iowa Code chapter 312.

These rules will become effective July 19, 1989, and the emergency adopted rules will be rescinded on that same date.

Rule-making actions:

Adopt the following new chapter.

CHAPTER 165**RECREATIONAL TRAILS PROGRAM****761—165.1(312) Definitions.**

"Authority" means a state or local government agency, municipal corporation, county or nonprofit organization having authority and responsibility for a trail.

"Recreational trails fund" means the fund created for the acquisition, construction, and improvement of recreational trails pursuant to Iowa Code subsection 312.2(18).

761—165.2(312) Information and forms. Information, instructions and application forms may be obtained from: Office of Project Planning, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515) 239-1225. All inquiries regarding the recreational trails program should be directed to this office.

165.3 and 165.4 Reserved.

761—165.5(312) Program administration.

165.5(1) Purpose. The recreational trails program provides funds to establish recreational trails in Iowa for the use, enjoyment and participation of the public. The department shall administer the recreational trails fund as a statewide program.

165.5(2) Funding.

a. The transportation commission is solely responsible for all funding commitments and shall determine the projects to be funded, subject to the availability of recreational trails funds. The commission may approve, modify, or deny an application. The commission may fund all

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or part of a project and may make funding conditional upon adherence to a time schedule or to fulfillment of an agreement.

b. The commission need not commit all funds available during a programming cycle. The commission may reserve unexpended or repaid funds for the next programming cycle or for anticipated present and future project needs and other contingencies.

c. Project costs that exceed the commission's funding commitment shall not be eligible for reimbursement from the recreational trails fund. Reimbursement for project costs shall be limited to the percentage match approved by the commission and actual eligible project costs incurred.

165.6 to 165.8 Reserved.

761—165.9(312) Applicant eligibility.

165.9(1) A state or local government agency, a municipal corporation, a county or a nonprofit organization is eligible to apply for and receive funds from the recreational trails program.

165.9(2) A private business or developer is not eligible to apply directly for funds from the recreational trails program.

165.10 and 165.11 Reserved.

761—165.12(312) Project eligibility.

165.12(1) Public use. The recreational trails program is restricted to the acquisition, construction or improvement of recreational trails open for public use or trails which will be dedicated to public use upon completion. A private trail project or a project for a private purpose is not eligible for funding under this program.

165.12(2) Criteria. A proposed recreational trails project shall meet all of the following requirements:

a. The project must be part of a local, areawide, regional or statewide plan.

b. The trail route shall be designed to allow enjoyment of scenic views or points of historical interest and to maximize safety. The route may use existing roads, streets or parkways if the normal flow of motor vehicle traffic will not be hindered; abandoned railroad corridors; utility corridors; or new right-of-way as necessary.

c. The project shall include a contribution of at least 25 percent matching funds. Except as provided in subrule 165.22(3), matching funds shall be from sources other than the recreational trails program. Matching funds shall not include other grants from state agencies or the provision of in-kind services.

The value of donated land may be an eligible matching contribution if:

(1) The land is donated after the commission's funding commitment, and

(2) The value is based on a real estate appraisal acceptable to the department. The appraisal is subject to review and approval by the department after a funding commitment has been made.

165.13 and 165.14 Reserved.

761—165.15(312) Eligible project costs.

165.15(1) Land. Land acquisition costs including, but not limited to, appraisal costs, negotiation costs and the required cultural resources survey pursuant to Iowa Code chapter 305A are eligible project costs. Land may be acquired by lease, easement or fee simple. Except for primary road projects, the performance of land negotiation and acquisition activities shall not be the respon-

sibility of the department although the department may provide advisory services.

165.15(2) Other eligible costs. Other project costs that are eligible for funding are limited to the following:

a. Trail surfacing, resurfacing, rehabilitation, modernization, upgrading and reconstruction, including pavement repairs and overlays and shoulder widening and stabilization; or initial trail construction including grading, drainage, paving and erosion control.

b. Bridge and culvert repair, modernization, replacement or initial construction.

c. Roadway intersection and interchange improvements, including warranted traffic signalization that is an integral part of the project.

d. Construction or improvement of rest areas, information centers, waysides, permanent interpretive displays, lighting and rest rooms, including the costs of utility connections that are an integral part of the project.

e. Design engineering and construction inspection costs directly associated with the project.

f. Storm drainage and storm sewer costs to the extent needed for draining the trail.

g. Utility relocation costs necessary for trail construction or improvement if the utility is not located on public right-of-way.

h. Trail signs, fencing, landscaping, parking areas, and walkways.

165.16 Reserved.

761—165.17(312) Ineligible project costs.

165.17(1) Before commission approval. Any and all costs incurred prior to commission approval of funding for a project are ineligible for funding under the recreational trails program.

165.17(2) Other ineligible costs. Other project costs that are ineligible for funding include, but are not limited to, the following:

a. Routine maintenance of a trail, bridge, culvert, fence or sign; winter maintenance of a trail or bridge, including snow plowing, sanding, and salting.

b. Overhead and operating costs associated with a project, such as auditing, legal and administrative costs.

c. Expenses associated with the preparation and submission of a project application.

d. Predesign engineering and planning expenses.

e. Utility costs other than those listed in rule 165.15(312).

f. Pavement markings, traffic signs, safety appurtenances or lighting except as an integral part of a trail project.

g. Purchases of office furnishings or equipment, construction equipment, or personal property.

h. Sanitary sewers or water mains except as necessary for rest room construction.

i. General government expenses and expenses associated with the provision of any public service that are not otherwise eligible for project funding.

165.18 Reserved.

761—165.19(312) Advance eligibility for land acquisition. Notwithstanding subrule 165.17(1), if there is an extreme urgency involving land acquisition, a potential applicant may formally request from the department a written waiver which, if granted, will permit the applicant to acquire the land immediately without jeopardizing the project's eligibility for funding approval. Granting of the waiver shall not imply or guarantee that a

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subsequent application which includes the acquisition costs will be funded. The request for the advance eligibility waiver must include justification regarding the urgency of the acquisition, a description of the land to be acquired, and a county map showing its location. The advance eligibility waiver must be requested and approved prior to the applicant's acquisition of the land in question.

165.20 and 165.21 Reserved.

761—165.22(312) Application.

165.22(1) Submission. An eligible applicant shall complete and submit an original and four copies of a project application on a form prescribed by the department.

a. An eligible applicant may submit more than one application in a funding cycle.

b. Two or more eligible applicants may submit a joint application and are encouraged to do so when a project requires mutual action. A joint application shall designate a lead applicant to serve as the principal contact with the department.

c. The initial deadlines for receipt of applications are March 1 and August 1, 1989; thereafter, the deadlines are January 1 and July 1 each succeeding year.

d. Applications shall be submitted to the office of project planning. To be considered in the current funding cycle, an application must be received by project planning by 4:30 p.m. on the day of the deadline.

165.22(2) Contents of application. Each application shall contain the following:

a. The applicant's name, mailing address and telephone number, and the contact person who will serve as liaison with the department.

b. A project concept statement including a location map, a cross-section and a sketch of the project. The proposed project need not be designed before applying, but the concept must be reasonable from a transportation engineering standpoint and detailed enough to generate project cost estimates.

c. An itemized cost estimate for the total project showing for each item the cost and funding source.

d. A time schedule for the total trail project with the applicant's written assurance of project completion as scheduled. A time schedule adjustment may be approved by the department if the project involves unusually complex studies, extensive real estate negotiations, extensive analyses for environmental clearances, complex planning for associated developments, or another compelling reason.

e. An adequate justification for the recreational trails project based on the project eligibility criteria in subrule 165.12(2) and the evaluation criteria in subrule 165.26(2).

f. An official endorsement of the application from the responsible authority and written assurance from that authority that the total trail used to justify the project will be adequately maintained and made available for the intended public use for a minimum of 20 years after completion of the project except as approved by the commission.

165.22(3) Funding request.

a. An applicant shall specify in the application the amount of the funding grant requested from the recreational trails fund and may offer a matching fund contribution larger than is required.

b. In lieu of a grant request, an applicant may request alternative funding, such as a loan at below market inter-

est rate, a no-interest loan, or a partial repayment of principal.

c. If recreational trails funds are loaned as matching funds, the value of the loan repayments for matching fund purposes shall be based on net present value.

761—165.23(312) Application procedure.

165.23(1) An application may be submitted at any time and shall be dated when received in the office of project planning. Once an application has been submitted, no further information shall be accepted from the applicant unless specifically requested by the department.

165.23(2) If an application is incomplete, the department shall return the application to the applicant to be resubmitted when complete. A resubmitted application shall be dated when it is received in the office of project planning.

165.23(3) An application that is considered but not funded in one funding cycle may be resubmitted for consideration in the next cycle.

165.23(4) An applicant may withdraw an application at any time.

165.24 and 165.25 Reserved.

761—165.26(312) Evaluation and approval.

165.26(1) The department shall review each application, may verify the contents and may visit the trail site.

165.26(2) The department shall evaluate each complete application primarily on the basis of whether the predicted use of the trail justifies the construction and maintenance costs including, but not limited to, the following criteria:

a. Need, in terms of the population to be served and existing trails in the area (25 points).

b. Compatibility with local, areawide, regional or statewide plans (15 points).

c. Benefits of multiple uses and recreational opportunities (20 points).

d. Quality of the site (25 points).

e. Economic benefits to the local area (10 points).

f. Special facilities for the handicapped (5 points).

165.26(3) Completed applications shall be reviewed by a committee composed of one representative from each of these departments: natural resources, economic development, cultural affairs, and transportation. The committee shall recommend applications to the department by ranking them in order of funding priority.

165.26(4) The department shall prepare a list of applications and funding recommendations and present it to the commission for final approval and funding.

165.27 to 165.29 Reserved.

761—165.30(312) Project agreement.

165.30(1) After the commission has approved funding for a recreational trails project, the department and the applicant shall execute a project agreement.

a. The department shall administer a project located on a primary road; however, the department by agreement may delegate part or all of this responsibility.

b. For all other projects, the agreement shall specify the responsibilities for project planning, design, land acquisition, contracting, construction and materials inspection, and documentation and the criteria for each. The agreement shall also specify the overall funding level approved and contain an estimated budget for eligible work items.

165.30(2) The department shall reimburse the authority for actual-eligible project costs incurred as

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specified in the agreement, not to exceed the amounts authorized by the project agreement.

165.30(3) Project expenditures incurred after the commission has made a funding commitment, but before execution of the agreement, may be eligible for reimbursement if prior written authorization is obtained from the department and a project agreement is subsequently executed. However, under no circumstances shall any reimbursement be paid until the project agreement has been executed.

165.30(4) The department may audit all project costs incurred for compliance with the agreement, including costs that are part of the matching contribution. All force account work performed by a county or city on the project shall be audited.

165.31 and 165.32 Reserved.

761—165.33(312) Noncompliance. The commission may revoke funding commitments, seek repayment of funds loaned or granted, or take both actions if:

165.33(1) The terms of the project agreement have not been fulfilled.

165.33(2) The department finds that the application contained inaccuracies, omissions, errors or misrepresentations.

165.33(3) The time schedule for project completion was misrepresented or has not been maintained.

165.33(4) The authority fails to comply with subrule 165.22(2), paragraph "f."

These rules are intended to implement Iowa Code subsection 312.2(18).

[Filed 5/18/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9925**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Department of Transportation, on May 16, 1989, adopted an amendment to 761—Chapter 800, "Items of General Application," Iowa Administrative Code.

A Notice of Intended Action for this rule was published in the March 8, 1989, Iowa Administrative Bulletin as **ARC 9698**.

The amendment adds new rule 800.15(327F) regarding train speed ordinances. It implements Iowa Code section 327F.31 which was enacted in 1988. This statute provides for Departmental approval of an ordinance or resolution adopted by a political subdivision which relates to the speed of a train in an area within the jurisdiction of the political subdivision.

This rule is identical to the one published under Notice except for the following:

In subrule 800.15(1), the words "supported by information or reasons that justify its approval by the department" have been added.

Subrule 800.15(4) has been added, and the remaining subrules have been renumbered accordingly. It lists the factors that may be considered by the Department in making its decision.

The new rule will become effective July 19, 1989.

Rule-making action:

Amend Chapter 800 by adding the following new rule:

761—800.15(327F) Train speed ordinances. An ordinance or resolution adopted by a political subdivision which relates to the speed of a train in an area within the jurisdiction of the political subdivision is subject to departmental approval according to the following procedure:

800.15(1) The political subdivision shall submit the ordinance/resolution to the department supported by information or reasons that justify its approval by the department.

800.15(2) The department shall notify the affected railroads.

800.15(3) The political subdivision and the affected railroads shall have 30 days in which to submit position papers to the department before the department issues an order approving or disapproving the ordinance/resolution.

800.15(4) In making the decision, the factors considered by the department may include, but are not limited to, the following:

- a. Traffic density and speed.
- b. Accident frequency.
- c. Causes of accidents.
- d. Obstructions to visibility.
- e. Traffic controls at crossings.
- f. Population density.

g. Resulting burden on the rail transportation system.
h. Resulting benefit to residents of the political subdivision.

800.15(5) The department shall mail notice of its order approving or disapproving the ordinance/resolution by certified mail, return receipt requested, to the political subdivision and the affected railroads.

800.15(6) If the department issues an order approving the ordinance/resolution, it shall go into effect 25 days after the notice is mailed unless the order is contested pursuant to subrule 800.15(7).

800.15(7) Within 20 days after the notice is mailed, the political subdivision or an affected railroad may submit to the department a written statement contesting the department's order approving or disapproving the ordinance/resolution.

a. If the order is contested, 761—Chapter 13 applies.

b. If an order approving an ordinance/resolution is contested, the order shall be stayed pending the outcome of the contested case.

800.15(8) Submissions to the department under this rule shall be directed to the rail and water division at the address listed in rule 761—800.2(17A).

800.15(9) A submission to the rail and water division shall be deemed timely submitted if it is delivered to the rail and water division or postmarked within the time period specified.

This rule is intended to implement Iowa Code section 327F.31.

[Filed 5/19/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9928**UTILITIES DIVISION [199]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.4(1) and 476.2, the Utilities Board (Board) gives notice that on May 19, 1989, the Board issued an order in Docket No. RMU-88-8, In Re: Disconnection Rules, "Order Adopting Rules."

On April 15, 1988, the Board issued an order in this docket commencing the rule making to consider amendments to Iowa Administrative Code 199—19.4(15) and 20.4(15), relating to disconnection of utility service without notice in the event of tampering with the equipment furnished and owned by the utility.

The proposed rule making was published in the Iowa Administrative Bulletin on May 4, 1988, **ARC 8687**. In order to allow for public comment on the proposed rules, a deadline of May 24, 1988, was set for written comments. The Board was concerned that the subrules in question might allow a utility to make a determination regarding the existence of tampering or unauthorized use of utility service, and consequently disconnect service to a customer, only to determine later that tampering or unauthorized use had not, in fact, occurred. The Board proposed at that time to strike the words "without notice" from paragraphs 19.4(15)"c" and "d" and 20.4(15)"c" and "d." An oral presentation was held on this matter on July 21, 1988. Based on both the filed and oral comments, the Board issued an order renoticing rules on November 21, 1988, [**ARC 9506**, IAB 12/14/88]. In renoticing the rules, the Board noted that the benefits of safeguards against improper disconnection appeared to be outweighed by the potential problems which could result from the rules as proposed. The Board withdrew its proposal to strike the words "without notice" from subrule 19.4(15), paragraphs "c" and "d" and subrule 20.4(15), paragraphs "c" and "d," but limited the term "tampering" to state that a broken or absent meter seal alone shall not constitute tampering.

All parties but one filing comments on the renoticed rules supported the Board's action. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) commented that the rules as originally proposed offered more significant safeguards against an improper disconnection. The Consumer Advocate argued that the problems inherent with the originally proposed rules were more hypothetical than real, because utilities remain authorized to disconnect without notice in the event of a hazardous condition, and evidence of tampering could be still collected upon discovery of the situation. The Consumer Advocate requested the Board to adopt the amendments as originally proposed.

The Board will adopt the rules as renoticed. The concerns expressed by commenting utilities with regard to the originally proposed rules are valid concerns. The Board finds the rules as renoticed strike a proper balance between safeguarding against improper disconnection and undue limitation of disconnection upon the discovery of tampering or unauthorized use. The Board will adopt the rules as renoticed.

The rules will become effective July 19, 1989, pursuant to Iowa Code section 17A.5.

The following amendments are adopted:

ITEM 1. Amend subrule 19.4(15), paragraph "c," as follows:

c. Without notice in the event of tampering with the equipment furnished and owned by the utility. *For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.*

ITEM 2. Amend subrule 20.4(15), paragraph "c," as follows:

c. Without notice in the event of tampering with the equipment furnished and owned by the utility. *For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.*

[Filed 5/24/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.

ARC 9929**UTILITIES DIVISION [199]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 476.2 and 17A.4, the Utilities Board (Board) gives notice that on May 19, 1989, the Board issued an order in Docket No. RMU-88-23, In Re: Natural Gas Flexible Rates, "Order Adopting Rules."

On December 20, 1988, the Board issued an order in this docket commencing the rule making to consider the amendment of Iowa Administrative Code 199—19.12(2)"a," relating to offering discounted rates to directly competing customers, and 19.12(3)"d," relating to the maximum period a discount may be offered.

The proposed rule making was published in the Iowa Administrative Bulletin on January 11, 1989, as **ARC 9593**. In order to allow for public comment on the proposed rules, a deadline of January 31, 1989, was set for written comments. Rule 19.12(476) allows gas utilities to offer incentive or discount rates to their customers if the discounted rates are offered to all directly competing customers in the same service territory. Amended paragraph 19.12(2)"a" defines directly competing customers as customers who make the same end product (or offer the same service) for the same general group of customers, but customers that only produce component parts of the same end product are not considered directly competing customers.

The parties filing comments in this rule making generally supported the Board's clarification of the definition of directly competing customers. However, some commenters argued that the Board should add a provision stating that discounted rates need only be offered to customers who are similarly situated; for example, one commenter considered customers with dual fuel capability as not being similarly situated to customers without the same capability. The Board finds that adding a provision such as this would narrow the application of discount rates to a select few customers. Discount rates are intended to be an economic devel-

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opment tool. The requested limitation would hinder rather than encourage economic development. The Board will adopt paragraph 19.12(2)"a" as proposed.

The amendments to paragraph 19.12(3)"d" extend the time period a discount rate may be offered from one year to five years, or longer if the Board determines that good cause exists for such an extension, and eliminate the requirement of an annual cost benefit analysis. Most commenters supported this change, recognizing that multiyear discounts are necessary to attract potential customers to the discount rate.

One commenter opposed the rule making in its entirety, stating discounted rates are unnecessary if rates are actually cost-based. The commenter felt that discount rates are improper as they are intended to avoid giving discounts to smaller or medium sized industry customers. The Board does not believe the rules discriminate against small or medium sized industry customers.

One commenter suggested the Board should offer a new gas flexible rate mechanism which would allow both upward and downward price flexing for interruptible customers of certain sizes. The commenter argued this would take into consideration the reality of the narrow margins of local distribution gas companies. The Board is not convinced that such an amendment is warranted. Discounted rates are intended to be an economic development tool. It is difficult to envision attracting customers to a rate which can flex upward. The Board will adopt the rules as proposed.

The rules will become effective July 19, 1989, pursuant to Iowa Code section 17A.5.

ITEM 1. Amend paragraph 19.12(2)"a" as follows:

a. Natural gas utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customer. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same *end product* (or offer the same service) for the same general group of customers. *Customers that only produce component parts of the same end product are not directly competing customers.*

ITEM 2. Amend paragraph 19.12(3)"d" as follows:

d. No discount shall be offered for a period longer than *five years; unless the board determines upon good cause shown that a longer period is warranted. one (1) year, although discounts may be offered for a total of thirty six (36) consecutive months if annual cost benefit analyses support continuation of the discount.*

[Filed 5/24/89, effective 7/19/89]

[Published 6/14/89]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/14/89.



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 for six Iowa Counties on April 17, 1989 due to the drought conditions; and

WHEREAS; the condition continues to exist within the state requiring continued assistance and resources.

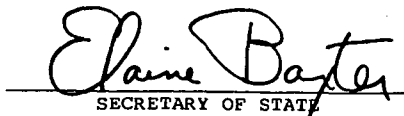
NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, do hereby extend the Proclamation of Disaster Emergency of April 17, 1989 for an additional period of 90 days, to expire August 15, 1989.

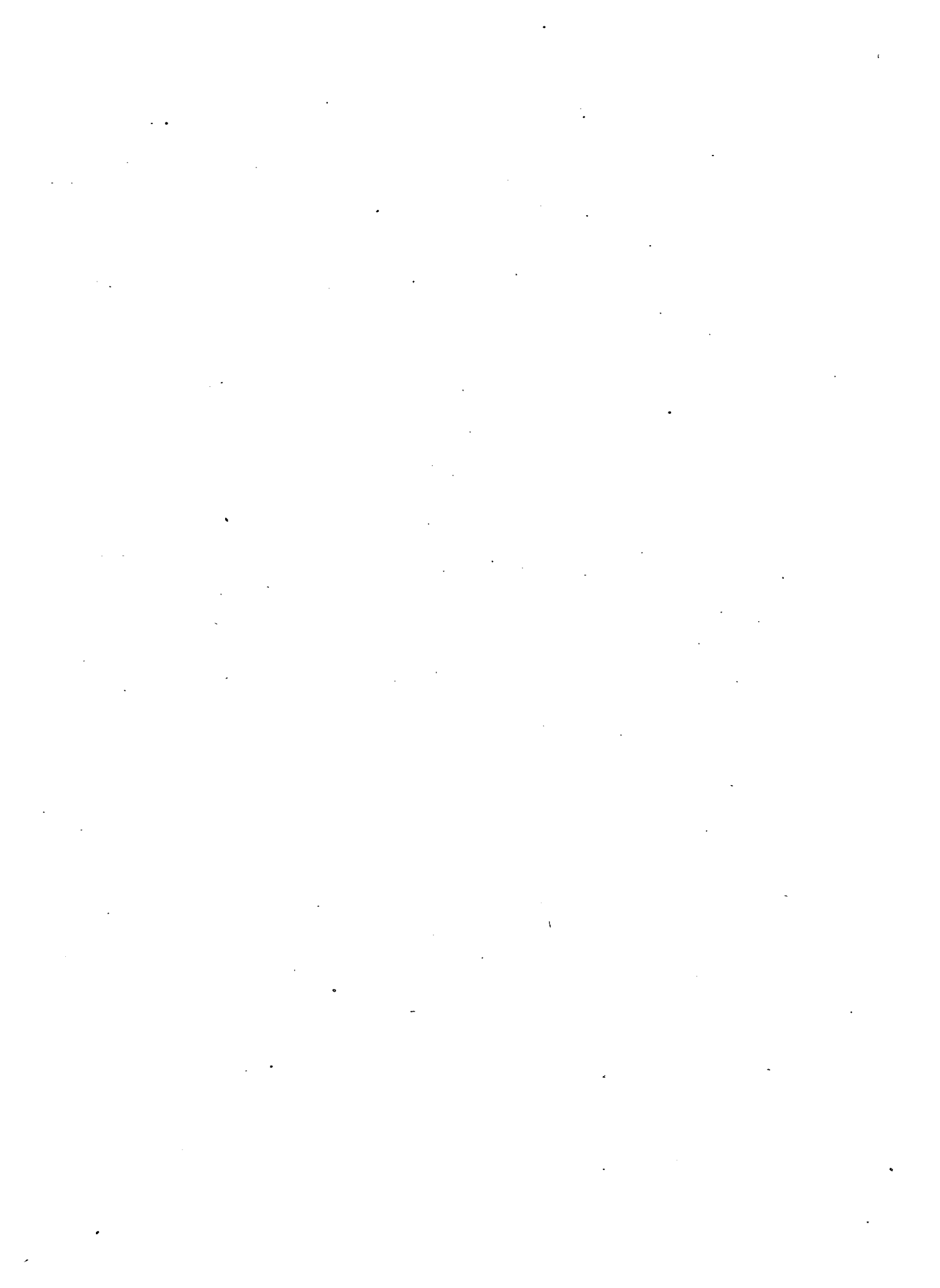
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 18th day of May in the year of our Lord one thousand nine hundred eight-nine.


GOVERNOR



Attest:


SECRETARY OF STATE



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