



# IOWA ADMINISTRATIVE BULLETIN

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Pages 1357 to 1396

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## PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Iowa Code Chapter 17A and 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].

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other "materials deemed fitting and proper by the Administrative Rules Review Committee," include summaries of Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [453.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; and Agricultural Credit Corporation Maximum Loan Rates [535.12].

**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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## 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, 1990, to June 30, 1991	\$199.00 plus \$7.96 sales tax
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Single copies may be purchased for \$6.90 plus \$0.27 tax. Back issues may be purchased if the issues are available.

### Iowa Administrative Code

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**Iowa State Printing Division  
Grimes State Office Building  
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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p.2050, ARC 872A

## Schedule for Rule Making 1991

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
Dec. 7 '90	Dec. 26 '90	Jan. 15	Jan. 30	Feb. 20	Mar. 27	June 24
Dec. 21 '90	Jan. 9	Jan. 29	Feb. 13	Mar. 6	Apr. 10	July 8
Jan. 4	Jan. 23	Feb. 12	Feb. 27	Mar. 20	Apr. 24	July 22
Jan. 18	Feb. 6	Feb. 26	Mar. 13	Apr. 3	May 8	Aug. 5
Feb. 1	Feb. 20	Mar. 12	Mar. 27	Apr. 17	May 22	Aug. 19
Feb. 15	Mar. 6	Mar. 26	Apr. 10	May 1	June 5	Sep. 2
Mar. 1	Mar. 20	Apr. 9	Apr. 24	May 15	June 19	Sep. 16
Mar. 15	Apr. 3	Apr. 23	May 8	May 29	July 3	Sep. 30
Mar. 29	Apr. 17	May 7	May 22	June 12	July 17	Oct. 14
Apr. 12	May 1	May 21	June 5	June 26	July 31	Oct. 28
Apr. 26	May 15	June 4	June 19	July 10	Aug. 14	Nov. 11
May 10	May 29	June 18	July 3	July 24	Aug. 28	Nov. 25
May 24	June 12	July 2	July 17	Aug. 7	Sep. 11	Dec. 9
June 7	June 26	July 16	July 31	Aug. 21	Sep. 25	Dec. 23
June 21	July 10	July 30	Aug. 14	Sep. 4	Oct. 9	Jan. 6 '92
July 5	July 24	Aug. 13	Aug. 28	Sep. 18	Oct. 23	Jan. 20 '92
July 19	Aug. 7	Aug. 27	Sep. 11	Oct. 2	Nov. 6	Feb. 3 '92
Aug. 2	Aug. 21	Sep. 10	Sep. 25	Oct. 16	Nov. 20	Feb. 17 '92
Aug. 16	Sep. 4	Sep. 24	Oct. 9	Oct. 30	Dec. 4	Mar. 2 '92
Aug. 30	Sep. 18	Oct. 8	Oct. 23	Nov. 13	Dec. 18	Mar. 16 '92
Sep. 13	Oct. 2	Oct. 22	Nov. 6	Nov. 27	Jan. 1 '92	Mar. 30 '92
Sep. 27	Oct. 16	Nov. 5	Nov. 20	Dec. 11	Jan. 15 '92	Apr. 13 '92
Oct. 11	Oct. 30	Nov. 19	Dec. 4	Dec. 25	Jan. 29 '92	Apr. 27 '92
Oct. 25	Nov. 13	Dec. 3	Dec. 18	Jan. 8 '92	Feb. 12 '92	May 11 '92
Nov. 8	Nov. 27	Dec. 17	Jan. 1 '92	Jan. 22 '92	Feb. 26 '92	May 25 '92
Nov. 22	Dec. 11	Dec. 31	Jan. 15 '92	Feb. 5 '92	Mar. 11 '92	June 8 '92
Dec. 6	Dec. 25	Jan. 14 '92	Jan. 29 '92	Feb. 19 '92	Mar. 25 '92	June 22 '92
Dec. 20	Jan. 8 '92	Jan. 28 '92	Feb. 12 '92	Mar. 4 '92	Apr. 8 '92	July 6 '92

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.

PRINTING SCHEDULE FOR IAB		
ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
16	Friday, January 18, 1991	February 6, 1991
17	Friday, February 1, 1991	February 20, 1991
18	Friday, February 15, 1991	March 6, 1991

### 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.  
 If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

The Administrative Rules Review Committee will hold its regular, statutory meeting Tuesday, February 12, 1991, at 7 a.m. Possible additional date(s)—times and locations—to be announced. The following rules will be reviewed:

Bulletin

**ADMINISTRATIVE RULES REVIEW COMMITTEE[11]**Rules of procedure, ch 1, Notice ARC 1653A ..... 1/23/91**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**Application of pesticides toxic to bees, 45.31, Notice ARC 1633A, also Filed Emergency ARC 1634A ..... 1/23/91Notification requirements for urban pesticide applications, 45.50, Notice ARC 1617A ..... 1/9/91Organic food production, 47.7(5), Notice ARC 1632A ..... 1/23/91Weights and measures — construction of scale pits, installation of pitless scale, gasoline labeled as "leaded,"  
85.11(1), 85.12(3), 85.48(15), Filed ARC 1631A ..... 1/23/91**ARCHITECTURAL EXAMINING BOARD[193B]**

Professional Licensing and Regulation Division[193]

**COMMERCE DEPARTMENT[181] "umbrella"**Description of organization, registration, continuing education, rules of conduct, 1.1, 1.3, 1.4, 2.2, 2.4, 3.1(2),  
3.1(3), 4.1, 4.1(3)"b," 4.1(4)"c," Notice ARC 1611A ..... 1/9/91**ATTORNEY GENERAL[61]**Iowa mediation program, ch 17, Notice ARC 1602A ..... 1/9/91**CITY DEVELOPMENT BOARD[263]**

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also Filed Emergency ARC 1596A ..... 1/9/91Administrative dismissal of continued appeal, 41.33(9), Notice ARC 1318A Terminated ARC 1598A ..... 1/9/91**ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561] "umbrella"

Emission standards for contaminants, 23.1(2), 23.1(3), Notice ARC 1609A ..... 1/9/91**HUMAN SERVICES DEPARTMENT[441]**Various amendments to update mission and organization of DHS, Code references and implementations, ch 1  
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**INSURANCE DIVISION[191]**

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**LABOR SERVICES DIVISION[347]**

EMPLOYMENT SERVICES DEPARTMENT[341] "umbrella"

- Annual application fee for permit or renewal of permit to remove or encapsulate asbestos, 82.3(2), Notice ARC 1652A ..... 1/23/91

**LIBRARY DIVISION[224]**

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- Photocopying services, 1.4, Notice ARC 1625A ..... 1/9/91

**MEDICAL EXAMINERS BOARD[653]**

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**REVENUE AND FINANCE DEPARTMENT[701]**

- Marijuana and controlled substances stamp tax, 7.2"15," ch 91, Filed ARC 1603A ..... 1/9/91
- Penalty and interest provisions, 10.2, 10.5 to 10.111, 12.10, 12.11, 30.10, 37.10, 44.1 to 44.3, 44.7, 44.8, 46.5, 52.4(7), 52.5(3), 52.6, 58.4(3), 58.5(3), 58.6, 63.8 to 63.10, 81.8 to 81.10, 81.15, 86.2(14) to 86.2(20), 87.3(9) to 87.3(12), 88.3(14), 88.3(15), 89.6, 89.7, 104.8, 104.9, Filed ARC 1641A ..... 1/23/91
- Cigarette tax, 82.1(3), Notice ARC 1640A ..... 1/23/91

**SCHOOL BUDGET REVIEW COMMITTEE[289]**

EDUCATION DEPARTMENT[281] "umbrella"

- Organization, petitions for rule making, declaratory rulings, agency procedure for rule making, public records and fair information practices, duties and operational procedures, chs 1 to 6, Filed ARC 1628A ..... 1/9/91

**STATUS OF BLACKS COMMISSION[434]**

HUMAN RIGHTS DEPARTMENT[421] "umbrella"

- Organization, public records and fair information practices, chs 1, 2, Filed ARC 1636A ..... 1/23/91

**UTILITIES DIVISION[199]****COMMERCE DEPARTMENT[181] "umbrella"**

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Access to affiliate records and requirements for annual filings, ch 31, <u>Filed ARC 1650A</u> .....	1/23/91
Nonutility service, ch 34, <u>Filed ARC 1651A</u> .....	1/23/91

To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]</b>		
Pesticides, 45.50 IAB 1/9/91 ARC 1617A	Auditorium Wallace State Office Bldg. Des Moines, Iowa	February 6, 1991 10 a.m.
Organic food production, 47.7(5) IAB 1/23/91 ARC 1632A	Conference Room—1st Floor Wallace State Office Bldg. Des Moines, Iowa	February 12, 1991 10 a.m.
<b>ATTORNEY GENERAL[61]</b>		
Iowa mediation program, ch 17 IAB 1/9/91 ARC 1602A	Conference Room—2nd Floor Hoover State Office Bldg. Des Moines, Iowa	January 29, 1991 2 p.m.
<b>EDUCATION DEPARTMENT[281]</b>		
Organization and operation, 1.1, 1.3 IAB 1/9/91 ARC 1597A (See also ARC 1596A)	State Board Room Grimes State Office Bldg. Des Moines, Iowa	February 4, 1991 10 a.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b>		
Emission standards for contaminants, 23.1(2), 23.1(3) IAB 1/9/91 ARC 1609A	Conference Room Atlantic Municipal Utilities Bldg. 15 West Third St. Atlantic, Iowa	January 29, 1991 10:30 a.m.
	Room M—118 Oakdale Hall University of Iowa Oakdale Campus Oakdale, Iowa	January 30, 1991 11 a.m.
	Conference Room—5th Floor Wallace State Office Bldg. Des Moines, Iowa	January 31, 1991 11 a.m.
<b>HISTORICAL DIVISION[223]</b>		
Historic property rehabilitation tax exemption, new ch 47 IAB 1/23/91 ARC 1638A	Jay Tone Board Room State Historical Bldg. Capitol Complex Des Moines, Iowa	February 13, 1991 10 a.m.
<b>HUMAN SERVICES DEPARTMENT[441]</b>		
Definitions; independent disability determinations for Medicaid eligibility, 50.1, 75.20, 86.3(6), 86.4 IAB 1/23/91 ARC 1639A	District Office Conference Room—6th Floor 221 4th Ave. S.E. Cedar Rapids, Iowa	February 15, 1991 10 a.m.
	District Office, Lower Level 417 E. Kanessville Blvd. Council Bluffs, Iowa	February 13, 1991 10 a.m.
	District Office Conference Room—5th Floor 428 Western Davenport, Iowa	February 13, 1991 10 a.m.
	District Office Conference Room 100 City View Plaza 1200 University Des Moines, Iowa	February 14, 1991 10 a.m.



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

District Office Mohawk Square 22 North Georgia Ave. Mason City, Iowa	February 13, 1991 1 p.m.
District Office Conference Room—5th Floor 226 West Main Ottumwa, Iowa	February 13, 1991 10 a.m.
District Office Suite 624 507 7th St. Sioux City, Iowa	February 14, 1991 1 p.m.
District Office Pinecrest 1407 Independence Ave. Waterloo, Iowa	February 13, 1991 10 a.m.

## LABOR SERVICES DIVISION[347]

Annual fee for application or  
renewal of asbestos abatement/  
encapsulation contractor license, 82.3  
IAB 1/23/91 ARC 1652A

Labor Services Division  
1000 E. Grand Ave.  
Des Moines, Iowa

February 19, 1991  
9 a.m.  
(If requested)

## NATURAL RESOURCE COMMISSION[571]

State parks and recreation  
areas, amendments  
to ch 61  
IAB 12/26/90 ARC 1578A

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

January 29, 1991  
9 a.m.

## PERSONNEL DEPARTMENT[581]

Classification; pay;  
recruitment, application  
and examination;  
appointments;  
probationary period;  
grievances and appeals;  
leave; public records  
and fair information  
practices, amendments  
to chs 3, 4, 5, 8, 9, 12,  
14, 17  
IAB 12/12/90 ARC 1559A

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

January 24, 1991  
10 a.m.

IPERS, 21.11(7)  
IAB 1/9/91 ARC 1616A

IPERS Conference Room  
Capitol Center—Suite A  
600 East Court Ave.  
Des Moines, Iowa

January 29, 1991  
8 a.m.

## PUBLIC HEALTH DEPARTMENT[641]

Outpatient diabetes education  
programs, ch 9  
IAB 1/9/91 ARC 1619A

Conference Room—3rd Floor  
Lucas State Office Bldg.  
East 12th and Walnut St.  
Des Moines, Iowa

February 6, 1991  
9 a.m.

## RACING AND GAMING COMMISSION[491]

Organization and operation;  
practice and procedure; applications  
for track licenses and racing dates;  
greyhound racing; mutuel rules;  
harness racing; thoroughbred  
racing, amendments to chs 1,  
4, 5, 7, 8, 9, 10  
IAB 1/9/91 ARC 1600A

Conference Room—6th Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

January 29, 1991  
9 a.m.

**SOIL CONSERVATION DIVISION[27]**

Financial incentive  
program for soil  
erosion control,  
10.31(2)  
IAB 12/26/90 ARC 1584A

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

January 23, 1991  
10 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Regulations applicable to carriers;  
license issuance; commercial  
driver licensing, 520.4, 605.1(2),  
605.3 to 605.5, new ch 607  
IAB 11/14/90 ARC 1416A  
(See also ARC 1423A)

Department of Transportation  
Complex  
800 Lincoln Way  
Ames, Iowa

March 5, 1991

**UTILITIES DIVISION[199]**

Consumer comment hearing,  
7.7(16)  
IAB 1/9/91 ARC 1614A

Hearing Room—1st Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

February 21, 1991  
10 a.m.

Alternate energy production,  
amendments to chs 15, 20  
IAB 12/26/90 ARC 1572A

Hearing Room—1st Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

January 30, 1991  
10 a.m.

Applicant payment  
agreements, 19.2, 19.4,  
20.2, 20.4  
IAB 1/9/91 ARC 1613A

Hearing Room—1st Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

February 14, 1991  
10 a.m.

Energy efficiency plans—  
contested case proceeding for  
review, 17.9, 19.11(2), 20.13(3),  
new ch 35  
IAB 1/23/91 ARC 1649A

Hearing Room—1st Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

February 18, 1991  
10 a.m.

9XX blocking, disconnection  
prohibited for failure to  
pay 9XX information services  
charges, 22.4(7), 22.5(13),  
22.5(14)  
IAB 1/23/91 ARC 1648A

Hearing Room—1st Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

March 12, 1991  
10 a.m.

# NOTICE

## 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]

Agricultural Development Authority[25]

Soil Conservation Division[27]

### ATTORNEY GENERAL[61]

### AUDITOR OF STATE[81]

Beef Industry Council, Iowa[101]

Blind, Department For The[111]

### CAMPAIGN FINANCE DISCLOSURE COMMISSION[121]

### CITIZENS' AIDE[141]

### CIVIL RIGHTS COMMISSION[161]

### COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Savings and Loan Division[197]

Utilities Division[199]

### CORRECTIONS DEPARTMENT[201]

Parole Board[205]

### CULTURAL AFFAIRS DEPARTMENT[221]

Historical Division[223]

Library Division[224]

Public Broadcasting Division[225]

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

City Development Board[263]

Iowa Finance Authority[265]

High Technology Council[267]

### EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

School Budget Review Committee[289]

Egg Council[301]

### ELDER AFFAIRS DEPARTMENT[321]

### EMPLOYMENT SERVICES DEPARTMENT[341]

Industrial Services Division[343]

Job Service Division[345]

Labor Services Division[347]

EXECUTIVE COUNCIL[361]  
 Fair Board[371]  
 GENERAL SERVICES DEPARTMENT[401]  
 Health Data Commission[411]  
 HUMAN RIGHTS DEPARTMENT[421]  
 Children, Youth, and Families Division[425]  
 Community Action Agencies Division[427]  
 Deaf Services, Division of[429]  
 Persons With Disabilities Division[431]  
 Spanish — Speaking People Division[433]  
 Status of Blacks Commission[434]  
 Status of Women Division[435]  
 HUMAN SERVICES DEPARTMENT[441]  
 INSPECTIONS AND APPEALS DEPARTMENT[481]  
 Employment Appeal Board[486]  
 Foster Care Review Board[489]  
 Racing and Gaming Commission[491]  
 International Network on Trade (INTERNET)[497]  
 LAW ENFORCEMENT ACADEMY[501]  
 Livestock Health Advisory Council[521]  
 MANAGEMENT DEPARTMENT[541]  
 Appeal Board, State[543]  
 City Finance Committee[545]  
 County Finance Committee[547]  
 Narcotics Enforcement Advisory Council[551]  
 NATURAL RESOURCES DEPARTMENT[561]  
 Energy and Geological Resources[565]  
 Environmental Protection Commission[567]  
 Natural Resource Commission[571]  
 Preserves, State Advisory Board[575]  
 PERSONNEL DEPARTMENT[581]  
 Petroleum Underground Storage Tank Fund  
 Board, Iowa Comprehensive[591]  
 PUBLIC DEFENSE DEPARTMENT[601]  
 Disaster Services Division[607]  
 PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
 PUBLIC HEALTH DEPARTMENT[641]  
 Substance Abuse Commission[643]  
 Professional Licensure Division[645]  
 Dental Examiners[650]  
 Medical Examiners[653]  
 Nursing Board[655]  
 Pharmacy Examiners[657]  
 PUBLIC SAFETY DEPARTMENT[661]  
 Records Commission[671]  
 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]  
 Wallace Technology Transfer Foundation[851]

## REORGANIZATION—NOT IMPLEMENTED

Agencies listed below are identified in the Iowa Administrative Code with white tabs. These agencies have not yet implemented government reorganization.

Citizen's Aide[210]  
 Corrections Department[291]  
 Executive Council[420]  
 Iowa Advance Funding Authority[515]  
 Iowa Finance Authority[524]  
 Library Department[560]  
 Prison Industries Advisory Board[635]  
 Product Development Corporation[636]  
 Records Commission[710]  
 Veterans Affairs[841]

**ARC 1653A****ADMINISTRATIVE RULES  
REVIEW COMMITTEE[11]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 17A.8(4), the Administrative Rules Review Committee proposes to rescind their Rules of Procedure, published in the Iowa Administrative Code, Volume I, under the General Information tab.

Any interested person may make written suggestions or comments on the proposed rules prior to February 13, 1991. Written materials should be directed to Joseph Royce, Legal Counsel, Administrative Rules Review Committee, Capitol Building, Room 116A, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code section 17A.8.

Committee Rules of Procedure 1 to 15 are rescinded and the following adopted:

**CHAPTER 1****RULES OF PROCEDURE****11—1.1(17A) Organization and operation.**

**1.1(1) Membership.** The administrative rules review committee consists of six members, three from the house of representatives and three from the senate.

**1.1(2) Staff.** The committee has two staff persons. The legal counsel is located in the Capitol, Room 116A, Des Moines, Iowa 50319, telephone (515) 281-3084.

The committee secretary is located in the Lucas State Office Building, Fourth Floor, Des Moines, Iowa 50319, telephone (515) 281-3355.

**1.1(3) Quorum.** A quorum of the committee consists of four members. Except as specifically provided by law, a majority vote of the entire committee is required to take any action.

**1.1(4) Special meetings.** The chair or vice chair may call special meetings, giving at least four days' notice of that meeting. The chair or vice chair shall call a special meeting on the written request of two or more committee members.

**1.1(5) Agenda of meetings.** An agenda shall be prepared for each meeting and is available at the committee staff office in the capitol or from the secretary. Each agency whose rules are scheduled for review by the committee shall be provided with a copy of the agenda. The agency is then responsible to have a representative present at the meeting, unless attendance is waived by the committee.

**1.1(6) Oral presentation.** Any committee member may request, on behalf of the committee, that an agency schedule an opportunity for oral presentation on a proposed rule.

**1.1(7) Motions.** Motions do not require seconds and may be made by any member of the committee. If any member requests a roll call motion, the ayes and nays shall be recorded.

**1.1(8) Procedure.** In cases not covered by these rules, Mason's Manual of Legislative Procedure shall govern.

**1.1(9) Minutes.** The secretary is responsible for the taking of minutes of each meeting. When approved by the committee, these minutes are public information and constitute the only official record of committee proceedings. Tape recordings used to prepare the minutes are available only with the approval of the chair or vice chair. A charge based on actual cost, as determined by the chair or vice chair, shall be imposed to obtain a copy of a tape or minutes. The tape or minutes are available only after the minutes have been approved by the committee.

**11—1.2(17A) Committee actions.**

**1.2(1) Objections.** An objection voted by the committee shall be certified either by the chair or vice chair.

**1.2(2) Session delay.** Pursuant to the authority of Iowa Code section 17A.8(9), the committee may, by two-thirds vote, delay the effective date of a rule until the adjournment of the next regular session of the general assembly. Before imposing a delay, the committee may, upon request by the affected agency, instead impose a 70-day delay, pursuant to Iowa Code section 17A.4(5), to allow the affected agency an opportunity to submit oral or written comments in support of the rule. These comments shall be considered by the committee at a subsequent meeting within the 70-day period. The committee may then take any action authorized by law.

**1.2(3) Rescission of earlier actions.** The committee may at any time review earlier actions it has taken and may modify, rescind or reconsider that action. Any modification or rescission shall follow the same procedure required for the original action.

**11—1.3(17A) Substantive rules.** In examining and evaluating rules, the committee has developed a number of informal policies. These policies are set out below.

**1.3(1) Changes in the text between a notice of intended action and adopted rule.** The committee will object to any adopted rule in which the text of that rule has been so changed from the notice of intended action that interested persons did not have adequate notice of the actual rule adopted by the agency. This determination will be based on the following factors:

a. The extent to which an individual concerned with the adopted rule should have understood that the proposed rule could have affected their interests;

b. The extent to which the subject matter or issues involved in the adopted rule differed from those of the proposed rule; and

c. The extent to which the effects of the adopted rule differed from the effects that would have occurred if the proposed rule had been adopted.

**1.3(2) Quorum requirements and related matters.** Iowa Code section 17A.2 specifically establishes a quorum requirement, for boards and commissions, of not less than two-thirds of the entire membership, unless otherwise provided by statute. In addition to this requirement, the committee insists that any action taken by a board or commission be based on a majority vote of the entire board or commission. The committee will object or take other action on any rule that allows board or commission action based on a majority of those present and voting.

**1.3(3) Criteria for awards or grants.** Numerous state programs provide grants, loans or other types of awards. To ensure impartial evaluations for all applicants, the

## ADMINISTRATIVE RULES REVIEW COMMITTEE[11] (cont'd)

committee insists that the criteria for making the awards be set out in administrative rules in full detail. If an agency chooses to use a point system to award different weights to different criteria, that point system must also be set out as part of the rules.

1.3(4) Adoption of materials by reference. If a rule adopts an Iowa statute or an Iowa administrative rule by reference, that adoption includes all subsequent amendments to that statute or rule. Any other material adopted by reference cannot include subsequent amendments and the citation must include a date certain identifying either the effective date or publication date of the material.

**ARC 1633A****AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 159.5(11) and 206.11(3) "b" and "c," the Iowa Department of Agriculture and Land Stewardship adopts an amendment to rule 21—45.31(206) Application of pesticides toxic to bees, Iowa Administrative Code.

This amendment alters the date by which beekeepers ("owners of apiaries") shall register the location of their bee yards from May 1 to April 1 each year. The existing rule provides a mechanism for beekeepers to be notified prior to a pesticide toxic to bees being sprayed within a two-mile radius of their apiary. This gives the beekeeper the opportunity to protect hives against possible damage due to the application of pesticides. The April 1 deadline will allow notification a month earlier to better protect honeybees from early season pesticide applications.

This amendment is being simultaneously Adopted and Filed Emergency and is published herein as **ARC 1634A** as an interim rule pending this rule-making action.

Any interested person may make written suggestions or comments on this proposed amendment prior to Tuesday, February 12, 1991. Such written materials should be directed to Robert L. Cox, State Apiarist, Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 206.11(3) "b" and "c."

Amend rule 21—45.31(206), introductory paragraph, as follows:

**21—45.31(206) Application of pesticides toxic to bees.** Owners of apiaries, in order to protect their hives from

pesticide applications, shall register the telephone number where they can be reached and the locations of bee yards on forms, DOA #10, Apiary Registration Form provided by the department, with the state apiarist, before ~~May~~ April 1 of each year. Within 30 days thereafter, the department shall provide each ASCS office with information of such locations indicating township, section and range of bee yards in that county, along with the telephone number of each registered owner.

**ARC 1632A****AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 190B.7, the Iowa Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 47, "Organic Food Production," Iowa Administrative Code.

The proposed amendment sets out the requirements for vendors of organic foods pending the implementation of national organic food production standards.

Any interested person may make written suggestions or comments on this proposed amendment prior to February 13, 1991. Such written materials should be directed to Dale M. Cochran, Secretary of Agriculture, Henry A. Wallace Building, Des Moines, Iowa 50319.

There will be a public hearing on February 12, 1991, at 10 a.m. in the First Floor Conference Room of the Henry A. Wallace Building, East Ninth and Grand Avenue, Des Moines, Iowa. Persons may present their views at the hearing either orally or in writing.

This proposed subrule is intended to implement Iowa Code chapter 190B.

The following amendment is proposed:

Rescind subrule 47.7(5) and insert in lieu thereof the following:

**47.7(5) Implementation.** Pending the implementation of national standards for organic food production, vendors may comply with 21—47.7(190B) by obtaining the sworn statements required herein. Mailing of notice of the requirements of 21—47.7(190B) to each one of a vendor's suppliers of organic foods no later than January 1 of each year shall be deemed to be sufficient good faith effort for the purposes of this rule, provided complete records of the mailing are maintained by the vendor.

## NOTICE — AGRICULTURAL CREDIT CORPORATION MAXIMUM LOAN RATE

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

September 1, 1988 — September 30, 1988	9.75%
October 1, 1988 — October 31, 1988	10.00%
November 1, 1988 — November 30, 1988	10.00%
December 1, 1988 — December 31, 1988	10.00%
January 1, 1989 — January 31, 1989	10.25%
February 1, 1989 — February 28, 1989	10.50%
March 1, 1989 — March 31, 1989	10.50%
April 1, 1989 — April 30, 1989	11.00%
May 1, 1989 — May 31, 1989	11.25%
June 1, 1989 — June 30, 1989	11.25%
July 1, 1989 — July 31, 1989	10.75%
August 1, 1989 — August 31, 1989	10.25%
September 1, 1989 — September 30, 1989	9.75%
October 1, 1989 — October 31, 1989	10.00%
November 1, 1989 — November 30, 1989	10.00%
December 1, 1989 — December 31, 1989	9.75%
January 1, 1990 — January 31, 1990	9.65%
February 1, 1990 — February 28, 1990	9.75%
March 1, 1990 — March 31, 1990	9.85%
April 1, 1990 — April 30, 1990	9.85%
May 1, 1990 — May 31, 1990	9.85%
June 1, 1990 — June 30, 1990	10.00%
July 1, 1990 — July 31, 1990	9.75%
August 1, 1990 — August 31, 1990	9.80%
September 1, 1990 — September 30, 1990	9.55%
October 1, 1990 — October 31, 1990	9.55%
November 1, 1990 — November 30, 1990	9.50%
December 1, 1990 — December 31, 1990	9.05%
January 1, 1991 — January 31, 1991	9.15%

## ARC 1638A

### HISTORICAL DIVISION [223]

#### Amended Notice of Intended Action

Pursuant to the authority of Iowa Code sections 303.1A and 427.16, the Department of Cultural Affairs, on behalf of the Historical Division (State Historical Society of Iowa), amends its Notice of Intended Action to adopt Chapter 47, "Historic Property Rehabilitation Tax Exemption," Iowa Administrative Code, published in the Iowa Administrative Bulletin on November 28, 1990, as **ARC 1463A**.

Due to inclement weather the public hearing scheduled on December 20, 1990, at 10 a.m. in Classroom A of the new State Historical Building, Capitol Complex, Des Moines, Iowa 50319, was canceled. This hearing has been rescheduled for February 13, 1991, at 10 a.m. in the Jay Tone Board Room of the new State Historical Building, Capitol Complex, Des Moines, Iowa 50319. Persons may present their views at this hearing either orally or in writing.

Any interested person or group may make written suggestions or comments on these proposed rules prior to February 13, 1991. Written comments should be directed to the Administrator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319.

These proposed rules were published in the IAB Vol. XIII, No. 11 (11/28/90) p. 1002, **ARC 1463A**, and were also simultaneously Adopted and Filed Emergency as **ARC 1464A**. The content of that submission is incorporated here by reference.

These proposed rules are intended to implement Iowa Code sections 303.2 and 427.16.

## ARC 1639A

### HUMAN SERVICES DEPARTMENT[441]

#### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 217.6 and 249A.4, the Department of Human Services proposes to amend Chapter 50, "Application for Assistance," Chapter 75, "Conditions of Eligibility," and Chapter 86, "Medically Needy," appearing in the Iowa Administrative Code.

These amendments specify when the Department must make independent disability determinations for Medicaid eligibility and place procedures for determining disability in the Iowa Administrative Code. In addition, the definitions of aged, blind, and disabled are added to the rules.

These procedures provide that the Department shall deny or cancel Medicaid eligibility when a person has applied for Supplemental Security Income (SSI) and been denied as not disabled, unless one of the following criteria is met:

1. The person alleges a disabling condition different from or in addition to the conditions considered by the Social Security Administration (SSA).

2. More than 12 months have elapsed since the SSA decision became final, the person alleges a new period of disability, and the person has not refiled for SSI.

3. Less than 12 months have elapsed, the person claims a change or deterioration and a new period of disability, and (1) SSA has refused to reconsider or reopen its disability decision to consider the new allegations or (2) the person no longer meets the nondisability requirements for SSI but may meet the state's.

If any of the above criteria are met, the Department has an agreement with the Iowa Department of Education, Vocational Rehabilitation Services Division, Disability Determination Service Bureau (DDS), to determine Medicaid disability for SSI-related persons.

Under Federal Court decisions in *Armstrong v. Palmer* (879 F 2nd 437 (8th Cir 1989)), the Department

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

followed SSA's decisions on SSI disability determinations in all but three situations: (1) Since the time SSI was applied for and denied, the person changed age categories. (2) The person's condition worsened since the latest SSI decision. (3) The person was eligible only for the Medically Needy coverage group because the person was over income or resources for SSI.

Federal regulations issued December 11, 1989, set forth more specifically the circumstances under which the Department is required to make an independent determination of eligibility. These regulations apply to both the Medically Needy coverage group and other SSI-related coverage groups. The Department sought and has received a modification of a court order in the Armstrong case so that the Department can follow the new regulations for the Medically Needy coverage group.

This change in policy may result in the cancellation of some currently eligible Medicaid recipients when these rules become effective.

These amendments also specify that when a person has applied for SSI because the person is disabled and also applies for Medicaid because the person is disabled or applies for SSI within ten working days after a Medicaid application, the Department shall wait on a decision on SSI eligibility.

As a part of the agreement between DDS and the Department, DDS has agreed that when the Department notifies DDS of a Medicaid application on a pending SSI application, DDS will make every reasonable effort to complete these disability determinations within 80 days of the date of the Medicaid application.

These provisions were written into the agreement to ensure that when the Department waits on an SSI decision on disability, the decision will be made within the 90-day time frames specified by federal Medicaid regulations.

Further, because DDS does both SSI and Medicaid disability determinations, sending a case to DDS for a Medicaid determination when DDS is already processing an SSI determination will not result in any faster action. Finally, any SSI decision made after a Medicaid decision would override the Medicaid decision in any event.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before February 13, 1991.

Oral presentations may be made by appearing at the following meetings. Written comments will also be accepted at that time.

Cedar Rapids — February 15, 1991	10 a.m.
Cedar Rapids District Office Conference Room — 6th Floor 221 4th Avenue, S.E. Cedar Rapids, Iowa 52401	
Council Bluffs — February 13, 1991	10 a.m.
Council Bluffs District Office, Lower Level 417 E. Kanessville Boulevard Council Bluffs, Iowa 51501	
Davenport — February 13, 1991	10 a.m.
Davenport District Office Fifth Floor Conference Room 428 Western Davenport, Iowa 52801	

Des Moines — February 14, 1991	10 a.m.
Des Moines District Office City View Plaza, Conference Room 100 1200 University Des Moines, Iowa 50314	
Mason City — February 13, 1991	1 p.m.
Mason City District Office Mohawk Square 22 North Georgia Avenue Mason City, Iowa 52401	
Ottumwa — February 13, 1991	10 a.m.
Ottumwa District Office Fifth Floor Conference Room 226 West Main Ottumwa, Iowa 52501	
Sioux City — February 14, 1991	1 p.m.
Sioux City District Office Suite 624 507 7th Street Sioux City, Iowa 51101	
Waterloo — February 13, 1991	10 a.m.
Waterloo District Office Pinecrest 1407 Independence Avenue Waterloo, Iowa 50701	

These rules are intended to implement Iowa Code sections 249.3 and 249A.4.

The following amendments are proposed:

ITEM 1. Amend rule 441—50.1(249) by adding the following definitions in alphabetical order:

"Aged" shall mean a person 65 years of age or older.

"Blind" shall mean a person with central visual acuity of 20/200 or less in the better eye with use of corrective lens or visual field restriction to 20 degrees or less.

"Disabled" shall mean a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months or can be expected to result in death. A child under the age of 18 is disabled if the child suffers from any medically determinable physical or mental impairment of comparable severity. For purposes of state-administered payments, determinations of disability shall be made by the department according to rule 441—75.20(249A).

ITEM 2. Amend 441—Chapter 75 by adding the following new rule:

**441—75.20(249A) Disability requirements for SSI-related Medicaid.**

75.20(1) Applicants receiving federal benefits. An applicant receiving supplemental security income on the basis of disability, social security disability benefits under Title II of the Social Security Act, or railroad retirement benefits based on the Social Security law definition of disability by the Railroad Retirement Board, shall be deemed disabled without further determination of disability.

75.20(2) Applicants not receiving federal benefits. When disability has not been established based on the receipt of social security disability or railroad retirement benefits based on the same disability criteria as used by the Social Security Administration, the department



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

shall determine eligibility for SSI-related Medicaid based on disability as follows:

a. A Supplemental Security Administration (SSA) disability determination on a supplemental income application is binding on the department until changed by SSA unless the applicant meets one of the following criteria:

(1) The applicant alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

(2) The applicant alleges more than 12 months after the most recent SSA determination denying disability that the appellant's condition has changed or deteriorated since that SSA determination and alleges a new period of disability which meets the durational requirements, and has not applied to SSA for a determination with respect to these allegations.

(3) The applicant alleges less than 12 months after the most recent SSA determination denying disability that the appellant's condition has changed or deteriorated since that SSA determination, alleges a new period of disability which meets the durational requirements, and:

1. The appellant has applied to SSA for reconsideration or reopening of its disability decision and SSA refused to consider the new allegations, or

2. The appellant no longer meets the nondisability requirements for SSI but may meet the department's nondisability requirements for Medicaid eligibility.

b. When there is no binding SSI decision and the department is required to establish eligibility for SSI-related Medicaid based on disability, initial determinations shall be made by disability determination services, a bureau of the Iowa department of education under the division of vocational rehabilitation services.

A disability report shall be completed by the client on Form 470-2465, Disability Report. A signed release, Form 470-2467, Authorization for Source to Release Information to the Department of Human Services, shall be completed for each medical source listed on the Disability Report.

c. When an SSI decision on disability is pending when the person applies for Medicaid or when the person applies for SSI within ten working days of the Medicaid application, the department shall stay a decision on disability pending the SSI decision on disability.

**75.20(3)** Time frames for decisions. Determination of eligibility based on disability shall be completed within 90 days unless the applicant or an examining physician delays or fails to take a required action, or there is an administrative or other emergency beyond the department's or applicant's control.

**75.20(4)** Redeterminations of disability. In connection with any independent determination of disability, the department will determine whether reexamination of the person's medical condition will be necessary for periodic redeterminations of eligibility.

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

ITEM 3. Amend subrule 86.3(6) as follows:

**86.3(6)** An applicant receiving social security disability benefits under Title II of the Social Security Act or railroad retirement benefits based on the Social Security Act definition of disability by the Railroad Retirement Board shall be deemed disabled without any further determination. In other cases under the medically needy program, the department will conduct an independent

determination of disability unless the applicant has been denied supplemental security income benefits based on lack of disability and does not allege either (1) a disabling condition different from or in addition to that considered by the Social Security Administration, or (2) that the appellant's condition has changed or deteriorated since the most recent Social Security Administration determination.

a. In conducting an independent determination of disability, the department will use the same criteria required by federal law to be used by the Social Security Administration of the United States Department of Health and Human Services in determining disability for purposes of Supplemental Security Income under Title XVI of the Social Security Act and disability benefits under Title II of the Social Security Act. The disability determination services bureau of the division of vocational rehabilitation shall make the initial disability determination on behalf of the department.

b. For an independent determination of disability, a medical disability report from a qualified physician and a social history must be obtained from the applicant or recipient or the applicant's or recipient's authorized representative. The medical disability report must be submitted on Form PA-2128-4, Medical Report on Disability 470-2465, Disability Report, except when equivalent information regarding diagnosis, prognosis, and effect on activity is contained in a written, detailed statement. A signed Authorization for Source to Release Information to the Department of Human Services, Form 470-2467, shall be completed for each medical source listed on the disability report. The social history shall be submitted on Form PA-2129-4, Social History Report, except when equivalent information regarding capabilities; skills; education; employment history; living conditions; and attitudes of the applicant is contained in a written, detailed statement. The medical report and social history must describe the current condition of the applicant based upon an examination made within six months of the date of application. The department may also consider, as evidence, any disability determination by the Social Security Administration of the United States Department of Health and Human Services for purposes of Supplemental Security Income under Title XVI of the Social Security Act or disability benefits under Title II of the Social Security Act. The department's decision shall be based on all relevant evidence submitted by the applicant or obtained by the department.

c. In connection with any independent determination of disability, the department will determine whether reexamination of the person's medical condition will be necessary for periodic redeterminations of eligibility.

d. The department's initial decision shall be made by a physician and social worker, qualified by professional training and experience. This decision is subject to appeal pursuant to 441—Chapter 7.

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

ITEM 4. Amend rule 441—86.4(249A) as follows:

**441—86.4(249A) Time limit for decision.** The applicant shall receive a written notice of approval, conditional eligibility, or denial as soon as possible, but no later than forty-five (45) days from the date of application. This time standard shall apply except in unusual circumstances such as when the local office and the applicant have

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

made every reasonable effort to secure necessary information which has not been supplied by the date the time limit has expired, or because of emergency situations such as fire, flood, or other conditions beyond the administrative control of the local office.

*In the event disability has not been determined after sixty (60) days, the application shall be denied. Determination of eligibility based on disability shall be completed according to time frames established in subrule 75.20(3).*

This rule is intended to implement Iowa Code section 249A.4 and 1985 Iowa Acts, chapter 239, section 7.

**ARC 1643A****INSURANCE DIVISION****NOTICE OF PROPOSED WORKERS'  
COMPENSATION RATE FILING**

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects premium rates for workers' compensation insurance.

This filing proposes an overall increase in premium level of 10.0% attributable solely to experience.

The rate filing has a proposed effective date of April 1, 1991. An affected workers' compensation policyholder or established organization with one or more workers' compensation policyholders among its members may request a hearing on this filing before the Commissioner. The request must be filed within fifteen days of the date of this publication and shall be made to the Commissioner of Insurance at the Insurance Division of the State of Iowa, Lucas State Office Building, Sixth Floor, Des Moines, Iowa 50319.

**ARC 1644A****INSURANCE DIVISION****NOTICE OF PROPOSED WORKERS'  
COMPENSATION RATE FILING**

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects premium rates for workers' compensation insurance.

This filing proposes an overall increase in premium level of 5.7% attributable solely to a change in the trend factor.

The rate filing has a proposed effective date of April 1, 1991. An affected workers' compensation policyholder or established organization with one or more workers' compensation policyholders among its members may request a hearing on this filing before the Commissioner. The request must be filed within fifteen days of the date of this publication and shall be made to the Commissioner of Insurance at the Insurance Division of the State of Iowa, Lucas State Office Building, Sixth Floor, Des Moines, Iowa 50319.

**ARC 1645A****INSURANCE DIVISION****NOTICE OF PROPOSED WORKERS'  
COMPENSATION RATE FILING**

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects premium rates for workers' compensation insurance.

This filing proposes an increase of +0.9% for taxes, an increase of +0.03% due to benefits, an increase of +5.7% due to United States Longshore and Harbor Workers' Coverages, an increase of +6.5% due to surface mines, and an increase of 17.6% due to underground mines.

The rate filing has a proposed effective date of April 1, 1991. An affected workers' compensation policyholder or established organization with one or more workers' compensation policyholders among its members may request a hearing on this filing before the Commissioner. The request must be filed within fifteen days of the date of this publication and shall be made to the Commissioner of Insurance at the Insurance Division of the State of Iowa, Lucas State Office Building, Sixth Floor, Des Moines, Iowa 50319.

**ARC 1646A****INSURANCE DIVISION****NOTICE OF PROPOSED WORKERS'  
COMPENSATION RATE FILING**

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects premium rates for workers' compensation insurance.

This filing is a Rates and Rating Values filing and when combined with three other independent filings produces an overall premium level increase of 17.3%.

The rate filing has a proposed effective date of April 1, 1991. An affected workers' compensation policyholder or established organization with one or more workers' compensation policyholders among its members may request a hearing on this filing before the Commissioner. The request must be filed within fifteen days of the date of this publication and shall be made to the Commissioner of Insurance at the Insurance Division of the State of Iowa, Lucas State Office Building, Sixth Floor, Des Moines, Iowa 50319.

**ARC 1647A****INSURANCE DIVISION****NOTICE OF PROPOSED WORKERS'  
COMPENSATION RATE FILING**

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects premium rates for workers' compensation insurance.

## INSURANCE DIVISION (cont'd)

This filing proposes an overall increase in premium level for employers liability coverage of +17.3%.

The rate filing has a proposed effective date of April 1, 1991. An affected workers' compensation policyholder or established organization with one or more workers' compensation policyholders among its members may request a hearing on this filing before the Commissioner. The request must be filed within fifteen days of the date of this publication and shall be made to the Commissioner of Insurance at the Insurance Division of the State of Iowa, Lucas State Office Building, Sixth Floor, Des Moines, Iowa 50319.

**ARC 1652A****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)<sup>b</sup>.

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

Pursuant to the authority of Iowa Code sections 88B.3 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to amend rule 347—82.3(88B) relating to the annual fee for the application or renewal of an asbestos abatement/encapsulation contractor license, Iowa Administrative Code.

This amendment relates to the required annual fee.

If requested by February 15, 1991, a public hearing will be held on February 19, 1991, at 9 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 February 20, 1991, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209.

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 by Iowa Code section 17A.31 if a written request is filed by delivery or by mailing postmarked no later than February 18, 1991, 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 88B.3.

Rescind subrule 82.3(2) and insert the following:

**82.3(2)** Application fee. The annual application fee for a permit or the renewal of a permit is \$500. This fee is nonrefundable.

**ARC 1640A****REVENUE AND FINANCE  
DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 421.14, the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 82, "Cigarette Tax," Iowa Administrative Code.

This amendment is being made to clarify the number of permits a cigarette vendor is required to obtain from the Department.

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

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than February 12, 1991, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before February 22, 1991. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, at (515) 281-4250 or at Department of Revenue and Finance offices on the Fourth Floor of the Hoover State Office Building.

Requests for a public hearing must be received by February 15, 1991.

This amendment is intended to implement Iowa Code section 98.13.

The following amendment is proposed.

Amend subrule 82.1(3), first unnumbered paragraph, by adding the following sentence prior to the last sentence, which begins with "A duplicate permit can . . ." and, in addition, adding the following example after the last sentence of that unnumbered paragraph:

The duplicate permit applies to additional places of business from which the cigarette vendor conducts operations and not to those places of business where the cigarette vending machines are installed for retail sales.

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

EXAMPLE: A cigarette vendor owns three warehouses from which the vendor supplies cigarettes to 100 vending machines located at various retail establishments. The total permit cost for the vendor would be \$110 (\$100 for a regular permit plus \$10 for two duplicate permits at \$5 each).

ARC 1649A

UTILITIES DIVISION[199]

Notice of Termination and 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.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 453.6, the Committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Banking Robert R. Rigler, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for January is 10.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

- 74A.2 Unpaid Warrants . . . . . Maximum 7.5%
64A.4 Special Assessments . . . Maximum 12.0%

RECOMMENDED for 74A.3 and 74A.7: A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective January 2, 1991, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7 - 31 days . . . . . Minimum 6.20%
32 - 89 days . . . . . Minimum 6.30%
90 - 179 days . . . . . Minimum 6.40%
180 - 364 days . . . . . Minimum 6.50%
One year . . . . . Minimum 6.50%
Two years or more . . . . . Minimum 7.10%

These are minimum rates only. The one year and less are six-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

Pursuant to Iowa Code section 17A.4(1)'b,' the Iowa Utilities Board (Board) terminates the rule-making proceedings initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on September 19, 1990, as ARC 1281A and hereby gives notice that on January 4, 1991, the Board issued an order in Docket No. RMU-90-27, In Re: Energy Efficiency Plans, "Order Renouncing Rule Making," to consider the addition of 199 IAC 35.

Written comments were received on ARC 1281A, and on October 29, 1990, an oral presentation was held. On the basis of the written and oral comments of the interested parties, the Board's staff has recommended changes to the proposed rules. Prior to adopting the rules, the Board will provide all interested parties an additional opportunity to comment on this revised version of the rules. Therefore, the Board will schedule an additional written and oral comment proceeding prior to adoption of the rules.

The proposed rules are intended to implement the mandate established by the 73rd Iowa General Assembly in 1990 Iowa Acts, chapter 1252. The proposed rules outline the requirements of the energy efficiency plans and provide a contested case proceeding for review of those plans by the Board.

Pursuant to Iowa Code section 476.2, rate-regulated gas and electric utilities shall be required to file initial plans no later than four months after the effective date of these rules. After considering the additional comments to this revised version of the proposed rules, the Board intends to adopt these rules on an emergency basis, pursuant to Iowa Code section 17A.5(2)'b'(2). Because the Board is scheduling an additional comment period, interested parties will have two opportunities to comment on the rules prior to adoption. In addition, the rules confer a benefit on the public. The economy of the state will be enhanced and the state's dependence on energy resources from outside the state will be decreased through the development of programs that promote energy efficiency. See Iowa Code section 17A.5(2)'b'(2).

The revisions to the proposed rules clarify areas of the proposed rules which the commenters indicated were ambiguous. Several existing definitions were clarified in proposed rule 35.2(476) and additional definitions were added. In response to comments, the revised rules require the utilities to file discs and hard copies of data inputs and program outputs for filings derived from computer programs. Language describing the modification process was clarified and language was added to subrule 35.9(6) to require information regarding capacity costs of supply options allocated to costing periods. The concept of "costing periods" was expanded by adding summer and winter seasons to clarify the information required to be

## UTILITIES DIVISION[199] (cont'd)

filed. In addition, in response to comments, the revised version of the proposed rule excludes supply-side energy efficiency options. While significant savings may be achieved through supply-side energy efficiency, these programs should be a part of the ongoing maintenance and operations of the utility. The Board may address these programs in a different context at some later time.

Any interested person may file a written statement of position pertaining to the proposed chapter. The statement must be filed on or before February 12, 1991, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All communications shall clearly indicate the author's name and the docket number in which the comment is submitted. All communications shall be directed to the Executive Secretary, Iowa Utilities Board, Lucas State Office Building, Des Moines, Iowa 50319.

An oral presentation is scheduled on February 18, 1991, at 10 a.m. in the First Floor Hearing Room, Lucas State Office Building, Des Moines, Iowa, for the purpose of receiving oral comments.

These rules are intended to implement Iowa Code sections 476.1, 476.2, 476.6(19-21), and 476.10A.

ITEM 1. The following new chapter is proposed:

## CHAPTER 35

ENERGY EFFICIENCY PLANNING  
AND COST REVIEW

**199—35.1(476) Policy and purpose.** The board deems the implementation of effective energy efficiency plans by utilities and the opportunity of the utilities' customers to participate in and benefit from the energy efficiency plans to be of the highest priority.

These rules are intended to implement Iowa Code sections 476.1, 476.2, 476.6(19-21), and 476.10A for rate-regulated gas and electric utilities and to provide the board the necessary information to evaluate the appropriateness of each utility's energy efficiency plan.

Information provided in each plan shall be filed in the following sequence and shall include:

1. A transmittal letter, as provided in rule 35.8(476).
2. An executive summary, as provided in rule 35.8(476).
3. A forecast of the utility's future energy and capacity requirements compared with existing supplies to determine the need for and timing of new resources, as provided in rule 35.9(476) or 35.10(476).
4. A review of supply-side options which could meet the projected capacity shortfalls to develop present values of the utility's avoided costs, as provided in rule 35.9(476) or 35.10(476).
5. An assessment of various demand-side energy efficiency options reflecting potential to meet forecasted needs, as provided in rule 35.8(476).
6. A determination of cost-effectiveness by comparing the costs of programs to avoided costs, as provided in rule 35.8(476). Demand-side programs which pass the societal benefit/cost test using a discount rate reflecting the time value of money to society are considered cost-effective.
7. A list of the utility's proposed energy efficiency programs, the proposed budget, and the monitoring and evaluation procedures for the programs, as provided in rule 35.8(476).

**199—35.2(476) Definitions.** The following words and terms, when used in this chapter, shall have the meanings shown below:

"Avoided cost" means the cost the utility would have to pay to provide energy and capacity from alternative sources of supply available to utilities as calculated pursuant to the formulas in subrules 35.9(7) and 35.10(4).

"Base costing period" for an electric utility means the hours, days, and weeks when the electric utility's system demand is likely to remain less than 60 percent of the utility's forecasted seasonal peak demand.

"Benefit/cost ratio" means the ratio of the present value of benefits to the present value of costs.

"Benefit/cost tests" means one of the four acceptable economic tests used to compare the present value of all benefits to the present value of all costs of an energy efficiency option or program. The tests are the participant test, the ratepayer impact test, the societal test, and the utility cost test. An option or program passes a benefit/cost test if the benefit/cost ratio is equal to or greater than one.

"Capacity purchase commitment" means electric generating capacity which a utility has committed to purchase by means of contracts or other enforceable agreements.

"Capital cost per Mcf or dth of annual peak day demand" for a gas utility means an annual cost amount that is uniform for each year of the supply option's life such that when each equal annual amount is discounted by the utility's after-tax discount rate the sum of the discounted amounts equals the total capital cost.

"Capital cost per net kW per year" for an electric utility means an annual cost amount that is uniform for each year of the supply option's life such that when each equal annual amount is discounted by the utility's after-tax discount rate the sum of the discounted amounts equals the total capital cost.

"Contract deliverability" means the maximum volume of natural gas a utility may take under the terms of a contract, for any time period.

"Customer persistence" means a customer's consistent use of energy efficient equipment or operating practices over time. For example, a nonpersistent customer may initially adopt the use of compact fluorescent lights, but replace efficient lights with incandescent lights when the former wear out. By contrast, a persistent customer will replace burned out efficient lamps with energy saving lamps after the initial trial.

"Customer's side of the meter" means energy use and related activity at the billing meter and beyond in a customer's facility. For reference, the utility's side of the meter refers to activities from and including generation or energy supply up to the customer's billing meter.

"Demand-side energy efficiency options" means energy efficiency activities on the customers' side of the meter which reduce customers' energy use or demand including, but not limited to, end-use efficiency improvements; load control or load management; pricing programs; informational, educational, and demonstration programs; technical assistance; or energy audit programs.

"Fixed operations and maintenance costs" means operations and maintenance costs which do not vary with changes in energy generation or supply.

"Free riders" means those program participants who would have done what an energy efficiency program intends to promote even without the program.

"Gross operating revenues" means all revenues from intrastate operations includable in the operating revenue accounts of the prescribed uniform system of accounts except:

## UTILITIES DIVISION[199] (cont'd)

1. Provisions for uncollectible revenues;
2. Amounts included in the accounts for interdepartmental sales and rents; and
3. Wholesale revenue.

"Incentive" means an amount provided to or on behalf of customers for the purpose of having customers participate in energy efficiency programs. Incentives include, but are not limited to, rebates, loan subsidies, rate credits, bill credits, and the cost of equipment given to customers. Incentives do not include information and services provided by the utility, such as energy audits, nor do they include customers' bill reductions due to the implementation of energy efficiency programs.

"Incremental cost" means the difference in the customer's cost between a less efficient option and a more energy efficient option.

"Intermediate costing period" for an electric utility means the hours, days, and weeks when the electric utility's system demand is likely to fluctuate between 60 percent and 85 percent of the utility's forecasted seasonal peak demand.

"Marginal energy cost" for a gas utility means the cost associated with supplying the next thousand cubic feet (Mcf) or dekatherm (dth) of gas.

"Marginal energy cost" for an electric utility means the energy or fuel cost associated with generating or purchasing the next kWh of electricity.

"Market barrier" means a real or perceived impediment to the purchase of products or services or the adoption of behavior by consumers which will benefit the consumers, society, or both.

"Net societal benefits" means the present value of benefits less the present value of costs as defined in the societal test.

"Off-peak period" means the days and weeks not included in the gas utility's peak period.

"Participant test" means an economic test used to compare the present value of all benefits to the present value of all costs over the useful life of an energy efficiency option or program from the participant's perspective. Present values are calculated using a discount rate appropriate to the class of customers to which the energy efficiency option or program is targeted. Benefits are the sum of the present values of the customers' bill reductions, tax credits, and incentives for each year of the useful life of an energy efficient option or program. Costs are the sum of present values of the customer participation costs (including initial capital costs, ongoing operations and maintenance costs, removal costs less a salvage value of existing equipment, and the value of the customer's time in arranging installation, if significant) and any resulting bill increases for each year of the useful life of the option or program. The calculation of bill increases and decreases must account for any time-differentiated rates to the customer or class of customers being analyzed.

"Peak costing period" for an electric utility means the hours, days, and weeks when the electric utility's system demand is likely to exceed 85 percent of the utility's forecasted seasonal peak demand.

"Peak day demand" means the amount of natural gas required to meet firm customers' maximum daily consumption.

"Peak period" for a gas utility means the days and weeks when the gas utility's highest firm throughput is likely to occur.

"Purchased gas adjustment (PGA) year" means the 12-month period beginning September 1 and ending August 31.

"Ratepayer impact measure test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency option or program from a rate level or utility bill perspective. Present values are calculated using the utility's discount rate. Benefits are the sum of the present values of utility avoided capacity and energy costs (excluding the externality factor) and any revenue gains for each year of the useful life of the option or program. Costs are the sum of the present values of utility increased supply costs, revenue losses, utility program costs, and incentives for each year of the useful life of the option or program. The calculation of utility avoided capacity and energy, increased utility supply costs, and revenue gains and losses must use the utility costing periods.

"Saturation" or "market saturation" means a comparison (using fractions or percentages) of the number of units of a particular type of equipment or building component to the total number of units in use which perform the particular function under study.

"Seasonal peak demand" for an electric utility means the maximum hourly demand that occurred during that season.

"Sensitivity analysis" means a set of evaluation methods or procedures which provides an estimation of the sensitivity of final results to changes in particular input data or assumptions.

"Societal test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency option or program from a societal perspective. Present values are calculated using an average of the 10-year and 30-year Treasury Bond rate as the discount rate. Benefits are the sum of the present values of the utility avoided supply and energy costs including the effects of externalities. Costs are the sum of the present values of utility program costs (excluding incentives), participant costs, and any increased utility supply costs for each year of the useful life of the option or program. The calculation of utility avoided capacity and energy, and increased utility supply costs, must use the utility costing periods.

"Summer season" for an electric utility means the five-month period beginning May 1 and ending September 30.

"System energy losses" for an electric utility means net energy which is generated, purchased, or interchanged by a utility but which is not delivered either to ultimate customers or used for interdepartmental sales expressed as a percentage of net energy.

"Take-back effect" means a tendency to increase energy use in a facility, or for an appliance, as a result of increased efficiency of energy use. For example, a customer's installation of high efficiency light bulbs, and then operating the lights longer, constitutes "taking-back" some of the energy otherwise saved by the efficient lighting.

"Target market" means a group of energy users who are the intended participants in an energy efficiency program.

"Technical potential" means the demand and energy savings which could occur if every existing piece of

## UTILITIES DIVISION[199] (cont'd)

equipment or operating practice were changed to a technically feasible level of energy efficiency.

"Total throughput" means all volumes of natural gas flowing through the utility's distribution system.

"Transportation volume" means the volume of natural gas flowing through the utility's distribution system which is not owned or sold by the utility.

"Useful life" means the number of years an energy efficiency option will produce benefits as determined by the utility. For analysis purposes, the useful life of an energy efficiency option shall not exceed 20 years.

"Utility cost test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency option or program from the utility revenue requirement perspective. Present values are calculated using the utility's discount rate. Benefits are the sum of the present values of each year's utility avoided capacity and energy costs (excluding the externality factor) over the useful life of the option or program. Costs are the sum of the present values of the utility's program costs, incentives, and any increased utility supply costs for each year of the useful life of the option or program. The calculation of utility avoided capacity and energy, and increased utility supply costs, must use the utility costing periods.

"Variable operations and maintenance costs" means operations and maintenance costs which vary with the amount of energy generated or supplied.

"Winter season" for an electric utility means the seven-month period beginning October 1 and ending April 30.

**199—35.3(476) Applicability.** Each rate-regulated gas or electric utility shall file an energy efficiency plan which meets the requirements of this chapter. Combination electric and gas utilities may file combined energy efficiency plans. Combined plans shall specify which energy efficiency programs are attributable to the electric operation, which are attributable to the natural gas operation, and which are attributable to both. If a combination utility files separate plans, the board may consolidate the plans for purposes of review and hearing.

**199—35.4(476) Schedule of filings.** For purposes of staggering the filing requirements, rate-regulated utilities shall be assigned to group A or group B.

1. Initial energy efficiency plan filings. On or before (four months after effective date of rules), group A and group B utilities shall file the initial energy efficiency plans with the board. Plans filed by group A utilities shall be for a two-year period. Plans filed by the group B utilities shall be for a three-year period.

2. Initial cost recovery proceedings. Each group A utility shall file its initial application for cost recovery of energy efficiency expenditures 12 months after board approval of its plan. Each group B utility shall file its initial application for cost recovery 24 months after board approval of its plan.

3. Subsequent biennial filings. Each utility shall file its subsequent energy efficiency plan in accordance with the schedule contained in the board's final order approving the utility's initial energy efficiency plan and thereafter biennially.

**199—35.5(476) Required programs.** The utility shall evaluate a variety of energy efficiency options which address all customer classes across its Iowa jurisdictional territory. At a minimum, the plan shall include

evaluations of a hot water heater insulation blanket distribution program, a commercial lighting program, a program for the purchases of goods that contribute to energy efficiency, a tree planting program, and a program directed at lower-income residential customers, where relevant to the services provided by that utility.

**199—35.6(476) Procedures.** Board review and approval of a utility's energy efficiency plan shall be governed by the following procedures:

**35.6(1) Contested case proceeding.** Within 30 days after filing, each application for approval of an energy efficiency plan which meets the requirements of this chapter shall be docketed as a contested case proceeding. All testimony, exhibits, and work papers shall be filed with each application for approval of an energy efficiency plan or application to modify an approved energy efficiency plan. All testimony, exhibits, and work papers filed by any party must be cross-referenced to the plan requirements. Any portion of any plan, application, testimony, exhibit or work paper which is based upon or derived from a computer program shall include as a filing requirement the name and description of the computer program, and a disc and a hard copy of all data inputs and all program outputs associated with each such portion. The proceeding shall follow the applicable provisions of 199 IAC 7.1(476), 7.2(476), and 7.3(476).

**35.6(2) Review of proposals offered by third parties.** The consumer advocate or a third-party intervenor may propose approval, modification, or rejection of a utility's energy efficiency plan prior to board approval of that plan. All testimony, exhibits, and work papers shall be filed with any proposal. The testimony, exhibits, and work papers of the consumer advocate or a third-party intervenor shall include, if applicable:

- a. An analysis showing why rejection of the proposed utility plan is appropriate;
- b. A statement of any proposed modification or alternate plan and why approval is appropriate;
- c. An estimated implementation schedule for any modification or alternate plan; and
- d. A statement of the projected costs and benefits and benefit/cost test results as a result of any modification or alternate plan and the amount of difference from the utility's projected costs and benefits.

**35.6(3) Utility response to proposals.** The utility submitting the application may respond specifically to proposals to reject or modify its plan. A response shall provide an analysis comparing its original plan and any proposed modification or alternate plan.

**35.6(4) Procedural schedule.** To facilitate completion of the contested case proceeding within six months from the initial date of filing, a procedural schedule based on the following guidelines shall be established:

- a. Prepared direct testimony, exhibits, and work papers in support of the filing—date of initial filing.
- b. Testimony, exhibits, and work papers of all other parties—filed not later than seven weeks from the date of the initial filing.
- c. Utility response to proposals—filed not later than ten weeks from the date of the initial filing.
- d. Cross-examination of all testimony—initiated not later than 14 weeks after the initial filing.
- e. Briefs of all parties—filed not later than 17 weeks after the initial filing.
- f. Reply briefs of all parties—filed not later than 18 weeks after the initial filing.

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g. Additional time may be granted a party upon a showing of good cause for the delay including, but not limited to:

- (1) Delay of completion of a previous procedural step.
- (2) Delays in responding to discovery requests.

**35.6(5) Modification after implementation.** An approved energy efficiency plan and budget may be modified during implementation if the modification is approved by the board. Any party to the proceeding may file either a separate or joint application for modification. The board, on its own motion, may consider modification of the energy efficiency plan and budget.

a. All applications to modify shall be filed in the same docket in which the energy efficiency plan was approved. All parties to the docket in which the energy efficiency plan was approved shall be served copies of the application to modify and shall have 14 days to file their objection or agreement. Failure to file timely objection shall be deemed agreement.

b. Each application to modify an approved energy efficiency plan shall include:

- (1) A statement of the proposed modification and the party's interest in the modification;
- (2) An analysis supporting the requested modification;
- (3) An estimated implementation schedule for the modification; and
- (4) A statement of the effect of the modification on projected costs and benefits.

c. If the board finds that reasonable ground exists to investigate the proposed modification, the application to modify shall be set for hearing within 30 days after the application is filed.

d. If an application to modify is filed and the board finds that there is no reason to investigate, then the board shall issue an order stating the reasons for the board's decision.

e. The board may initiate modification proceedings at any time on its own motion.

**35.6(6)** If the board rejects or modifies a utility's plan, the board may require the utility to file a modified plan and may specify the minimum acceptable contents of the modified plan.

**199—35.7(476) Waivers.** Upon request and for good cause shown, the board may waive any energy efficiency plan requirement. If the waiver request is granted, a copy of the board order shall be filed with the energy efficiency plan.

**199—35.8(476) Energy efficiency plan requirements.** Each utility's energy efficiency plan shall include the following:

**35.8(1)** A transmittal letter. A letter which identifies the utility filing the plan and includes an explanation of the nature, effect, and purpose of the plan.

**35.8(2)** An executive summary. A summary of the energy efficiency plan not to exceed five pages in length written in a nontechnical style for the benefit of the general public which shall include:

- a. The results of the utility's forecasts;
- b. The utility's procedure for development of the plan;
- c. The programs in the plan;
- d. The budget for the plan;
- e. The schedule for implementing the plan;
- f. The projected net societal benefits of the plan; and
- g. A description of how the plan will be monitored and evaluated.

**35.8(3)** Nonviable demand-side energy efficiency options. A listing of all demand-side energy efficiency options the utility has identified and excluded from further consideration in the current energy efficiency plan. The utility shall explain why these energy efficiency options are currently nonviable.

**35.8(4)** Potentially viable demand-side energy efficiency options. A listing of all demand-side energy efficiency options the utility has identified and evaluated as potentially viable for its customers. For each option, the following information shall be included:

a. A description of the energy efficiency option including the energy-using facilities, equipment, or customer behavior which the option is designed to change.

b. A description of the option's target market including a description of target customers' demand and energy use patterns, and other characteristics. The target markets shall be segmented into relatively homogeneous groups.

c. An assessment of the major market barriers to implementation of the option, how the option would attract customers, and how this market approach would enhance the effectiveness of the option.

d. An assessment of the availability to customers of resources and support services needed to implement the option and, if availability of resources and support services is limited, a description of how availability could be increased.

e. An assessment of the current market saturation among the utility's customers of any energy efficiency equipment the option addresses and a description of how this assessment was made.

f. An assessment of the technical potential the option has to reduce peak demand and energy usage.

g. The anticipated number of participants for each of the next five years, which includes a description of how the estimate was determined and the critical variables in the analysis of market penetration.

h. Information about the net energy savings including customer take-back effects, free riders, elasticity studies, the performance degradation of the option over time, and customer persistence.

**35.8(5)** Cross-reference required. Any option evaluated by the utility which is proposed for implementation as a program in its energy efficiency plan shall be identified and cross-referenced to the set of energy efficiency programs required in subrule 35.8(8).

**35.8(6)** Benefit/cost tests. Information listing all assumptions and measurements used to estimate the benefits and costs of each potentially viable option identified in subrule 35.8(4). The listing shall include the source of all assumptions. The following components to determine benefit/cost ratios shall be identified:

a. The capacity savings in either kW or dth/day or Mcf/day for each costing period specified in subrule 35.9(6) or 35.10(4).

b. The energy savings either in kWh or dth or Mcf for each costing period specified in subrules 35.9(6) and 35.10(4).

c. Increased supply costs by period, if any, resulting from the option.

d. The utility's revenue impacts, positive or negative, in the first year resulting from the option.



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e. Participating customer average bill reductions or increases, including gas, electric and alternate fuels, resulting from the option.

f. Incentives necessary to attract participants.

g. Utility program costs, including planning and design costs, administrative costs, advertising and promotional costs, equipment costs, installation costs, and miscellaneous costs.

h. Monitoring and evaluation costs.

i. Full and incremental costs of the option and an explanation of their use in the benefit/cost tests.

j. The anticipated life of the option's equipment.

k. Cost and benefit escalation rates for each component of the benefit/cost test that reflect changes over the life of the option.

l. Societal, utility cost, ratepayer impact measure, and participant test benefit/cost ratios.

m. Net societal benefits.

**35.8(7) Program selection criteria.** A description of criteria used to rank and select cost-effective options listed in subrule 35.8(6) for inclusion as programs in the plan.

**35.8(8) Proposed energy efficiency programs.** A list of all new and existing demand-side energy efficiency programs proposed. In developing proposed programs, the utility shall include programs benefiting all customer classes, including lower income residential customers, across its Iowa jurisdictional territory. For each program proposed, the following information shall be provided:

a. Description of the program. A description of the program, including the information developed for the demand-side energy efficiency options in subrules 35.8(4) and 35.8(6). To the extent applicable, the information provided pursuant to subrules 35.8(4) and 35.8(6) may be cross-referenced in lieu of duplicating the information requested.

b. Scope of implementation such as systemwide, partial system, or pilot project.

c. The estimated annual energy and demand savings for each year the program will produce benefits.

d. Implementation dates for initiating the program and schedules for reporting, evaluating, and concluding the program.

e. If appropriate, an evaluation of the interactive effects of combining various options into this program, which may reduce or enhance the program's impacts compared to the sum of the impacts of the individual options.

**35.8(9) Pilot projects.** Pilot projects may be included as a program, if justified by the utility. Pilot projects shall explore areas of innovative or unproven approaches, as provided in Iowa Code section 476.1. The proposed evaluation procedures for the pilot project shall be included.

**35.8(10) Program monitoring and evaluation.** A monitoring and evaluation plan which shall cover the proposed implementation period plus two years beyond the proposed implementation period.

a. The monitoring plan shall include a description of the procedures to monitor the progress of proposed programs and any program adjustments, including:

(1) A description of the critical components of each proposed program requiring monitoring including, but not limited to, customer participation, energy efficiency measures installed, actual costs of implementation, and performance of energy efficiency measures.

(2) The types of measurement to be used to monitor program activities including, but not limited to, data collection from processing forms, inspections, engineering and statistical methods, metering, and interviewing.

(3) The specification of the contents of the data base including structure and format of the program data to be collected and summarized for program monitoring purposes.

(4) Methods which will allow the utility to monitor program costs and keep program costs within the proposed budget.

(5) A planned timetable for data collection and reporting.

b. The evaluation plan shall include the procedures to evaluate the cost-effectiveness and net societal benefits of each program including:

(1) Types of measurement to be used to assess program implementation and impacts including, but not limited to, metering, billing analysis, engineering estimations, interviewing, and survey research.

(2) Methods to be used to correct evaluation estimates for nonprogram effects such as weather and economic activity.

(3) Methods to determine and adjust for the impacts of customer actions on program results, including free-ridership, customer persistence, and take-back.

(4) Specification of accuracy in the program evaluation in terms of statistical confidence and reliability.

(5) Documentation of the degree to which sampled data are representative of the population of customers targeted.

(6) Planned timetable for evaluation activities relative to the calendar for program design, implementation, and modification phases.

**35.8(11) Budget.** An estimated budget categorized by program which shall include:

a. The total budget as a percentage of gross operating revenues. The budget may include the amount of the remittance to the Iowa energy center and the Iowa global warming center.

b. The budget for each program for each year of implementation or for each of the first five years of implementation, whichever is less, itemized by proposed costs related to each program. The proposed costs shall be identified as either direct charges or indirect charges. The total program budget shall be categorized into:

- (1) Planning and design costs.
- (2) Administrative costs.
- (3) Advertising and promotional costs.
- (4) Customer incentive costs.
- (5) Equipment costs.
- (6) Installation costs.
- (7) Monitoring and evaluation costs.
- (8) Miscellaneous costs.

Cost categories shall be further described by the following subcategories:

Classifications of persons to be working on energy efficiency programs, full-time equivalents, dollar amounts of labor costs, and purpose of work;

Type and use of equipment and other assets, including type of assets required and use of asset;

The name of outside firm(s) employed and a description of service(s) to be provided.

c. A description of any methods proposed to reduce or contain costs through combining programs for

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delivery and implementation to targeted customer markets.

**35.8(12)** Impacts of the plan. Information about the impacts of the proposed set of energy efficiency programs in the plan which shall include:

a. For an electric utility's plan, a restatement, in numerical and graphical terms, of the utility's current 20-year forecasts as required in subrule 35.9(1). The restatement shall include the net effects of the proposed energy efficiency programs.

b. For a gas utility's plan, a restatement in numerical and graphical terms of the utility's current 12-month and five-year forecasts of total annual throughput and peak day demand based on the PGA year as required in subrule 35.10(1). The restatement shall include the net effects of the proposed energy efficiency programs.

c. The estimated revenue impact by customer class.

d. The estimated energy efficiency cost recovery factor for the plan as defined in paragraph 35.12(4)"b."

e. Estimated average bill impact for each customer class which nets the customer bill reductions from the proposed programs with the estimated energy efficiency cost recovery factor.

f. Projections of capacity deferred or avoided.

g. Projections of energy saved.

h. Estimated societal benefit/cost ratio and net societal benefits of the proposed set of programs.

i. An estimate of the impact of programs targeted to gas service on electric usage and an estimate of the impact of programs targeted to electric service on gas usage.

**199—35.9(476) Additional requirements for electric utilities.** In addition to the requirements in rule 35.8(476), a plan for an electric utility shall include the following information:

**35.9(1)** Load forecast. Information specifying forecasted demand and energy use on a calendar year basis which shall include:

a. A statement, in numerical terms, of the utility's current 20-year forecasts including reserve margin for summer and winter peak demand and for annual energy requirements. The forecast shall not include the effects of the proposed programs in subrule 35.8(8), but shall include the effects to date of current ongoing utility energy efficiency programs.

b. The date and amount of the utility's highest peak demand within the past five years, stated on both an actual and weather-normalized basis. The utility shall include an explanation of the weather-normalization procedure.

c. A comparison of the forecasts made for each of the previous five years to the actual and weather-normalized demand in each of the previous five years.

d. An explanation of all significant methods and data used, as well as assumptions made, in the current 20-year forecast. The utility shall file all forecasts of variables used in its demand and energy forecasts and shall separately identify all sources of variable inputs used.

e. A statement of the margins of error for each assumption or forecast.

f. An explanation of the results of sensitivity analyses performed, including a specific statement of the degree of sensitivity of estimated need for capacity to potential errors in assumptions, forecasts and data. The utility may present the results and an explanation of other methods of assessing forecast uncertainty.

**35.9(2)** Class load data. Load data for each class of customer that is served under a separate rate schedule or is identified as a separate customer class and accounts for 10 percent or more of the utility's demand in kilowatts at the time of the monthly system peak for every month in the year. If those figures are not available, the data shall be provided for each class of customer that accounts for 10 percent of the utility's electric sales in kilowatt hours for any month in the reporting period. The data shall be based on a sample metering of customers designed to achieve a statistically expected accuracy of plus or minus 10 percent at the 90 percent confidence level for loads during the yearly system peak hour(s). These data must appear in the 1992 and all subsequent filings, except as provided for in paragraph 35.9(2)"c."

a. The following information shall be provided for each month of the previous year:

(1) Total system class maximum demand (in kilowatts);

(2) Jurisdictional class contribution (in kilowatts) to the monthly maximum system coincident demand as allocated to jurisdiction;

(3) Total class contribution (in kilowatts) to the monthly maximum system coincident demand, if not previously reported;

(4) Total system class maximum demand (in kilowatts) allocated to jurisdiction, if not previously reported; and

(5) Hourly total system class loads for a typical weekday, a typical weekend day, the day of the class maximum demand, and the day of the system peak.

b. The company shall file an explanation, with all supporting work papers and source documents, as to how class maximum demand and class contribution to the maximum system coincident demand were allocated to jurisdiction.

c. The load data for each class of customer described above may be gathered by a multijurisdictional utility on a uniform integrated system basis rather than on a jurisdictional basis. Adjustments for substantive and unique jurisdictional characteristics, if any, may be proposed. The load data for each class of customer shall be collected continuously and filed annually, except for the period associated with necessary interruptions during any year to modify existing or implement new data collection methods. Data filed for the period of interruption shall be estimated. An explanation of the estimation technique shall be filed with the data. To the extent consistent with sound sampling and the required accuracy standards, an electric public utility is not required to annually change the customers being sampled.

**35.9(3)** Existing capacity and firm commitments. Information specifying the existing generating capacity and firm commitments to provide service, which includes:

a. For each generating unit owned or leased by the utility, in whole or in part, the plan shall include the following information:

(1) Both summer and winter net generating capability ratings as reported to the National Electric Reliability Council (NERC);

(2) The estimated remaining time before the unit will be retired or require life extension.

b. For each commitment to own or lease future generating firm capacity, the plan shall include the following information:

(1) The type of generating capacity.

(2) The anticipated in-service year of the capacity.

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(3) The anticipated life of the generating capacity.

(4) Both summer and winter net generating capability ratings as reported to the NERC.

c. For each capacity purchase commitment which is for a period of six months or longer the plan shall include the following information:

(1) The entity with whom commitments have been made and the time periods for each commitment.

(2) The capacity levels in each year for the commitment.

d. For each capacity sale commitment which is for a period of six months or longer the following information:

(1) The entity with whom a commitment has been made and the time periods for the commitment.

(2) The capacity levels in each year.

(3) The capacity payments to be received per kW per year in each year.

(4) The energy payments to be received per kWh per year.

(5) Any other payments the utility receives in each year.

**35.9(4) Capacity surpluses and shortfalls.** Information identifying projected capacity surpluses and shortfalls over the 20-year planning horizon which shall include:

a. A numerical and graphical representation of the utility's 20-year planning horizon comparing forecasted demand in each year from subrule 35.9(1) to committed capacity in each year from paragraphs 35.9(3)"a" through 35.9(3)"d." Forecasted peak demand shall include reserve requirements.

b. For each year of the 20-year planning horizon, the plan shall list in MW the amount that committed capacity either exceeds or falls below the forecasted demand.

**35.9(5) Capacity outside the utility's system.** Information about capacity outside of the utility's system that could meet its future needs including, but not limited to, cogeneration and independent power producers expected to be available to the utility during each of the 20 years in the planning horizon.

**35.9(6) Future supply options and costs.** Information about the new supply options and their costs identified by the utility as the most effective means of satisfying all projected capacity shortfalls in the 20-year planning horizon in subrule 35.9(4) which shall include:

a. The following information which describes each future supply option as applicable:

(1) The anticipated year the supply option would be needed.

(2) The anticipated type of supply option, by fuel.

(3) The anticipated net capacity of the supply option.

(4) The anticipated life.

(5) The anticipated total capital cost.

(6) The anticipated capital cost per net kW per year.

(7) The discount rate used to calculate the capital cost per net kW per year over the life of the supply option.

(8) The anticipated annual cost per net kW per year of capacity purchases.

(9) The anticipated annual fixed operations and maintenance costs, including property taxes, per net kW for each year of the planning horizon.

(10) The anticipated annual net MWh of generation or power purchase.

(11) The anticipated annual energy costs per kWh.

(12) The anticipated annual variable operations and maintenance costs per kWh.

(13) Adjustment rates (for example, inflation or escalation rates) used to derive each future cost in paragraph 35.9(6)"a."

b. The capacity costs of the new supply options allocated to costing periods. The utility shall describe its method of allocating capacity costs to each costing period. The utility shall utilize six costing periods: peak, intermediate, and base for both the winter and summer seasons. The utility shall specify the hours, days, and weeks which constitute its six costing periods. In addition, all parties may submit information specifying the hours, days, and weeks which constitute alternative costing periods. For each supply option identified in paragraph 35.9(6)"a," the plan shall include:

(1) The anticipated annual net MWh of generation or power purchase allocated to each costing period.

(2) The anticipated total capital cost per net kW per year from subparagraph 35.9(6)"a"(6) allocated to each costing period.

(3) The anticipated annual cost per net kW per year of capacity purchases from subparagraph 35.9(6)"a"(8) allocated to each costing period.

(4) The anticipated annual fixed operations and maintenance costs from subparagraph 35.9(6)"a"(9) allocated to each costing period.

c. The present value of the costs in subparagraphs 35.9(6)"b"(2), 35.9(6)"b"(3), and 35.9(6)"b"(4) and the discount rate used to determine the present value.

**35.9(7) Avoided capacity and energy costs.** Avoided capacity costs shall be based on the highest present values for each costing period in the 20-year planning horizon. Avoided energy costs shall be based on the marginal costs of the utility's current generating units or purchases. The utility shall use the same costing periods identified in 35.9(6)"b" when calculating avoided capacity and energy costs.

a. Avoided capacity costs. Calculations of avoided capacity costs in each costing period shall be based on the following formula:

AVOIDED CAPACITY COST =  $(C + FOM) \times (1 + RM) \times (1 + DLF) \times (1 + EF)$   
C (capacity) is the greater of NC or RC.

NC (new capacity) is the present value of future invested capital costs or future capacity purchase costs expressed in dollars per net kW per year of the utility's new supply options from paragraph 35.9(6)"c" in each costing period.

RC (resalable capacity) is the present value of existing capacity expressed in dollars per net kW per year that could be sold to other parties in each costing period.

FOM (fixed operations and maintenance costs) is the present value of future costs expressed in dollars per net kW per year of fixed operations and maintenance costs of the utility's new supply options from paragraph 35.9(6)"c" in each costing period.

RM (reserve margin) is the generation reserve margin criterion adopted by the utility.

DLF (demand loss factor) is the system demand loss factor, expressed as a fraction of the net power generated, purchased, or interchanged in each costing period. For example, the peak system demand loss factor would be equal to peak system power loss (MW) divided by the net system peak load (MW) for each costing period.

EF (externality factor) is a 10 percent factor applied to avoided capacity costs in each costing period to account for societal costs of supplying energy. In addition, the

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utility may propose a different externality factor, but must document its accuracy.

b. Avoided energy costs. Calculations of avoided energy costs in each costing period shall be based on the following formula:

$$\text{AVOIDED ENERGY COSTS} = (\text{MEC} + \text{VOM}) \times (1 + \text{ELF}) \times (1 + \text{EF})$$

MEC (marginal energy cost) is the marginal energy cost expressed in dollars per kWh for electricity in each costing period.

VOM (variable operations and maintenance cost) is the variable operations and maintenance cost expressed in dollars per kWh in each costing period.

ELF (system energy loss factor) is the system energy loss factor, expressed as a fraction of net energy generated, purchased, or interchanged in each costing period.

EF (externality factor) is a 10 percent factor applied to avoided energy costs in each costing period to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor, but must submit documentation of its accuracy.

**199—35.10(476) Additional requirements for gas utilities.** In addition to the requirements of rule 35.8(476), a plan for a gas utility shall include the following information:

**35.10(1) Forecast of demand and transportation volumes.** Information specifying its demand and transportation volume forecasts which includes:

a. A statement in numerical terms of the utility's current 12-month and five-year forecasts of total annual throughput and peak day demand, including reserve margin, based on the PGA year by customer class. The forecasts shall not include the effects of the proposed energy efficiency programs in subrule 35.8(8), but shall include the effects to date of current ongoing utility energy efficiency programs.

b. A statement in numerical terms of the utility's highest peak day demand and annual throughput for the past five years by customer class.

c. A comparison of the forecasts made for the preceding five years to the actual and weather-normalized peak day demand and annual throughput by customer class including an explanation of the weather-normalization procedure.

d. A forecast of the utility's demand for transportation volume for both peak day demand and annual throughput for each of the next five years.

e. The existing contract deliverability by supplier, contract and rate schedule for the length of each contract.

f. An explanation of all significant methods and data used, as well as assumptions made, in the current five-year forecast(s). The utility shall file all forecasts of variables used in its demand and energy forecasts. If variables are not forecasted, the utility shall indicate all sources of variable inputs.

g. A statement of the margins of error for each assumption or forecast.

h. An explanation of the results of the sensitivity analysis performed by the utility, including a specific statement of the degree of sensitivity of estimated need for capacity to potential errors in assumptions, forecasts, and data.

**35.10(2) Capacity surpluses and shortfalls.** Information identifying projected capacity surpluses and shortfalls over the five-year planning horizon which includes a numerical and graphical representation of the utility's five-year planning horizon comparing forecasted

peak day demand in each year from paragraph 35.10(1)"a," to the total of existing contract deliverability, from paragraph 35.10(1)"e." The comparison shall list in dth or Mcf any amount for any year that contract deliverability falls below the forecast of peak day demand. Forecasted peak day demand shall include reserve margin.

**35.10(3) Supply options.** Information about new supply options identified by the utility as the most effective means of satisfying all projected capacity shortfall in the 12-month and five-year planning horizons in subrule 35.10(2). For each supply option identified, the plan shall include:

a. The year the option would be needed.

b. The type of option.

c. The net peak day capacity.

d. The estimated future capacity costs per dth or Mcf of peak day demand of the options.

e. The estimated future energy costs per dth or Mcf of each option in current dollars.

f. A description of the method used to estimate future costs.

**35.10(4) Avoided capacity and energy costs.** Information regarding avoided costs, specifying the days and weeks which constitute the utility's peak and off-peak periods. Present value of avoided costs shall be the highest present value for the peak and off-peak periods in the five-year planning horizon. In addition, all parties may submit information specifying the hours, days, and weeks which constitute alternative costing periods. Calculations of avoided capacity costs in the peak and off-peak periods shall be based on the following formula:

$$\text{AVOIDED CAPACITY COSTS} = [(D + OC) \times (1 + \text{RM})] \times (1 + \text{EF})$$

D (demand) is the greater of CD or FD.

CD (current demand cost) is the average demand cost expressed in dollars per dth or Mcf incurred by the utility during peak and off-peak periods.

FD (future demand costs) is the present value of future demand costs in the five-year planning horizon expressed in dollars per dth or Mcf which the utility will incur when supplying gas during peak and off-peak periods.

RM (reserve margin) is the reserve margin adopted by the utility.

OC (other cost) is the present value of any other costs per dth related to the acquisition of gas supply or transportation by the utility in the peak and off-peak periods.

EF (externality factor) is a 7.5 percent factor applied to avoided capacity costs in the peak and off-peak periods to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor, but must submit documentation of its accuracy.

b. Calculations of avoided energy costs in the peak and off-peak periods on a seasonal basis shall be based on the following formula:

$$\text{AVOIDED ENERGY COSTS} = (E + \text{VOM}) \times (1 + \text{EF})$$

E (energy costs) is the greater of ME or FE.

ME (current marginal energy costs) is the current marginal energy costs expressed in dollars per dth or Mcf the utility incurs during peak and off-peak periods.

FE (future energy costs) is the present value of future energy costs expressed in dollars per dth or Mcf which the utility will incur during peak and off-peak periods.

VOM (variable operations and maintenance costs) is the current variable operations and maintenance costs expressed in dollars per dth or Mcf the utility incurs during peak and off-peak periods.

## UTILITIES DIVISION[199] (cont'd)

EF (externality factor) is a 7.5 percent factor applied to avoided energy costs in the peak and off-peak periods to account for societal costs of supplying energy. In addition, the utility may propose a different externality factor, but must submit documentation of its accuracy.

**199—35.11(476) Additional filing requirements.** In those years an electric utility does not file an energy efficiency plan, the utility shall file by May 15 the information required in subrules 35.9(1) and 35.9(2). If there has been no change in the information required in paragraphs 35.9(1)“d” through “f,” the utility may state “no change from previous forecast” for each paragraph. In those years a gas utility does not file an energy efficiency plan, the utility shall file by November 1 the information required in subrule 35.10(1). If there has been no change in the information required in paragraphs 35.10(1)“f” through “h,” the utility shall identify the portions of the previous docket where the information is located.

ITEM 2. Rescind 199 IAC 20.13(3).

ITEM 3. Rescind 199 IAC 19.11(2).

ITEM 4. Amend 199 IAC 17 by adding the following new rule:

**199—17.9(476) Funding of Iowa energy center and global warming center.** On July 1, 1991, and on or before July 1 of each year thereafter, each gas and electric utility shall remit to the treasurer of state one-tenth of one percent of the total gross operating revenue during the last calendar year derived from its intrastate public utility operations for the funding of the Iowa energy center and global warming center.

## ARC 1648A

## UTILITIES DIVISION[199]

## Notice of Intended Action

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

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

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, 476.4, and 476.8, the Utilities Board (Board) gives notice that on December 28, 1990, the Board issued an order in Docket No. RMU-90-36, In Re: Disconnection Prohibition for 9XX Charges and 9XX Blocking Tariffs, “Order Commencing Rule Making,” to consider the amendment of 199 IAC 22.4(7) and 22.5(13) and the addition of new subrule 22.5(14).

The blocking amendment will require each local exchange utility to provide all subscribers, without

charge, the option of blocking access to 9XX information providers. In this context, 9XX refers to a part of the prefix dialed to reach certain information providers. Nine is the first digit dialed after 1, followed by two other digits. The Board is concerned that failure to provide 9XX blocking will jeopardize the ability of certain telephone customers to continue to subscribe to basic telephone service. Only the local exchange utilities, which furnish the access service required by the information providers, are in a position to provide customers complete protection against 9XX charges. In the current environment created by widespread promotion of 9XX services, it appears to the Board that optional blocking of 9XX for all local exchange customers is necessary to make the total package of telephone services offered by the local exchange utilities reasonable. Some local exchange utilities have recognized this need and have filed information services blocking tariffs. The amendment is intended to make such blocking universal in Iowa.

The billing amendment prohibits disconnection for failure to pay 9XX information services charges. Many local exchange companies do the billing and collections for information services providers. In this business activity, the local exchange company is not under the Board's jurisdiction. The information services billed and collected generally are not utility services and were never regulated by the Board. The Board believes disconnection for billing arrears should be limited to failure to pay for telephone utility services. It is inappropriate to use the threat of disconnection from the telephone network to collect charges for 9XX information services and the billing amendment will prevent that result.

The amendment to subrule 22.5(13) is merely for the purpose of identifying the subject matter in that subrule and distinguishing it from the subject matter in new subrule 22.5(14).

Pursuant to the authority of Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to these proposed amendments. The statement must be filed on or before February 12, 1991, by filing an original and ten copies in a form substantially complying with subrule 2.2(2). All communications shall clearly indicate the author's name and the docket in which the comment is submitted. All communications shall be directed to the Executive Secretary, Iowa State Utilities Board, Lucas State Office Building, Des Moines, Iowa 50319.

An oral presentation is scheduled on March 12, 1991, at 10 a.m. in the First-Floor Hearing Room, Lucas State Office Building, Des Moines, Iowa, for the purpose of receiving oral comments.

The proposed amendments implement Iowa Code section 476.2.

ITEM 1. Amend subrule 22.4(7) by adding the following new paragraph:

h. Failure to pay for information service not regulated by the board.

ITEM 2. Amend subrule 22.5(13), catchwords as follows: **22.5(13) Blocking Terminating access blocking.**

ITEM 3. Add a new subrule 22.5(14) as follows:

**22.5(14) Information service access blocking.** Each local exchange utility shall include in its tariff on file with the board a provision giving its subscribers the option of blocking access to all 9XX prefix numbers, without charge.

**ARC 1634A****AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 159.5(11) and 206.11(3) "b" and "c," the Iowa Department of Agriculture and Land Stewardship adopts an amendment to rule 21—45.31(206) Application of pesticides toxic to bees, Iowa Administrative Code.

This amendment alters the date by which beekeepers ("owners of apiaries") shall register the location of their bee yards from May 1 to April 1 each year. The existing rule provides a mechanism for beekeepers to be notified prior to a pesticide toxic to bees being sprayed within a two-mile radius of their apiary. This gives the beekeeper the opportunity to protect hives against possible damage due to the application of pesticides. The April 1 deadline will allow notification a month earlier to better protect honeybees from early season pesticide applications.

The Department finds, pursuant to Iowa Code section 17A.4(2), that notice and public participation are impracticable because a delay in adopting the amendment will jeopardize the health of honeybee colonies this spring because the pesticide applicators cannot notify beekeepers during the early pesticide spraying season. The Department is simultaneously submitting a Notice of Intended Action, published herein as **ARC 1633A**, on this amendment. Opportunities for public comment are provided under that procedure.

The Department finds, pursuant to Iowa Code section 17A.5(2), that the normal effective date of the amendment, 35 days after publication, should be waived and the rule be made effective on the date of filing, because it confers a benefit upon the public by providing a rule necessary to protect honeybees from poisoning during the critical spring buildup period from early season pesticide spraying.

This rule became effective on the date of filing.

This rule is intended to implement Iowa Code section 206.11(3) "b" and "c."

Amend rule 21—45.31(206), introductory paragraph, as follows:

**21—45.31(206) Application of pesticides toxic to bees.** Owners of apiaries, in order to protect their hives from pesticide applications, shall register the telephone number where they can be reached and the locations of bee yards on forms, DOA #10, Apiary Registration Form provided by the department, with the state apiarist, before ~~May~~ *April* 1 of each year. Within 30 days thereafter, the department shall provide each ASCS office with information of such locations indicating township, section and range of bee yards in that county, along with the telephone number of each registered owner.

[Filed Emergency 1/2/91, effective 1/2/91]  
[Published 1/23/91]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/23/91.

## ARC 1631A

AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 159.5(11), 213A.2, and 215.24, the Iowa Department of Agriculture and Land Stewardship hereby amends Chapter 85, "Weights and Measures," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 11, 1990, as ARC 1047A. Comment was received from one organization regarding the definition of "leaded" gasoline. Comment was also received from several parties regarding minimum clearance on pitless scales. Almost all comments were favorable.

These rules are intended to accomplish three purposes: (1) to establish standards for construction of scale pits, (2) to clarify standards for installation of a pitless scale, and (3) to provide minimum standards for gasoline labeled as "leaded."

These rules are identical to the Notice of Intended Action except that the definition of "leaded gasoline" is changed to reflect comment received and conform the rule with federal regulations.

These rules are intended to implement Iowa Code sections 214A.3, 214A.16, 215.15, and 215.18.

These rules will become effective on February 27, 1991.

The following amendments are adopted:

ITEM 1. Rescind subrule 85.11(1) and insert in lieu thereof the following:

**85.11(1)** In the construction of a scale pit, walls must be of reinforced concrete. A slab floor must be installed in the pit. The floor must be at least 12 inches thick with a minimum of grade 40 reinforcement rod running into all piers and sidewalls, installed according to the manufacturer's specifications. There shall be an approach at each end of the scale of not less than ten feet, and said approach shall be of reinforced concrete 12 inches thick on a level with the scale deck.

ITEM 2. Amend subrule 85.12(3) as follows:

**85.12(3)** A reinforced concrete slab the width of the scale, at least ~~four~~ six inches thick, shall run full length under the scale. Slab and piers shall be tied together with reinforcement rod, *with a minimum clearance of eight inches between floor and weighbridge.*

ITEM 3. Amend rule 21—85.48 (214A,215) by adding the following new subrule:

**85.48(15)** Any gasoline labeled as "leaded" shall be produced with the use of any lead additive or contain more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. As used in this subrule, "lead additive" means any substance containing lead or lead compounds.

[Filed 12/24/90, effective 2/27/91]

[Published 1/23/91]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/23/91.

## ARC 1637A

INSPECTIONS AND APPEALS  
DEPARTMENT[481]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 10A.104(5), the Department of Inspections and Appeals hereby rescinds Chapter 72, "Food Stamp Investigation Section," and adopts in lieu thereof a new Chapter 72, "Public Assistance Front End Investigations," Iowa Administrative Code.

These rules update and more accurately reflect the current practice of the Department regarding front end investigations relative to the administration of the Department of Human Services public assistance programs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 31, 1990, as ARC 1375A.

As a result of the comments received, the following revisions were made to the Notice of Intended Action:

1. Language was added to the title of the chapter to specify that the front end investigations pertain to public assistance programs.

2. The definitions of "Pertinent public assistance case factors" and "Refusal to cooperate" were rewritten for clarity.

3. Subrule 72.3(6) was revised for clarity. It was determined that the intent was unclear and could cause misinterpretation.

These rules will become effective February 27, 1991.

These rules are intended to implement Iowa Code sections 10A.104(5), 10A.104(6), 10A.105, 10A.402(7), 17A.3(1)"b," and 22.11.

Rescind 481—Chapter 72 and adopt in lieu thereof the following new chapter:

## CHAPTER 72

PUBLIC ASSISTANCE  
FRONT END INVESTIGATIONS

## 481—72.1(10A) Definitions.

"Client" means any person who has made an application for or is receiving public assistance from the department of human services (hereafter known as DHS).

"Collateral contact" means a reliable source other than the client knowledgeable about information relative to pertinent public assistance case factors.

"Department" means the Iowa department of inspections and appeals.

"Overpayment" means the dollar amount of public assistance specified by DHS rules which is subject to recovery.

"Pertinent public assistance case factors" means information considered necessary by DHS to verify the household composition, income and assets on referred cases.

"Public assistance" means aid to families with dependent children, food stamps, medical assistance, state supplementary assistance and refugee cash assistance.

"Referral" means a request to investigate pertinent public assistance case factors on error-prone cases. The

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

request shall be made by DHS for help from the department on the referral for front end investigation form.

"Refusal to cooperate" by client means the client has failed to attend a scheduled interview without prior notification to the investigator, or to provide information, or to assist in the gathering of information about pertinent public assistance case factors with the department investigator.

**481—72.2(10A) Referrals.** Client-caused errors in public assistance benefits arise primarily from three areas: household composition, income and assets. A flexible list of error-prone indicators in those three areas has been identified. One or more indicators must be present for a referral to the department investigator. A current copy is available from the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.

The department investigator is responsible for investigating referrals to:

1. Determine whether information supplied to DHS by the client is complete and correct regarding pertinent public assistance case factors;
2. Serve as a deterrent against benefit issuance resultant from fraudulent applications submitted by DHS clients;
3. Identify client-caused overpayments for recovery;
4. Assist in reducing public assistance program error rates.

**481—72.3(10A) Investigation procedures.** Procedures for investigations may include, but are not limited to, the following steps:

**72.3(1)** The department investigators shall inform the client of their involvement in the client's case by sending an introductory letter.

**72.3(2)** Client information may be verified by using:

- a. Property verification to identify possible property ownership.
- b. Postmaster statement to verify current address.
- c. Motor vehicle information to identify possible vehicle ownership.

**72.3(3)** If a face-to-face interview is necessary, an appointment letter is sent to the client.

a. Prior to the interview, the client will be informed of the purpose of the investigation, the types of information being investigated, what their responsibilities are in terms of cooperating in the investigation, and the consequences of refusal to cooperate in the investigation.

b. During the interview with the department investigator, the client may be asked to sign a form authorizing the department to contact collateral sources to verify pertinent public assistance case factors. At least one of the following forms will be attached to the authorization:

- (1) Landlord questionnaire,
- (2) Mortgage questionnaire,
- (3) Earned income questionnaire,
- (4) Financial institution questionnaire,
- (5) General questionnaire.

c. The client shall be provided a copy of the signed authorization form and any other forms identified as necessary at the time of the interview. The authorization form and attached form(s) will be explained during the interview and are offered as a courtesy to the client. The client-signed authorization is not required for a department investigator to secure collateral information related to pertinent public assistance case factors.

d. The director of the department or the director's designee may issue subpoenas in order to secure data that is deemed pertinent public assistance case factor information.

**72.3(4)** The DHS client file may be reviewed by the department investigator.

**72.3(5)** Collateral contacts will be used to collect information by the department investigator. The information supplied by the client may be subject to further verification by the department investigator.

**72.3(6)** The director of the department or the director's designee shall determine that all investigations conducted by the department investigator are related to pertinent public assistance case factors.

**72.3(7)** If the client has previously received public assistance benefits and a discrepancy(s) is present, the investigation may continue to determine whether an overissuance of benefits has been made. However, clients who have never received benefits and withdraw their application or are denied benefits will not be subject to continued investigation.

**481—72.4(10A) Findings.** The department investigator shall report and provide documentation of the findings of the investigation, including client noncooperation, to DHS using the transmittal A form. The department's investigation is closed upon submission of the transmittal A form to the referral source and cannot be reopened prior to the receipt of a new or updated referral for front end investigation form.

DHS shall report the case action taken and any determination of overpayment or intentional program violation referral to the department using the transmittal B form. All decisions about DHS public assistance eligibility will be made by DHS. The client will need to clarify any discovered discrepancies with DHS. Refusal to cooperate will result in DHS taking action to deny or cancel public assistance benefits. Future public assistance application(s) will not be considered for approval until cooperation with the department investigator is completed. The department investigator shall comply with all laws, rules and regulations with respect to confidentiality.

These rules are intended to implement Iowa Code sections 10A.104(5), 10A.104(6), 10A.105, 10A.402(7), 17A.3(1)"b," and 22.11.

[Filed 1/3/91, effective 2/27/91]

[Published 1/23/91]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/23/91.

**ARC 1642A**

**INSURANCE DIVISION[191]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Iowa Division of Insurance hereby amends Chapter 5, "Regulation of Insurers — General Provisions," Iowa Administrative Code.

These rules, 191—5.23(507C,515) and 191—5.24(507C,515), adopt the National Association of Insurance Commissioners' (NAIC) Model Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial



## INSURANCE DIVISION[191] (cont'd)

Condition. Adoption is necessary in order for the Iowa Division of Insurance to meet the financial regulation standards of the NAIC accreditation program. The purpose of the new rules is to provide guidance as to when an insurer is in a financially hazardous or unsound condition and provide steps which the Division may take to remedy this situation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 28, 1990, as ARC 1481A. Changes from the rules as published under Notice are as follows:

The reference to "unsound condition financially" in rule 191—5.23(507C,515) is deleted inasmuch as it is confusing when juxtaposed to "hazardous financial condition."

Subrule 5.23(16) is deleted since the language is redundant in light of the preceding subrules, and subrule 5.23(17) is renumbered.

Language in subrule 5.24(2) referring to revocation or suspension of the insurer's certificate of authority is deleted since this is the proper subject of a statute, not a rule.

These rules are intended to implement Iowa Code sections 507C.9, 507C.12, 507C.17, and 515.89.

These rules shall become effective February 27, 1991.

The following new rules are adopted:

**191—5.23(507C,515) Standards.** The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to the policyholders, creditors or the general public. The commissioner may consider:

**5.23(1)** Adverse findings reported in financial condition and market conduct examination reports.

**5.23(2)** The National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports.

**5.23(3)** The ratios of commission expense, general insurance expense, policy benefits and reserve increases to annual premium and net investment income which could lead to an impairment of capital and surplus.

**5.23(4)** The insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to ensure the company's ability to meet its outstanding obligation as they mature.

**5.23(5)** The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer.

**5.23(6)** The insurer's operating loss in the last 12-month period or any shorter period of time including, but not limited to: net capital gain or loss, change in nonadmitted assets, and cash dividends paid to shareholders reduces such insurer's remaining surplus as regards policyholders below the minimum required.

**5.23(7)** Whether any affiliate, subsidiary or reinsurer of the insurer is insolvent as defined in Iowa Code section 507C.2(11), is threatened with insolvency, or is delinquent in payment of its monetary or other obligation.

**5.23(8)** Contingent liabilities, pledges or guarantees which either individually or collectively involve a total amount which, in the opinion of the commissioner, may affect the solvency of the insurer.

**5.23(9)** Whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to such insurer.

**5.23(10)** The age and collectibility of receivables.

**5.23(11)** Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position.

**5.23(12)** Whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry.

**5.23(13)** Whether management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer.

**5.23(14)** Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner.

**5.23(15)** Whether the company has experienced or will experience in the foreseeable future cash flow or liquidity problems.

**5.23(16)** Whether the insurer possesses the capital and surplus, i.e., surplus as regards policyholders, required by the laws of this state.

**191—5.24(507C,515) Commissioner's authority.**

**5.24(1)** For the purposes of making a determination of an insurer's financial condition under this rule, the commissioner may:

a. Disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired or otherwise subject to a delinquency proceeding;

b. Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;

c. Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

d. Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

**5.24(2)** If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the commissioner may issue an order requiring the insurer to:

a. Reduce the total amount of present and potential liability for policy benefits by reinsurance;

b. Reduce, suspend or limit the volume of business being accepted or renewed;

c. Reduce general insurance and commission expenses by specified methods;

d. Increase the insurer's capital and surplus;

e. Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;

## INSURANCE DIVISION[191] (cont'd)

f. File reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;

g. Limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner deems necessary;

h. Document the adequacy of premium rates in relation to the risks insured;

i. File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the commissioner.

5.24(3) Any insurer subject to an order under subrule 5.24(2) may request, pursuant to rule 191—3.5(17A,502,505), review of that order. Any ensuing hearing shall not be open to the public, unless the insurer requests otherwise.

These rules are intended to implement Iowa Code sections 507C.9, 507C.12, 507C.17, and 515.89.

[Filed 1/4/91, effective 2/27/91]

[Published 1/23/91]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/23/91.

**ARC 1635A****MEDICAL EXAMINERS****BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Medical Examiners hereby adopts amendments to Chapter 11, "Licensure Requirements," Iowa Administrative Code.

These amendments establish specific fees for the FLEX and SPEX examinations and clarify the rules governing the fee required for issuance of a license based upon successful completion of the FLEX examination in Iowa or by endorsement, and correct an error in the fee required for renewal of a special license.

These amendments were published under Notice of Intended Action as **ARC 1428A** in the November 14, 1990, Iowa Administrative Bulletin. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapters 147, 148, 150, and 150A.

These rules shall become effective February 27, 1991.

The following amendments are adopted:

ITEM 1. Amend subrule 11.31(1) to read as follows:

**11.31(1)** For a license to practice medicine and surgery or osteopathic medicine and surgery issued upon the basis of an examination given by the ~~medical examiners board~~ prior to January 1, 1987, \$350. For a license to practice medicine and surgery or osteopathic medicine and surgery issued upon the basis of an examination given by the ~~medical examiners board~~ subsequent to between January 1, 1987, and May 31, 1991, \$525. For a license to practice medicine and surgery or osteopathic medicine and surgery issued upon the basis of an examination given by the ~~board~~ subsequent to May 31, 1991, \$300.

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

1. For an application to take Component I, the fee shall be \$325.

2. For an application to take Component II, the fee shall be \$380.

3. For an application to take both Components in one sitting the fee shall be \$525.

ITEM 2. Amend subrule 11.31(2) to read as follows:

**11.31(2)** For a license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy issued by endorsement or under a reciprocal agreement, \$300.

ITEM 3. Amend subrule 11.31(3) to read as follows:

**11.31(3)** For a renewal of a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, or a special license, \$150 per biennial period or a prorated portion thereof for a period of less than two years as determined by the board to facilitate biennial renewal according to month and year of birth.

ITEM 4. Amend rule 653—11.31(147) by adding the following new subrules:

**11.31(14)** For taking the Federation Licensing Examination administered by the board subsequent to May 31, 1991.

a. For Component 1 only, \$300.

b. For Component 2 only, \$350.

c. For both Components 1 and 2, \$500.

**11.31(15)** For taking the Federation Special Purpose Examination administered by the board subsequent to May 31, 1991, \$350.

[Filed 1/2/91, effective 2/27/91]

[Published 1/23/91]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/23/91.

**ARC 1641A****REVENUE AND FINANCE****DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue and Finance hereby adopts amendments to the following chapters: Chapter 10, "Interest, Penalty, and Exceptions To Penalty"; Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest"; Chapter 30, "Filing Returns, Payment of Tax, Penalty and Interest"; Chapter 37, "Administration of the Environmental Protection Charge Imposed Upon Petroleum Diminution"; Chapter 44, "Penalty and Interest"; Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest"; Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues"; Chapter 63, "Administration"; Chapter 81, "Administration"; Chapter 86, "Inheritance Tax"; Chapter 89, "Fiduciary Income Tax"; and Chapter 104, "Hotel and Motel — Filing Returns, Payment of Tax, Penalty and Interest," Iowa Administrative Code.

These amendments will incorporate interest and penalty rules for cigarette, tobacco, motor fuel, individual income, withholding, corporation income, franchise, sales, use, retailer's use, environmental protection

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

charge, inheritance, generation skipping transfer, estate taxes and hotel and motel tax into Chapter 10, Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin, Volume XIII, Number 11, on November 28, 1990, page 1017, as ARC 1483A.

Recent legislation has changed the interest rate to be charged for payment of taxes and consolidated penalty provisions for untimely filed or paid taxes into one Code section. The Department's rules dealing with penalty and interest have been amended to reflect these changes.

Portions of the preceding chapters will be incorporated into Chapter 10. This will provide one chapter for penalty and interest provisions for all taxes.

These rules are identical to those published under Notice of Intended Action.

These amendments will become effective February 27, 1991, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

**EDITOR'S NOTE:** Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [amendments to Chs 10, 12, 30, 37, 44, 46, 52, 58, 63, 81, 86 to 89, 104] is being omitted. These rules are identical to those published under Notice as ARC 1483A, IAB 11/28/90.

[Filed 1/4/91, effective 2/27/91]

[Published 1/23/91]

[For replacement pages for IAC, see IAC Supplement, 1/23/91.]

**ARC 1636A****STATUS OF BLACKS  
COMMISSION[434]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 601K.143, the Iowa Commission on the Status of Blacks hereby adopts Chapter 1, "Organization," and Chapter 2, "Public Records and Fair Information Practices," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 28, 1990, as ARC 1493A. These rules were adopted by the Commission on September 8, 1990.

Chapter 1 sets forth the organization of the Commission and Division on the Status of Blacks within the Department of Human Rights. Chapter 2 deals with public records and the fair information practices Act and adopts the Department's rules by reference, which are basically uniform. The Division Administrator is the custodian of the Division's records.

Public comments were solicited until December 21, 1990, and no comments or suggestions were received.

These rules are identical to those published under Notice of Intended Action and shall become effective February 27, 1991.

**EDITOR'S NOTE:** Pursuant to recommendation of the Administrative Rules Review Committee published in

the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 1 and 2] is being omitted. These rules are identical to those published under Notice as ARC 1493A, IAB 11/28/90.

[Filed 1/2/91, effective 2/27/91]

[Published 1/23/91]

[For replacement pages for IAC, see IAC Supplement, 1/23/91.]

**ARC 1650A****UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, 476.73 and 476.74, the Iowa Utilities Board (Board) gives notice that on January 4, 1991, the Board issued an order in Docket No. RMU-90-23, In Re: Access to Affiliate Records and Requirements for Annual Filings, "Order Adopting Rules."

On July 11, 1990, the Board issued an order in this docket commencing a rule making to consider the adoption of a new chapter, 199 IAC 31. The proposed rule making was published in the Iowa Administrative Bulletin on August 8, 1990, as ARC 1146A. The purpose of the proposed rules was to implement Iowa Code sections 476.73 and 476.74, dealing with the records of the affiliates of a rate-regulated public utility and information to be filed with the Board.

Sixteen commenters submitted written comments and 11 commenters were represented at the oral presentation held on September 6, 1990. Commenters included Senator Richard J. Varn, Representative Ralph Rosenberg, the Consumer Advocate Division of the Department of Justice, the Iowa Alliance for Fair Competition, Cunningham, Inc., Contel of Iowa, Peoples Natural Gas Company, Iowa Power and Light Company, Iowa Public Service Company, US West Communications, GTE North Incorporated, Central Telephone Company, Iowa Electric Light and Power Company, Iowa Southern Utilities Company, and Iowa-Illinois Gas and Electric Company.

Some of the utilities objected to subrules 31.2(1) and 31.2(2), stating the Board does not have authority to require affiliates to maintain separate records and arguing the inspection of records should be limited to records related to a specific transaction between the utility and the affiliate. In addition, Iowa-Illinois stated the rules may cause the affiliates to unnecessarily maintain duplicate vouchers and other source documents.

Iowa Code section 476.73(2) states the Board may require affiliates to keep separate records and may examine books as may be necessary to enforce Iowa Code chapter 476. The proposed subrules do not go beyond the authority given to the Board and the Board will adopt subrules 31.2(1) and 31.2(2) as they are proposed. The Board does not intend for the utility or its affiliates to unnecessarily copy documents which it would not regularly maintain. However, it is reasonable to expect complete and separate record keeping which would allow the Board's staff to easily trace a transaction through the utility and affiliate records.

## UTILITIES DIVISION[199] (cont'd)

Representative Ralph Rosenberg and the Iowa Alliance for Fair Competition objected to proposed subrule 31.2(3) stating the records should be filed with the Board rather than maintained at the utility's principal place of business. Consumer Advocate commented the rules should state the records should also be made available to the Consumer Advocate. Several of the utilities stated the time to respond to a request for information should be longer and argued the requirement the affiliates' records be made available at the utilities' principal place of business is burdensome.

The Board will adopt subrule 31.2(3) as it was proposed, with one small clarifying change. Since the records will be made available upon request, it is unnecessary the records be filed with the Board. In addition, Iowa Code section 475A.2 gives the Consumer Advocate the authority to investigate and ask the Board to issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, and documents at the discretion of the Board. Iowa Code section 476.73 does not give the Consumer Advocate any separate authority to investigate. If the Board adopted Consumer Advocate's proposal, it would expand Consumer Advocate's authority beyond Iowa Code section 475A.2. The seven-day response time and the requirement that records be maintained at the utility's principal place of business are reasonable expectations. Board staff should not be required to travel great distances to audit records. However, if a utility feels it is warranted, a utility may seek a waiver at the time of the request.

Several of the utilities suggested the word "transactions" be dropped from proposed subrule 31.3(1). The word "transactions" is used in Iowa Code section 476.73. The Board will clarify the proposed rule by adding the phrase "or other similar transactions," rather than the single word "transactions." The phrase will be inserted other places in the rule for clarification. In addition to contracts between the utility and the affiliate, Consumer Advocate proposed the Board require the annual filing of copies of contracts between two affiliates where the contract may affect the cost of service. However, with regard to the annual filing requirement, Iowa Code section 476.74 limits the Board's authority to contracts between a public utility and an affiliate.

Many of the commenters objected to the \$50,000 exemption for the annual filing of contracts. The parties were concerned significant transactions would not be reviewed by the Board. The exemption for contracts not in excess of \$50,000 or 5 percent of the capital equity of the utility is provided for in Iowa Code section 476.73(5). The Board may not require a utility to file contracts below the exemption set by the statute. The utilities are required to file an annual report of the total amount of contracts qualifying under the exemption. An unusual number of contracts qualifying under this exemption may trigger an investigation by the Board or Consumer Advocate.

Several of the utilities objected to the requirement the utility notify the Board within 30 days of any new relationship or change in an existing relationship with an affiliate. The utilities state these changes should be reported in the annual report. It is important the Board maintain current contact with the utilities regarding changes in their affiliate relationships and will adopt the proposed subrule with some clarifying changes. The utilities requested clarification as to whether subrule 31.4(1) requires the utilities to file an affidavit with each

application for confidentiality. The Board has clarified that subrule to show it is necessary to file only one affidavit with each filing.

In addition, the commenters requested clarification of rule 31.5(476). That rule provides whatever form of information is filed, the information required by the rules or comparable alternative information approved by the Board, the utilities must file the same information for at least five consecutive years. Also, one commenter stated the utilities should not be allowed to file alternative comparable information at all. This purpose of the rule is to allow the utilities to file information in another form if it has filed that information with other agencies. In order to ensure information which can be compared with previous years' filings, it is necessary the same information be filed for a minimum of five years. This will avoid duplicative efforts.

Having given due consideration to each of the comments received, the Board will adopt the rules as revised. The adopted rules will become effective on February 27, 1991.

These rules are intended to implement Iowa Code sections 476.73 and 476.74.

The following new chapter is adopted:

## CHAPTER 31

ACCESS TO AFFILIATE RECORDS AND  
REQUIREMENTS FOR ANNUAL FILINGS

**199—31.1(476) Applicability and definition of terms.** This chapter applies to all rate-regulated gas or electric public utilities and rate-regulated telephone utilities providing local exchange telecommunication service. All terms used in this chapter shall be defined as the terms are defined in Iowa Code section 476.72.

**199—31.2(476) Availability of records.**

**31.2(1) Separate records.** All affiliates of the public utility shall maintain records which are separate from the records of the public utility.

**31.2(2) Records to be maintained.** The records maintained by each affiliate and made available for inspection through the public utility shall include, but not be limited to: ledgers; balance sheets; income statements—both consolidated and consolidating; documents depicting accounts payable and vouchers; purchase orders; time sheets; journal entries; source and supporting documents for all transactions; all contracts, including summaries of unwritten contracts or agreements; a description of methods used to allocate revenues, expenses, and investments among affiliates or jurisdictions, including supporting detail; and copies of all filings required by other state and federal agencies.

**31.2(3) Method of inspection.** The records of each affiliate shall be made available to the board at the principal place of business of the public utility. Notwithstanding rule 199—18.3(476), upon receipt of a formal request in writing from the board for information, the public utility shall produce the requested information within seven days. Upon a showing of good cause, the board may approve additional time for response.

**199—31.3(476) Annual filing.** On or before June 30 of each year, all public utilities shall file with the board the following information:

1. Verified copies of all contracts, arrangements, or other similar transactions between the public utility and an affiliate made or entered into on or after July 1, 1989, and verified copies or a verified summary of all contracts,

## UTILITIES DIVISION[199] (cont'd)

arrangements, or other similar transactions between the public utility and an affiliate made or entered into prior to July 1, 1989, but in force and effect on or after July 1, 1989. This includes all contracts or arrangements, or other similar transactions as required by Iowa Code subsections 476.74(1) to 476.74(4).

2. Contracts, arrangements, or other similar transactions with an affiliate where the consideration is not in excess of \$50,000 or 5 percent of the capital equity of the utility, whichever is smaller, are exempt from this filing requirement. In lieu of the filing requirement, the public utility shall file on or before June 30 of each year a report of the total amount of each contract, arrangement, or other similar transactions with affiliates qualifying under this exemption. Each affiliate shall be identified separately.

**31.3(1)** After an initial filing under rule 31.3(476), a public utility shall file only new contracts or arrangements or other similar transactions and modifications or amendments to existing contracts or arrangements, or other similar transactions on an annual basis. If there have been no new contracts or arrangements or other similar transactions, the public utility shall file a statement to that effect.

**31.3(2)** If a new affiliate is created, if an existing affiliate is dissolved or merged, if a contractual arrangement or other similar transactional relationship between the public utility and an affiliate is created, or if a contractual arrangement or other similar transactional relationship is terminated between the public utility or an affiliate, the public utility shall notify the board in writing within 30 days of the date of the event. This subrule does not apply if a proposal for reorganization pursuant to 199—Chapter 32 is to be filed with the board.

**199—31.4(476) Verified copies and confidential treatment.**

**31.4(1)** Verified copies. For purposes of this chapter, a copy is verified if it is accompanied by an affidavit signed by a corporate officer with personal knowledge of the veracity of the copy. Only one affidavit signed by a corporate officer with personal knowledge of the veracity of the copy need be included in an individual filing in order to verify all contracts, arrangements, or other similar transactions included in the filing.

**31.4(2)** Confidential treatment. When a public utility files contracts, arrangements, or other similar transactions with the board, all such contracts or arrangements for which confidential treatment is sought shall be clearly marked. In addition to the requirements set out in 199—1.9(22), the public utility shall provide, at the time of filing with the board, a list designating the contracts, arrangements, and other similar transactions, if any, for which confidential treatment is sought. The public utility shall designate where and to whom contracts, arrangements, and other similar transactions determined by the board to be confidential shall be returned.

**199—31.5(476) Comparable information.** For the purpose of satisfying the filing requirements of this chapter, the public utility may request approval to file alternative but comparable information which the public utility files with other state or federal regulatory agencies. If the proposal is approved by the board, the public utility may file the information as a partial substitute for, or in lieu of, the information required by rule 31.3(476), and the board may provide that the public

utility continue to file the approved alternative information in future filings. The public utility shall file the same information, whether it is the alternative information filed with other agencies, or the information required by rule 31.3(476), for at least five consecutive years. Proposals to file alternative information shall be filed by the public utility on or before December 1 of the year preceding the year for which approval is sought.

**199—31.6(476) Waivers.** Any public utility may file an application for waiver of the requirements of this chapter. The application shall include a detailed statement of why the waiver is in the public interest.

These rules are intended to implement Iowa Code sections 476.73 and 476.74.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 1/23/91.

## ARC 1651A

### UTILITIES DIVISION[199]

#### Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.2, the Iowa Utilities Board (Board) gives notice that on January 2, 1991, the Board issued an order in Docket No. RMU-90-24, *In Re: Nonutility Service*, "Order Adopting Rules."

On July 20, 1990, the Board issued an order in this docket commencing a rule making to consider the adoption of a new chapter, 199 IAC 34. The proposed rule making was published in the Iowa Administrative Bulletin on August 8, 1990, as ARC 1153A. The purpose of the proposed rules was to implement Iowa Code sections 476.78, 476.80, and 476.81 regarding the provision of nonutility service by rate-regulated public utilities.

Twenty-three commenters submitted written comments and ten commenters were represented at the oral presentation held on October 25, 1990. Commenters included Senator Richard J. Varn, Representative Ralph Rosenberg, the Consumer Advocate Division of the Department of Justice, Iowa Electric Light and Power Company, Peoples Natural Gas Company, Iowa-Illinois Gas and Electric Company, Iowa Public Service Company, Iowa Power and Light Company, Iowa Southern Utilities Company, Peoples Natural Gas Company, the Iowa Association of Municipal Utilities, the Alliance for Fair Competition, the Greater Heating and Cooling Association, North Central Telemarketing, Fereday Heating Company, Gabrilson Heating Company, Plumb Supply, Hudson Plumbing and Heating Company, Dalton Plumbing, Tri View Heating and Cooling Company, Don Lentz Heating and Cooling, Tri County Plumbing and Heating, Yeager Plumbing and Heating, Young Plumbing and Heating, American Home Heating, Cunningham, Inc., and Novak Heating.

## UTILITIES DIVISION[199] (cont'd)

Iowa Electric Light and Power (Iowa Electric) and Iowa-Illinois Gas and Electric Company (Iowa-Illinois) stated the definition of nonutility service in rule 34.2 should be clarified to specifically mention the exclusion provided in Iowa Code section 476.82 for energy efficiency programs. In addition, Iowa Electric stated power conditioning devices should be excluded from the definition because they are integral to providing utility services. Since the rules incorporate the definition of nonutility service provided in Iowa Code section 476.72(3) and there is a specific exemption for energy efficiency programs in Iowa Code section 476.82, the Board will adopt the definition as it was proposed. It is not necessary to incorporate additional language excluding energy efficiency programs since the legislation provides the exclusion.

All of the commenters stated the Board should clarify the definition of "systematic marketing" in rule 34.3. In addition, the commenters stated the hypothetical examples included to clarify the definition of "systematic marketing" were not helpful in making the definition more clear. The Board agrees with the commenters and has added the phrase "regular or irregular, recurring or nonrecurring, active or passive in nature, and whether the effort is done on a comprehensive basis" to clarify the definition and has deleted the hypothetical examples.

Several of the utilities commented the rules should restrict the use of the utilities' mailing system, billing and collection system, and customer list to the same extent those services are used by the utility itself. This is consistent with Iowa Code section 476.80 and the Board has added a clarifying phrase to rule 34.5 to reflect this suggestion.

A few of the utilities commented concerning the extent of the competitor's use of the utilities' billing and collection system, as described in rule 34.6. Iowa Electric stated it was concerned it would become the collection agency for the person qualifying under rule 34.2. As rule 34.5 states, the person qualifying under rule 34.2 will be able to use the billing and collection system to the same extent utilized by the public utility for its nonutility service. The utility shall not be required to collect bad debts, but shall provide access to its billing and collection system to the person qualifying under rule 34.2. A phrase has been added to subrule 34.6(2) to clarify partial payments shall be allocated to the utility service bill initially. In addition, the Board has eliminated unclear language in subrule 34.6(2).

Iowa Electric stated rule 34.7 should allow the utility the option to cease its marketing and comply on a prospective basis. However, Iowa Code section 476.80 states a utility which engages in systematic marketing shall provide access to its customer lists, billing and collection system, and mailing system. The statute does not allow a utility the option of ceasing activity after the Board finds it has engaged in systematic marketing. Finally, Iowa-Illinois contended rule 34.7 should be more restrictive. The Board will not restrict the availability of its complaint procedure. According to Iowa Code section 476.3, a person may file a complaint regarding "anything done or omitted to be done by a public utility subject to this chapter in contravention of this chapter."

Having given due consideration to each of the comments received, the Board will adopt the rules as revised. The adopted rules will become effective on February 27, 1991.

These rules are intended to implement Iowa Code sections 476.78, 476.80, and 476.81.

The following new chapter is adopted:

## CHAPTER 34

## NONUTILITY SERVICE

**199—34.1(476) Statement of purpose.** A public utility which engages in a systematic marketing effort, other than on an incidental or casual basis, to promote the availability of a nonutility service from the public utility shall allow competitors access to certain services.

**199—34.2(476) Definition — nonutility service.**

"Nonutility service" as defined in this chapter means the sale, lease, or other conveyance of commercial and residential gas or electric appliances, interior lighting systems and fixtures, or heating, ventilating, or air-conditioning systems and component parts or the servicing, repair, or maintenance of the equipment.

**199—34.3(476) Definition — systematic marketing effort.**

In determining whether activity constitutes a "systematic marketing effort, other than on an incidental or casual basis," the board will consider whether the effort is regular or irregular, recurring or nonrecurring, active or passive in nature and whether the effort is done on a comprehensive basis. Factors that shall be considered include, but are not limited to, the types and number of media used, the frequency, extent, and duration of the marketing effort, the amount of marketing expenses incurred, and whether the public utility appeared to intend to increase significantly its market share.

**199—34.4(476) Engaged primarily in providing the same competitive nonutility services in the area—defined.**

"A person is engaged primarily in providing the same competitive nonutility services in the area" when the person on a full-time, ongoing basis sells or leases equipment or products or offers services which are functionally interchangeable and considered similar by the public with the nonutility service provided by a public utility in the same identifiable geographic area where the public utility provides utility service.

**199—34.5(476) Charges permitted.**

A person meeting the requirements of rule 34.4(476) shall be permitted to use, to the same extent utilized by the public utility for its nonutility service in connection with nonutility services as defined in rule 34.2(476), the customer lists, billing and collection system, and mailing system of the public utility company engaged in a systematic marketing effort, other than on an incidental or casual basis. The person shall be charged for the cost or expense incurred by the public utility in providing access to its systems and its lists. The charge shall not be greater than the charge, fee, or cost imposed upon or allocated to the provision of nonutility service by the utility for the similar use of the systems.

**199—34.6(476) Procedures for utilization of billing and collection system.**

1. When a person meeting the requirements of rule 34.4(476) uses the billing and collection system of a public utility, the public utility shall promptly remit to that person all funds collected by the public utility on behalf of the person.

2. Where a customer makes a partial payment and owes both a public utility and a person(s) meeting the

## UTILITIES DIVISION[199] (cont'd)

requirements of rule 34.4(476) for services or goods provided, the payment received shall be allocated first to the regulated utility bill plus tax, unless otherwise allocated by the customer. Any balance remaining after payment of the utility bill plus tax shall be allocated between the public utility for nonutility services, if any, and any person(s) utilizing the utility's billing system according to the ratio of the amount billed by each unless otherwise allocated by the customer. A public utility shall not disconnect a customer's utility service for nonpayment of a bill for nonutility services.

A person cannot use a public utility's billing and

collection systems only to target customers who are problem payers.

**199—34.7(476) Complaints.** The procedures in 199—Chapter 6 shall apply to all complaints regarding the provision of nonutility service.

These rules are intended to implement Iowa Code sections 476.78, 476.80, and 476.81.

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