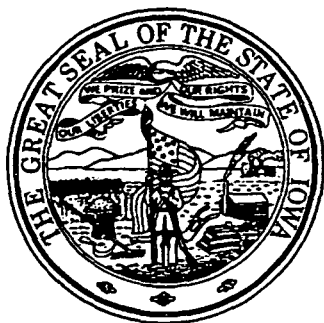


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IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XIV

NUMBER 23

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Pages 1927 to 2014

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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"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking--Notice of Application and Hearing [524.1905(2)].

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

GUIDE FOR RULE MAKING, see FIRST VOLUME IOWA ADMINISTRATIVE CODE (Gray, Yellow, Red, Blue and Green Tabs)

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

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

PHYLLIS BARRY, Administrative Code Editor

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

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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, 1991, to June 30, 1992	\$210.00 plus \$8.40 sales tax
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Third quarter	January 1, 1992, to June 30, 1992	\$105.00 plus \$4.20 sales tax
Fourth quarter	April 1, 1992, to June 30, 1992	\$ 52.50 plus \$2.10 sales tax

Single copies may be purchased for \$10.00 plus \$0.40 tax. Back issues may be purchased if the issues are available.

Iowa Administrative Code

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

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

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Iowa Administrative Code Supplement - \$332.00 plus \$13.28 sales tax
(Subscription expires June 30, 1992)

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

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

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Filed, Dietetic examiners, 80.3 to 80.5,
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Filed, Mortuary science examiners — burial
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Filed, Flexible transportation rates and
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Filed, Rescission of I-SAVE rules, ch 27
ARC 2997A 2011

"A GUIDE TO RULE MAKING" pamphlet available
upon request from:

Administrative Code Division
Lucas State Office Building, 4th Floor

or

Administrative Rules Coordinator
Capitol, Ground Floor, Room 11

Schedule for Rule Making 1992

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. 6 '91	Dec. 25 '91	Jan. 14	Jan. 29	Feb. 19	Mar. 25	June 22
Dec. 20 '91	Jan. 8	Jan. 28	Feb. 12	Mar. 4	Apr. 8	July 6
Jan. 3	Jan. 22	Feb. 11	Feb. 26	Mar. 18	Apr. 22	July 20
Jan. 17	Feb. 5	Feb. 25	Mar. 11	Apr. 1	May 6	Aug. 3
Jan. 31	Feb. 19	Mar. 10	Mar. 25	Apr. 15	May 20	Aug. 17
Feb. 14	Mar. 4	Mar. 24	Apr. 8	Apr. 29	June 3	Aug. 31
Feb. 28	Mar. 18	Apr. 7	Apr. 22	May 13	June 17	Sep. 14
Mar. 13	Apr. 1	Apr. 21	May 6	May 27	July 1	Sep. 28
Mar. 27	Apr. 15	May 5	May 20	June 10	July 15	Oct. 12
Apr. 10	Apr. 29	May 19	June 3	June 24	July 29	Oct. 26
Apr. 24	May 13	June 2	June 17	July 8	Aug. 12	Nov. 9
May 8	May 27	June 16	July 1	July 22	Aug. 26	Nov. 23
May 22	June 10	June 30	July 15	Aug. 5	Sept. 9	Dec. 7
June 5	June 24	July 14	July 29	Aug. 19	Sep. 23	Dec. 21
June 19	July 8	July 28	Aug. 12	Sep. 2	Oct. 7	Jan. 4 '93
July 3	July 22	Aug. 11	Aug. 26	Sep. 16	Oct. 21	Jan. 18 '93
July 17	Aug. 5	Aug. 25	Sep. 9	Sept. 30	Nov. 4	Feb. 1 '93
July 31	Aug. 19	Sep. 8	Sep. 23	Oct. 14	Nov. 18	Feb. 15 '93
Aug. 14	Sep. 2	Sep. 22	Oct. 7	Oct. 28	Dec. 2	Mar. 1 '93
Aug. 28	Sep. 16	Oct. 6	Oct. 21	Nov. 11	Dec. 16	Mar. 15 '93
Sep. 11	Sept. 30	Oct. 20	Nov. 4	Nov. 25	Dec. 30	Mar. 29 '93
Sep. 25	Oct. 14	Nov. 3	Nov. 18	Dec. 9	Jan. 13 '93	Apr. 12 '93
Oct. 9	Oct. 28	Nov. 17	Dec. 2	Dec. 23	Jan. 27 '93	Apr. 26 '93
Oct. 23	Nov. 11	Dec. 1	Dec. 16	Jan. 6 '93	Feb. 10 '93	May 10 '93
Nov. 6	Nov. 25	Dec. 15	Dec. 30	Jan. 20 '93	Feb. 24 '93	May 24 '93
Nov. 20	Dec. 9	Dec. 29	Jan. 13 '93	Feb. 3 '93	Mar. 10 '93	June 7 '93
Dec. 4	Dec. 23	Jan. 12 '93	Jan. 27 '93	Feb. 17 '93	Mar. 24 '93	June 21 '93
Dec. 18	Jan. 6 '93	Jan. 26 '93	Feb. 10 '93	Mar. 3 '93	Apr. 7 '93	July 5 '93

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
25	Friday, May 22, 1992	June 10, 1992
26	Friday, June 5, 1992	June 24, 1992
1	Friday, June 19, 1992	July 8, 1992

PLEASE NOTE:

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.

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
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Water quality standards, 61.2(5), 61.3(5)"e," IAB 5/13/92 ARC 3004A	Meeting Room Chamber of Commerce 128 N. 12th St. Centerville, Iowa	June 4, 1992 1 p.m.
	Meeting Room Public Library 400 N. 2nd St. Red Oak, Iowa	June 4, 1992 7 p.m.
	Meeting Room Public Library 112 Albany St. Orange City, Iowa	June 5, 1992 1 p.m.
	Conference Room Fifth Floor West Wallace State Office Bldg. Des Moines, Iowa	June 8, 1992 10 a.m.
	Meeting Room B Public Library 123 S. Linn St. Iowa City, Iowa	June 8, 1992 1 p.m.
LABOR SERVICES DIVISION[347]		
Safety procedures for bungee jumping, 62.2(13) IAB 5/13/92 ARC 2990A (See also ARC 2989A herein)	Labor Services Division 1000 E. Grand Ave. Des Moines, Iowa	June 9, 1992 9 a.m. (If requested)
NATURAL RESOURCE COMMISSION[571]		
Consent for the sale of goods and services, 1.11 IAB 4/29/92 ARC 2968A	Conference Room Fourth Floor East Wallace State Office Bldg. Des Moines, Iowa	May 22, 1992 10 a.m.
Hunting, trapping, and fishing violations — habitual offenders, 15.6(1), 15.6(3), 15.6(4) IAB 4/29/92 ARC 2966A	Conference Room Fourth Floor West Wallace State Office Bldg. Des Moines, Iowa	May 20, 1992 2:30 p.m.
County, and private open spaces grant programs, 33.30(5), 33.30(6), 33.50(4) IAB 4/29/92 ARC 2967A	Conference Room Fourth Floor East Wallace State Office Bldg. Des Moines, Iowa	May 21, 1992 10 a.m.
Trapping limitations, 110.5, 110.6 IAB 4/29/92 ARC 2965A	Conference Room Fourth Floor East Wallace State Office Bldg. Des Moines, Iowa	May 20, 1992 1 p.m.

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

Installations and inspections of underground liquid storage systems, ch 15 IAB 5/13/92 ARC 2991A	Administrator's Office Conference Room 1000 Illinois St. Des Moines, Iowa	June 2, 1992 10 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Fire marshal, 5.1(5), 5.100, 5.650 IAB 5/13/92 ARC 3007A	Conference Room Third Floor, East Half Wallace State Office Bldg. Des Moines, Iowa	June 24, 1992 10:30 a.m.
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REVENUE AND FINANCE DEPARTMENT[701]

Expansion of state sales tax on services, 18.34(3), 26.21, 26.42, 26.71 to 26.80 IAB 4/29/92 ARC 2969A	Conference Room - 4th Floor Hoover State Office Bldg. Des Moines, Iowa	May 21, 1992 10 a.m.
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TRANSPORTATION DEPARTMENT[761]

Farm trailer registration and inspection exemption, 400.1(3) IAB 4/29/92 ARC 2960A	Conference Room Park Fair Mall 100 Euclid Avenue Des Moines, Iowa	May 28, 1992 10 a.m. (If requested)
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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).

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 small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA [101].

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

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- Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

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CITIZENS' AIDE[141]

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- Credit Union Division[189]
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- 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]
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Agencies listed below are identified in the Iowa Administrative Code with white tabs. These agencies have not yet implemented government reorganization.

Citizens' Aide[210]

Iowa Advance Funding Authority[515]

Product Development Corporation[636]

Records Commission[710]

ARC 2981A

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

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 114.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 1, "Administration," Iowa Administrative Code.

The National Council of Examiners for Engineering and Surveying (NCEES), a national organization of engineering and land surveying boards, recently made changes in the format and length of the national professional land surveying examination. The Iowa board proposes to amend its rules to conform to these changes. A three-part examination will become two parts, the locally prepared portion will increase from one to two hours, and fees will be adjusted accordingly.

Any interested person may make written or verbal suggestions or comments on the proposed amendments on or before June 2, 1992, by contacting Patricia Peters, 1918 S.E. Hulsizer, Ankeny, Iowa 50021, telephone (515)281-5602.

These amendments are intended to implement Iowa Code sections 114.13, 114.14, and 114.15.

The following amendments are proposed.

ITEM 1. Amend subrules 1.4(4) and 1.4(5) as follows:

1.4(4) Examination. The board prepares and grades the ~~one-hour Iowa Orientation State Specific Examination~~ administered to land surveyor applicants and, in special cases, the examination for registration in engineering. All other examinations are uniform examinations prepared and graded by the National Council of ~~Engineering Examiners (NCEE) Examiners for Engineering and Surveying (NCEES)~~.

a. Fundamentals examinations. The Fundamentals of Engineering Examination is a written, eight-hour examination; it covers general engineering principles and other subjects commonly taught in accredited engineering programs. The Fundamentals of Land Surveying Examination is a written, eight-hour examination and covers general land surveying principles.

b. Professional engineering examinations. The Professional Engineering Examination is a written, eight-hour examination designed to determine proficiency and qualification to engage in the practice of professional engineering only in a specific branch. A separate examination shall be required for each branch in which registration is desired.

c. Professional land surveying examinations. The Professional Land Surveying Examination shall consist of ~~three~~ two examinations. The first is a ~~four-hour~~ six-hour examination designed to determine general proficiency and qualification to engage in the practice of land survey-

ing. The second is a ~~one-hour~~ two-hour Iowa Orientation State Specific Examination, which is designed to determine an applicant's proficiency and qualifications to practice land surveying specifically in Iowa. ~~The third is a three-hour examination designed to determine an applicant's proficiency to practice land surveying in public domain states, which includes Iowa.~~ The board may conduct an oral interview with each applicant for the Professional Land Surveying Examination to verify the applicant's knowledge and experience in the principles and practice of land surveying in Iowa. The applicant is expected to have knowledge in the following: conduct of original surveys, restoration of obliterated corners, reestablishing of lost corners, retracement work and how to use evidence in restoration of obliterated land lines and corners, laws governing riparian rights, accretions and adverse possession.

d. Passing scores. The board reviews test scores for each examination and determines what level shall constitute a minimum passing score for that examination. In making its determination, the board generally is guided by the passing score recommended by the NCEE NCEES. Although a 70 percent score on examinations prepared and graded locally has been the score which the board historically has regarded as passing, the board fixes the passing score for each examination at a level which it concludes is a reasonable indication of minimally acceptable professional competence.

e. Reexamination. Applicants who fail an examination may submit for reexamination at the next examination period at which the examination is offered upon payment of the examination fee. However, an applicant who fails the same examination twice generally is not permitted to appear for another examination until the applicant can demonstrate two additional years of satisfactory education or work experience.

f. Failure to appear. An applicant who fails to appear for an examination may sit for the examination the next time it is offered upon payment of a fee set by the board, provided the application will not be more than one year old at the time of the examination. The board may, in cases of extreme hardship, allow exception to this rule.

1.4(5) Registration by comity. Any person who has been registered as a professional engineer by a foreign jurisdiction may be considered for similar registration in Iowa without the need for further examination if the original examination is still in active status. Applications for registration by comity will be evaluated on the following basis:

a. The applicant's foreign registration must have been granted only after satisfaction of requirements equal to or more stringent than those which would be required by Iowa Code section 114.14, if the applicant's original registration was sought in Iowa; and

b. The applicant's present record of education, references, practical experience, and successful completion of approved examinations currently satisfies the substantive requirements of Iowa Code section 114.14.

c. A comity applicant for registration in land surveying shall comply with subrule 1.4(5), paragraphs "a" and "b," above; complete successfully a ~~one-hour land surveying~~ the Iowa Orientation State Specific Examination; and complete successfully the ~~Public Domain States Examination (three-hour, NCEE)~~ if the examination in the foreign jurisdiction was not in a public domain state other examinations as determined by the board.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

d. In lieu of the detailed personal history requested on an application for licensing, an applicant for registration by comity may submit educational and professional records as verified by that person's NCEE NCEES Council Record.

e. A temporary permit to practice engineering in the state may be granted to a comity applicant upon approval of a professional engineer member of the board. The temporary permit shall expire at the next regularly scheduled meeting of the board.

ITEM 2. Amend subrule 1.9(2) as follows:

1.9(2) Examination fees:

1. Fundamentals of engineering (EIT), including certificate	\$40.00
2. Fundamentals of land surveying (LSIT), including certificate	\$47.50
3. Principles and practice of engineering (PE) or Special Structural I Examination	\$90.00
4. Principles and practices practice of land surveying (LS)	\$90.00
5. Repeat of any national portion of principles and practice of land surveying. .	\$40.00 \$60.00
6. Repeat of Iowa State Specific portion of principles and practice of land surveying	\$40.00
7. Fee for applicants who were scheduled and did not appear for examination for the next offering of examination provided application is still current	\$25.00

ARC 3004A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission for the Department of Natural Resources gives Notice of Intended Action to amend Chapter 61, "Water Quality Standards," Iowa Administrative Code.

The proposed amendments establish designated uses for various water bodies for the purpose of applying existing surface water quality criteria, reclassify the existing use designation for a stream, correct typographical errors, and revise the publication date on a rule referenced document, "Iowa Water Quality Standards: Protected Flows For Selected Stream Segments."

Numerical water quality standards must normally be met when the flow of the receiving stream equals or exceeds the seven-day, ten-year low flow. However, subrule 61.2(5) allows that under certain conditions the seven-day, ten-year low flow may be waived and a numerically higher value may be established. Minimum flows established under this waiver provision are published in the

document "Iowa Water Quality Standards: Protected Flows For Selected Stream Segments." Minimum flow values have been determined for an additional 107 stream segments throughout Iowa and have been added to this rule referenced document. Item 1 in this Notice amends the publication date of this document and eliminates the requirement that the document be published annually. This document will be revised and updated as the need arises rather than on an annual basis. A copy of the document is on file with the Iowa Administrative Rules Coordinator.

The amendments proposed in Item 2 add or amend designated uses for numerous stream segments. The amendments represent the fourth round of a multiyear effort to establish stream use designations in accordance with the aquatic use protection classifications adopted by the Commission in May 1990 and currently found in subrule 61.3(1). The stream segments listed under Item 2 generally represent water bodies which are currently considered general use waters but are proposed to be designated as either Class B(LR) Limited Resource warm waters or Class B(WW) Significant Resource warm waters. The exception is a segment of Mosquito Creek (Pottawattamie Co.) which is currently designated as a Class B(WW) Significant Resource warm water. The Class B(WW) designation will remain but Mosquito Creek will also be designated as a Class A (Primary Body Contact Recreation) water at the point where a portion of the Mosquito Creek flow is periodically diverted to Lake Manawa for purposes of maintaining lake levels. Lake Manawa is designated as a Class A water.

A number of typographical errors have been discovered in the stream use designations previously adopted by the Commission and the amendments proposed in Item 3 correct those typographical errors.

Recently obtained field data and low flow data for the lower portion of Prairie Creek in Benton and Cedar Counties indicate the stream warrants only the Class B(LR) Limited Resource warm water designation instead of the current Class B(WW) Significant Resource designation. The rule change proposed in Item 4 reclassifies that stream segment accordingly.

Any person may submit written suggestions or comments on the proposed amendments through June 19, 1992. Such written material should be submitted to Ralph Turkle, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, or FAX (515)281-8895. Persons who have questions may contact Ralph Turkle at (515)281-7025.

Persons are also invited to present oral or written comments at public hearings which will be held on:

June 4, 1992

1 p.m. in the Centerville Chamber of Commerce meeting room, 128 N. 12th St., Centerville.

7 p.m. in the Red Oak Public Library meeting room, 400 N. 2nd St. (2nd & Washington), Red Oak.

June 5, 1992

1 p.m. in the Orange City Public Library meeting room, 112 Albany St., Orange City.

June 8, 1992

10 a.m. in the 5th Floor (West) Conference Room, Henry Wallace Building, 900 E. Grand Ave., Des Moines.

1 p.m. in the Iowa City Public Library, Meeting Room B, 123 S. Linn St., Iowa City.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

These amendments may have an impact upon small businesses.

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

These amendments are intended to implement Iowa Code chapter 455B, division III, part I.

ITEM 1. Amend subrule 61.2(5), first unnumbered paragraph, to reflect the revised date for the rule referenced document as follows:

All minimum flows established under the provisions of this rule will be published ~~annually~~ by the department. The minimum flows, commonly termed protected flows, are presented in "Iowa Water Quality Standards: Protected Flows For Selected Stream Segments," dated ~~September 24, 1991~~ February 25, 1992. A copy of this document is available upon request from the department. A copy is also on file with the Iowa administrative rules coordinator.

ITEM 2. Insert the following into paragraph 61.3(5)"e" in its natural sequence or hydrological order:

Iowa Water Quality Standards
Water Use Designations

e.

WESTERN IOWA RIVER BASINS

Western Iowa River Basins (Missouri, Big Sioux, and Little Sioux Rivers)

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for Western Iowa River Basins. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

- Broken Kettle Cr. - 4
- Bull Run - 5
- Indian Cr. - 6
- Lake Manawa water intake structure - 2a
- Perry Cr. - 3
- Plum Cr. - 1
- Sixmile Cr. - 7
- Unnamed Cr. - 8
- Unnamed Cr. - 9
- Unnamed Cr. - 10
- Waubonsie Cr. - 2

Water Uses

	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
(Missouri R. Tributaries)								
<u>Plum Cr.</u>								
1. Mouth (S6, T69N, R43W, Fremont Co.) to confluence with an unnamed tributary (S29, T70N, R42W, Fremont Co.)			X					
<u>Waubonsie Cr.</u>								
2. Mouth (S8, T70N, R43W, Fremont Co.) to confluence with an unnamed tributary (S25, T71N, R43W, Mills Co.)			X					
<u>Lake Manawa water intake structure</u>								
2a. Intake near the Norfolk and Western Railroad crossing in the middle of S7, T74N, R43W, Pottawattamie Co.)	X							
<u>Perry Cr.</u>								
3. Mouth (S32, T89N, R47W, Woodbury Co.) to confluence with an unnamed tributary (S35, T91N, R47W, Plymouth Co.)			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

		Water Uses						
A	B(W)	B(LR)	B(LW)	B(CW)	C	HQ	HQR	
<u>Broken Kettle Cr.</u>								
4.	Mouth (S9, T90N, R48W, Plymouth Co.) to confluence with an unnamed tributary (S19, T92N, R47W, Plymouth Co.)		X					
<u>Bull Run</u>								
5.	Mouth (S25, T92N, R48W, Plymouth Co.) to confluence with an unnamed tributary (S29, T92N, R47W, Plymouth Co.)		X					
<u>Indian Cr.</u>								
6.	Mouth (S9, T93N, R48W, Plymouth Co.) to confluence with an unnamed tributary (S33, T94N, R47W, Sioux Co.)		X					
<u>Sixmile Cr.</u>								
7.	Mouth (S28, T94N, R48W, Sioux Co.) to confluence with an unnamed tributary (S19, T95N, R46W, Sioux Co.)		X					
ROCK RIVER BASIN								
<u>Unnamed Cr.</u>								
8.	Mouth (S5, T96N, R47W, Sioux Co.) to confluence with an unnamed tributary (S29, T97N, R47W, Sioux Co.)		X					
<u>Unnamed Cr.</u>								
9.	Mouth (S26, T97N, R47W, Sioux Co.) to confluence with an unnamed tributary (W 1/2, S14, T97N, R47W, Sioux Co.)		X					
(Big Sioux River Basin)								
<u>Unnamed Cr.</u>								
10.	Mouth (S16, T98N, R48W, Lyon Co.) to confluence with an unnamed tributary (S22, T98N, R48W, Lyon Co.)		X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

		Water Uses							
	A	B(LW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR	
<u>South Fork Chariton R.</u>									
5.			X						
Mouth (Lake Rathbun) to outfall of Bob White State Park Lake (S4, T68N, R22W, Wayne Co.)									
<u>Walker Br.</u>									
6.			X						
Mouth (S36, T70N, R20W, Wayne Co.) to confluence with South Fork Walker Br. (SE 1/4, S26, T70N, R20W, Wayne Co.)									
<u>Jordan Cr.</u>									
7.			X						
Mouth (S1, T70N, R21W, Wayne Co.) to confluence with an unnamed tributary (E 1/2, of the NW 1/4, S26, T70N, R21W, Wayne Co.)									
<u>Jackson Cr.</u>									
8.			X						
Mouth (S1, T70N, R21W, Wayne Co.) to confluence with an unnamed tributary (S12, T68N, R21W, Wayne Co.)									
<u>W. Jackson Cr.</u>									
9.			X						
Mouth (S25, T69N, R21W, Wayne Co.) to confluence with an unnamed tributary (S31, T69N, R21W, Wayne Co.)									
<u>Unnamed Cr.</u>									
10.			X						
Mouth (S3, T69N, R21W, Wayne Co.) to confluence with an unnamed tributary (S7, T69N, R21W, Wayne Co.)									
<u>Ninemile Cr.</u>									
11.			X						
Mouth (S4, T69N, R22W, Wayne Co.) to confluence with an unnamed tributary (S31, T70N, R22W, Wayne Co.)									
<u>Dick Cr.</u>									
12.			X						
Mouth (S16, T69N, R22W, Wayne Co.) to confluence with an unnamed tributary (NE 1/4, S18, T69N, R22W, Wayne Co.)									
<u>Wolf Cr.</u>									
13.			X						
Mouth (S15, T71N, R21W, Lucas Co.) to confluence with an unnamed tributary (E 1/2, NW 1/4, S8, T70N, R22W, Lucas Co.)									
<u>Brush Cr.</u>									
14.			X						
Mouth (S31, T71N, R21W, Lucas Co.) to confluence with an unnamed tributary (SW 1/4, S13, T70N, R22W, Wayne Co.)									
<u>Fivemile Cr.</u>									
15.			X						
Mouth (S35, T71N, R22W, Lucas Co.) to confluence with an unnamed tributary (S29, T71N, R22W, Lucas Co.)									

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Water Uses

	A	B(W)	B(LR)	B(LW)	B(CV)	C	HQ	HQR
(Shoal Cr. River Basin)								
<u>Shoal Cr.</u>								
16. Iowa-Missouri State line (Appanoose Co.) to confluence with an unnamed tributary (S28, T68N, R19W, Appanoose Co.)			X					
<u>S. Shoal Cr.</u>								
17. Iowa-Missouri State Line (Appanoose Co.) to confluence with North Cr. (N 1/2, S16, T67N, R18W, Appanoose Co.)			X					
<u>South Cr.</u>								
18. Mouth (S 1/2, S16, T67N, R18W, Appanoose Co.) to confluence with an unnamed tributary (W 1/2, S17, T67N, R18W, Appanoose Co.)			X					
<u>North Cr.</u>								
19. Mouth (N 1/2, S16, T67N, R18W, Appanoose Co.) to confluence with an unnamed tributary (W 1/2, of SE 1/4, S8, T67N, R18W, Appanoose Co.)			X					
<u>Locust Cr.</u>								
20. Iowa-Missouri State line (Wayne Co.) to confluence with an unnamed tributary (S15, T67N, R20W, Wayne Co.)			X					
<u>East Fork Medicine Cr.</u>								
21. Iowa-Missouri State line (Wayne Co.) to confluence with an unnamed tributary (E 1/2, S24, T68N, R22W, Wayne Co.)			X					
<u>Weldon R.</u>								
22. Iowa-Missouri State line (Decatur Co.) to confluence with Mormon Pool (S28, T70N, R24W, Decatur Co.)			X					
<u>Steel Cr.</u>								
23. Mouth (S 10/11 line, T67N, R24W, Decatur Co.) to confluence with an unnamed tributary (NE 1/4, S11, T68N, R24W, Decatur Co.)			X					
<u>Johnathan Cr.</u>								
24. Mouth (S20, T69N, R24W, Decatur Co.) to confluence with Cobbsville Cr. (W 1/2, S6, T69N, R24W, Decatur Co.)			X					
<u>Little R.</u>								
25. Iowa-Missouri State line (Decatur Co.) to Dam at road, crossing (SE 1/2, NW 1/4, S30, T69N, R25W, Decatur Co.)			X					
<u>Grand R. (aka Thompson R.)</u>								
26. Iowa-Missouri State line (Decatur Co.) to confluence with Long Cr. (SW 1/4, S8, T69N, R26W, Decatur Co.)		X						
27. Confluence with Long Cr. (SW 1/4, S8, T69N, R26W to confluence with Ninemile Cr. (Adair Co.)			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HO	HQR
<u>Elk Cr.</u>								
28.			X					
Mouth (S18, T68N, R26W, Decatur Co.) to confluence with an unnamed tributary (S20, T69N, R27W, Decatur Co.)								
<u>Long Cr.</u>								
29.			X					
Mouth (S8, T69N, R26W, Decatur Co.) to confluence with East Long Creek (S36, T71N, R27W, Clarke Co.)								
<u>Twelvemile Cr.</u>								
30.			X					
Mouth (S36, T71N, R28W, Union Co.) to confluence with an unnamed tributary (NW 1/4, NE 1/4, S12, T71N, R29W, Union Co.)								
<u>Fourmile Cr.</u>								
31.			X					
Mouth (S2, T72N, R28W, Union Co.) to confluence with an unnamed tributary (E 1/2, S23, T72N, R28W, Union Co.)								
<u>West Branch Cr.</u>								
32.			X					
Mouth (S34, T74N, R29W, Madison Co.) to confluence with an unnamed tributary (E 1/2, S32, T74N, R29W, Madison Co.)								
<u>Lotts Cr.</u>								
33.			X					
Iowa-Missouri State line (Ringgold Co.) to confluence with Tuckers Cr. (S12, T67N, R29W, Ringgold Co.)								
<u>East Fork Grand R.</u>								
34.			X					
Iowa-Missouri State line (Ringgold Co.) to confluence with Goosebury Cr. (S2, T68N, R29W, Ringgold Co.)								
<u>Grand R.</u>								
35.	X							
Iowa-Missouri State line (S30, T67N, R31W, Ringgold Co.) to confluence with Crooked Cr. (S5, T68N, R30W, Ringgold Co.)								
<u>Platte R.</u>								
36.	X							
Iowa-Missouri State line (S28, T67N, R32W, Taylor Co.) to confluence with an unnamed tributary (NE 1/4, S36, T68N, R32W, Taylor Co.)								
37.			X					
Confluence with an unnamed tributary (NE 1/4, S36, T68N, R32W, Taylor Co.) to confluence with an unnamed tributary (NE 1/4, S16, T72N, R31W, Union Co.)								
<u>East Platte R.</u>								
38.			X					
Mouth (S9, T70N, R31W, Ringgold Co.) to confluence with Middle Platte R. (S33, T71N, R31W, Union Co.)								
<u>Middle Platte R.</u>								
39.			X					
Mouth (S33, T71N, R31W, Union Co.) to confluence with East Branch Middle Platte R. (S16, T71N, R31W, Union Co.)								

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
<u>East Nodaway R.</u>								
40.		X						
Mouth (S6, T67N, R36W, Page Co.) to confluence with Long Branch (S17/18 line, T70N, R35W, Taylor Co.)								
41.			X					
Confluence with Long Branch (S17/18 line, T70N, R35W, Taylor Co.) to confluence with Shanghai Cr. (S16, T73N, R32W, Adams Co.)								
(Middle Nodaway Tributary)								
<u>West Fork Middle Nodaway</u>								
42.			X					
Mouth (S33, T74N, R33W, Adair Co.) to confluence with Rutt Br. (S15, T75N, R33W, Adair Co.)								
<u>West Nodaway R.</u>								
43.		X						
Mouth (S6, T67N, R36W, Page Co.) to confluence with Threemile Cr. (S35, T74N, R36W, Cass Co.)								
44.			X					
Confluence with Threemile Cr. (S35, T74N, R36W, Cass Co.) to confluence with Whislens Branch (S17, T74N, R35W, Cass Co.)								
<u>Severmile Cr.</u>								
45.			X					
Mouth (S33, T73N, R36W, Montgomery Co.) to confluence with Fourmile Cr. (S33, T75N, R36W, Cass Co.)								
<u>West Mill Cr.</u>								
46.			X					
Iowa-Missouri State line to confluence with unnamed tributary (NE 1/4, S12, T67N, R38W, Page Co.)								
<u>Tarkio R.</u>								
47.			X					
Iowa-Missouri State line (Page Co.) to confluence with East Tarkio Cr. (S9, T68N, R38W, Page Co.)								
<u>East Tarkio Cr.</u>								
48.			X					
Mouth (S9, T68N, R38W, Page Co.) to confluence with an unnamed tributary (S7, T69N, R37W, Page Co.)								
<u>West Tarkio Cr.</u>								
49.			X					
Iowa-Missouri State line (Page Co.) to confluence with an unnamed tributary (S9, T69N, R38W, Page Co.)								
<u>East Nishnabotna R.</u>								
50.			X					
Confluence with Troublesome Cr. (S32, T77N, R36W, Cass Co.) to confluence with an unnamed tributary (E 1/2, NW 1/4, S6, T80N, R34W, Audubon Co.)								
<u>Mill Cr.</u>								
51.			X					
Mouth (S31, T68N, R41W, Fremont Co.) to confluence with an unnamed tributary (SE 1/4, NW 1/4, S15, T67N, R41W, Fremont Co.)								

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

		Water Uses							
		A	B(WW)	B(LR)	B(LW)	B(CW)	C	HO	HOR
	<u>Fisher Cr.</u>								
52.	Mouth (S27, T69N, R40W, Fremont Co.) to confluence with an unnamed tributary (S11/12 line, T68N, R40W, Fremont Co.)			X					
	<u>Indian Cr.</u>								
53.	Mouth (S17, T75N, R37W, Cass Co.) to confluence with Wolf Cr. (S35, T79N, R37W, Shelby Co.)			X					
	<u>Camp Cr.</u>								
54.	Mouth (S5/6 line, T77N, R37W, Cass Co.) to confluence with an unnamed tributary (S16, T77N, R37W, Cass Co.)			X					
	<u>Elkhorn Cr.</u>								
55.	Mouth (S20, T78N, R37W, Shelby Co.) to confluence with an unnamed tributary (S10, T78N, R37W, Shelby Co.)			X					
	<u>Turkey Cr.</u>								
56.	Mouth (S2, T75N, R37W, Cass Co.) to confluence with Eller Branch (S13, T76N, R36W, Cass Co.)			X					
	<u>Troublesome Cr.</u>								
57.	Mouth (S32, T77N, R36W, Cass Co.) to confluence with Fourmile Cr. (S8, T78N, R34W, Audubon Co.)			X					
	<u>Devis Cr.</u>								
58.	Mouth (S4, T78N, R35W, Audubon Co.) to confluence with Honey Cr. (S31, T79N, R34W, Audubon Co.)			X					
	<u>Bluegrass Cr.</u>								
59.	Mouth (S14, T79N, R35W, Audubon Co.) to confluence with an unnamed tributary from the West (S34, T80N, R35W, Audubon Co.)			X					
(West Nishnabotna River Basin)									
	<u>Walnut Cr.</u>								
60.	Mouth (S8, T69N, R41W, Fremont Co.) to confluence with an unnamed tributary (S30/31 line, T73N, R38W, Montgomery Co.)		X						
61.	Confluence with an unnamed tributary (S30/31 line, T73N, R38W, Montgomery Co.) to confluence with an unnamed tributary (S3, T76N, R38W, Cass Co.)			X					
	<u>Indian Cr.</u>								
62.	Mouth (S13, T72N, R41W, Mills Co.) to confluence with an unnamed tributary (S26, T72N, R40W, Mills Co.)			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

		Water Uses							
		A	B(W)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
<u>Farm Cr.</u>									
63.	Mouth (S9, T73N, R40W, Mills Co.) to confluence with Jordan Cr. (S31, T74N, R39W, Pottawattamie Co.)			X					
<u>Jordan Cr.</u>									
64.	Mouth (S31, T74N, R39W, Pottawattamie Co.) to confluence with Spring Cr. (S4, T74N, R39W, Pottawattamie Co.)			X					
<u>Jim Cr.</u>									
65.	Mouth (S30, T77N, R39W, Pottawattamie Co.) to confluence with an unnamed tributary (S33, T77N, R39W, Pottawattamie Co.)			X					
<u>East Branch West Nishnabotna R.</u>									
66.	Mouth (S29, T77N, R39W, Pottawattamie Co.) to confluence with Lone Willow Cr. (S9, T80N, R36W, Audubon Co.)			X					

DES MOINES RIVER BASIN

Des Moines River Basin (Lower Des Moines River, Upper Des Moines River, East Fork Des Moines River, Blue Earth River, and Raccoon River Subbasins).

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Des Moines River Basin. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Bear Cr. - 5	Soap Cr. - 2
Brush Cr. - 4	South Soap Cr. - 6
Chequest Cr. - 1	Sugar Cr. - 10
Little Soap Cr. - 3	Unnamed Cr. - 11
	Village Cr. - 7
	Walnut Cr. - 8, 9

DES MOINES RIVER BASIN

		Water Uses							
		A	B(W)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
<u>Chequest Cr.</u>									
1.	Mouth (S27, T69N, R10W, Van Buren Co.) to confluence with North Chequest Cr. (S25, T70N, R13W, Wapello Co.)			X					
<u>Soap Cr.</u>									
2.	Confluence with Little Soap Cr. (S1, T70N, R13W, Davis Co.) to confluence with an unnamed tributary (W 1/2, NE 1/4, S31, T71N, R16W, Monroe Co.)			X					
<u>Little Soap Cr.</u>									
3.	Mouth (S1, T70N, R13W, Davis Co.) to confluence with an unnamed tributary (S21, T71N, R15W, Wapello Co.)			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

		Water Uses							
		A	B(LW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
<u>Brush Cr.</u>									
4.	Mouth (S3, T70N, R14W, Davis Co.) to confluence with an unnamed tributary (E 1/2, S25, T71N, R15W, Wapello Co.)			X					
<u>Bear Cr.</u>									
5.	Mouth (S19, T70N, R14W, Davis Co.) to confluence with an unnamed tributary (E 1/2, S4, T70N, R15W, Davis Co.)			X					
<u>South Soap Cr.</u>									
6.	Mouth (S21, T70N, R15W, Davis Co.) to Lake Dam (S29, T70N, R16W, Appanoose Co.)			X					
<u>Village Cr.</u>									
7.	Mouth (S9, T71N, R13W, Wapello Co.) to confluence with Sandy Cr. (NW 1/4, S9, T71N, R14W, Wapello Co.)			X					
(Raccoon River Basin)									
<u>Walnut Cr.</u>									
8.	Mouth (S13, T78N, R25W, Polk Co.) to Interstate 35/80 (S33, T79N, R25W, Polk Co.)	X		X					
9.	Interstate 35/80 (S33, T79N, R25W, Polk Co.) to confluence with Little Walnut Cr. (SE 1/4, S24, T79N, R26W, Dallas Co.)			X					
<u>Sugar Cr.</u>									
10.	Mouth (S26, T78N, R26W, Dallas Co.) to confluence with an unnamed tributary from the West (S8, T78N, R26W, Dallas Co.)			X					
(Middle Raccoon R. Basin)									
<u>Unnamed Cr.</u>									
11.	Mouth (S29, T84N, R34W, Carroll Co.) to the northern road crossing on the section line between S24, T84N, R35W and S19, T84N, R34W, Carroll Co.)			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

SKUNK RIVER BASIN

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Skunk River Basin. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Buckley Cr. - 6
 Cedar Cr. - 3
 Crooked Cr. - 1
 East Fork Crooked Cr. - 2
 Middle Cr. - 4
 Rock Cr. - 5

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HO	HOR
<u>Crooked Cr.</u>								
1. Mouth (S1, T73N, R8W, Jefferson Co.) to confluence with East and West Fork Crooked Cr. (S24, T74N, R7W, Washington Co.)			X					
<u>East Fork Crooked Cr.</u>								
2. Mouth (S24, T74N, R7W, Washington Co.) to confluence with Phillips Creek (S8, T73N, R5W, Henry Co.)			X					
N. Skunk tributaries								
<u>Cedar Cr.</u>								
3. Mouth (S15, T75N, R12W, Keokuk Co.) to confluence with an unnamed tributary (S34, T76N, R13W, Keokuk Co.)			X					
<u>Middle Cr.</u>								
4. Mouth (S35, T76N, R14W, Mahaska Co.) to Hwy. 146 road crossing at S1, T76N, R16W, Mahaska Co.			X					
<u>Rock Cr.</u>								
5. Mouth (S5, T79N, R17W, Jasper Co.) to Rock Creek Lake Dam (S17, T80N, R17W, Jasper Co.)			X					
S. Skunk tributaries								
<u>Buckley Cr.</u>								
6. Mouth (S27, T77N, R17W, Mahaska Co.) to confluence with the Middle Br. Buckley Cr. (S9, T77N, R17W, Mahaska Co.)			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

IOWA-CEDAR RIVER BASIN

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Iowa-Cedar River Basin. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

- | | | |
|-------------------|-------------------------|----------------------|
| Abbe Cr. - 13 | Indian Cr. - 16 | Otter Cr. - 1 |
| Bear Cr. - 20 | Little Mosquito Cr. - 9 | Prairie Cr. - 18 |
| Big Cr. - 12 | Long Cr. - 2 | Pratt Cr. - 22 |
| Blue Cr. - 21 | Middle English R. - 4 | Simmons Cr. - 14 |
| Deep R. - 5 | Mud Cr. - 11 | South English R. - 7 |
| Dugout Cr. - 6 | Mud Cr. - 19 | Squaw Cr. - 17 |
| East Big Cr. - 15 | North English R. - 3 | Sugar Cr. - 10 |
| | Old Mans Cr. - 8 | |

		Water Uses							
		A	B(WW)	B(LR)	B(LW)	B(CW)	C	HO	HOR
IOWA RIVER SUBBASIN									
(Iowa River Tributaries)									
<u>Otter Cr.</u>									
1.	Mouth (S18, T73N, R2W, Louisa Co.) to confluence with an unnamed tributary (S4, T73N, R3W, Louisa Co.)			X					
<u>Long Cr.</u>									
2.	Mouth (S1, T74N, R4W, Louisa Co.) to confluence with South Fork Long Cr. (S35, T75N, R6W, Washington Co.)			X					
(English R. tributaries)									
<u>North English R.</u>									
3.	Mouth (S6, T77N, R17W, Washington Co.) to confluence with an unnamed tributary (SE 1/4, S1, T79N, R16W, Poweshiek Co.)			X					
<u>Middle English R.</u>									
4.	Mouth (S20, T78N, R10W, Iowa Co.) to confluence with an unnamed tributary (E 1/8, S24, T78N, R12W, Iowa Co.)			X					
<u>Deep R.</u>									
5.	Mouth (S4, T78N, R12W, Iowa Co.) to confluence with an unnamed tributary (SE 1/4, S34, T79N, R14W, Poweshiek Co.)			X					
<u>Dugout Cr.</u>									
6.	Mouth (S15, T79N, R14W, Poweshiek Co.) to confluence with an unnamed tributary (SE 1/4, S8, T79N, R14W, Poweshiek Co.)			X					
<u>South English R.</u>									
7.	Mouth (S6, T77N, R9W, Washington Co.) to confluence with an unnamed tributary (E 1/2, S9, T77N, R13W, Keokuk Co.)			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Water Uses							
	A	B(LW)	B(LR)	B(LW)	B(CW)	C	HQ	HOR
IOWA RIVER SUBBASIN								
(Iowa R. Tributaries)								
<u>Old Mans Cr.</u>								
8. Mouth (S27, T78N, R6W, Johnson Co.) to confluence with Hog Run (S6/12 line, T79N, R10W, Iowa Co.)			X					
(Cedar R. tributaries)								
<u>Little Mosquito Cr.</u>								
9. Mouth (S19, T78N, R2W, Muscatine Co.) to confluence with an unnamed tributary (S26, T78N, R2W, Muscatine Co.)			X					
<u>Sugar Cr.</u>								
10. Confluence with Mud Cr. (S10, T78N, R2W, Muscatine Co.) to confluence with an unnamed tributary (SW 1/4, S4, T80N, R2W, Cedar Co.)			X					
<u>Mud Cr.</u>								
11. Confluence with Sugar Cr. (S10, T78N, R2W, Muscatine Co.) to confluence with an unnamed tributary (S5, T78N, R1E, Muscatine Co.)			X					
<u>Big Cr.</u>								
12. Confluence with Elbow Cr. (S13, T83N, R6W, Linn Co.) to confluence with E. Big Cr. (S30, T84N, R5W, Linn Co.)			X					
<u>Abbe Cr.</u>								
13. Mouth (S34, T83N, R6W, Linn Co.) to confluence with an unnamed tributary (S4, T82N, R5W, Linn Co.)			X					
<u>Simmons Cr.</u>								
14. Mouth (S7, T83N, R5W, Linn Co.) to confluence with confluence with an unnamed tributary (S8, T83N, R5W, Linn Co.)			X					
<u>East Big Cr.</u>								
15. Mouth (S30, T84N, R5W, Linn Co.) to Hwy. 151 crossing (S27, T84N, R5W, Linn Co.)			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HOR
<u>Pine Cr.</u>								
2.		X						
Mouth (S21, T77N, R1E, Muscatine Co.) to Old Pine Creek Mill (SE 1/4, S17, T77N, R1E, Muscatine Co.)								
3.			X					
Old Pine Creek Mill (SE 1/4, S17, T77N, R1E, Muscatine Co.) to confluence with an unnamed tributary (S26, T78N, R1W, Muscatine Co.)								
<u>Duck Cr.</u>								
4.			X					
Mouth (S27, T78N, R4E, Scott Co.) to confluence with an unnamed tributary (SE 1/4, S14, T78N, R2E, Scott Co.)								
<u>Crow Cr.</u>								
5.			X					
Mouth (S24, T78N, R1W, Scott Co.) to confluence with an unnamed tributary (W 1/2, S30, T79N, R4E, Scott Co.)								
<u>Spencer Cr.</u>								
6.			X					
Mouth (S18, T89N, R5E, Scott Co.) to confluence with an unnamed tributary (S34/35 line, T79N, R4E, Scott Co.)								
WAPSIPINICON RIVER SUBBASIN								
<u>Lost Cr.</u>								
7.			X					
Mouth (S15, T80N, R5E, Scott Co.) to confluence with an unnamed tributary (NW 1/4, S7, T79N, R5E, Scott Co.)								
<u>Brophy Cr.</u>								
8.			X					
Confluence with Cherry Cr. (S17, T81N, R5E, Clinton Co.) to confluence with an unnamed tributary (S33/34 line, T82N, R5E, Clinton Co.)								
<u>Cherry Cr.</u>								
9.			X					
Mouth (S17, T81N, R5E, Clinton Co.) to confluence with an unnamed tributary (W 1/2, S36, T82N, R4E, Clinton Co.)								
<u>Ames Cr.</u>								
10.			X					
Mouth (S4, T80N, R4E, Clinton Co.) to confluence with an unnamed tributary (S16, T81N, R4E, Clinton Co.)								
<u>Mud Cr.</u>								
11.			X					
Mouth (S12, T80N, R2E, Scott Co.) to confluence with Hickory Cr. (S31, T80N, R2E, Scott Co.)								
<u>Rock Cr.</u>								
12.			X					
Mouth (S35, T81N, R1E, Clinton Co.) to bridge crossing (S2/11 line, T80N, R1W, Cedar Co.)								
<u>Yankee Run</u>								
13.			X					
Mouth (S23, T81N, R1E, Clinton Co.) to confluence with an unnamed tributary (S34, T82N, R1W, Cedar Co.)								

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HO	HQR
<u>Calamus Cr.</u>								
14.			X					
Mouth (S13, T81N, R1E, Clinton Co.) to confluence with an unnamed tributary (S9, T81N, R2E, Clinton Co.)								
<u>Unnamed Cr.</u>								
15.			X					
Mouth ((S13, T81N, R1E, Clinton Co.) to confluence with an unnamed tributary (S19, T82N, R2E, Clinton Co.)								
<u>Plum Cr.</u>								
16.			X					
Mouth ((S18, T82N, R1E, Clinton Co.) to confluence with an unnamed tributary (S13, T82N, R1W, Cedar Co.)								
<u>Mill Cr.</u>								
17.			X					
Mouth (S28, T83N, R1W, Jones Co.) to confluence with an unnamed tributary (S14, T82N, R2W, Cedar Co.)								
<u>Walnut Cr.</u>								
18.			X					
Mouth (S18, T83N, R2W, Jones Co.) to confluence with White Oak Creek (S19, T83N, R3W, Jones Co.)								
<u>Buffalo Cr.</u>								
19.			X					
Confluence with an unnamed tributary (S6, T88N, R7W, Buchanan Co.) to confluence with the East and West Branch Buffalo Creeks (S35, T90N, R8W, Buchanan Co.)								
<u>East Branch Buffalo Cr.</u>								
20.			X					
Mouth (S35, T90N, R8W, Buchanan Co.) to confluence with an unnamed tributary (S34, T91N, R8W, Buchanan Co.)								
<u>West Branch Buffalo Cr.</u>								
21.			X					
Mouth (S35, T90N, R8W, Buchanan Co.) to confluence with an unnamed tributary (S9, T90N, R8W, Buchanan Co.)								
(Otter Cr. Tributary)								
<u>Hazleton Cr.</u>								
22.			X					
Mouth (S9, T90N, R9W, Buchanan Co.) to confluence with an unnamed tributary (S2, T90N, R9W, Buchanan Co.)								
(Mississippi R. tributaries)								
<u>Rock Cr.</u>								
23.			X					
Mouth (S31, T81N, R6E, Clinton Co.) to confluence with an unnamed tributary (S23, T81N, R5E, Clinton Co.)								
(Mill Cr. tributary)								
<u>Herts Mill Cr.</u>								
24.			X					
Mouth (S15, T81N, R6E, Clinton Co.) to confluence with Little Mill Cr. (S8, T81N, R6E, Clinton Co.)								

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
<u>Unnamed Cr.</u>								
25.			X					
Mouth (S17, T82N, R7E, Clinton Co.) to confluence with an unnamed tributary (SW 1/4, S18, T82N, R7E, Clinton Co.)								
<u>Elk R.</u>								
26.			X					
Confluence with M. Br. Elk R. (S10, T83N, R6E, Clinton Co.) to confluence with an unnamed tributary (S32, T84N, R6E, Jackson Co.)								
<u>Schramling Cr.</u>								
27.			X					
Mouth (S7, T83N, R7E, Clinton Co.) to confluence with an unnamed tributary (NW 1/4, S6, T83N, R7E, Clinton Co.)								
<u>Beaver Cr.</u>								
28.			X					
Mouth (S6, T84N, R7E, Jackson Co.) to confluence with an unnamed tributary (S3, T84N, R6E, Jackson Co.)								
MAQUOKETA RIVER TRIBUTARIES								
<u>Deep Cr.</u>								
29.		X						
Confluence with Sugar Cr. (S30, T84N, R5E, Jackson Co.) to confluence with Bear Cr. (S8, T23N, R5E, Clinton Co.)								
30.					X			
Confluence with Bear Cr. (S8, T23N, R5E, Clinton Co.) to confluence with Williams Cr. (S33, T83N, R4E, Clinton Co.)								
<u>Sugar Cr.</u>								
31.					X			
Mouth (S30, T84N, R5E, Jackson Co.) to confluence with an unnamed tributary (S5, T83N, R4E, Clinton Co.)								
<u>Brush Cr.</u>								
32.					X			
N line of Section 1, T85N, R3E, Jackson Co. to confluence with an unnamed tributary (second upstream tributary, SE 1/4, S26, T86N, R3E, Jackson Co.)								
<u>Prairie Cr.</u>								
33.					X			
Mouth (S17, T84N, R3E, Jackson Co.) to confluence with an unnamed tributary (S2, T83N, R2E, Jackson Co.)								
N FORK MAQUOKETA TRIBUTARIES								
<u>North Fork Maquoketa R.</u>								
34.					X			
confluence with Bear Cr. (S31, T89, R2W, Dubuque Co.) to confluence with an unnamed tributary (S18, T90N, R1W, Dubuque Co.)								

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	A	Water Uses				C	HQ	HQR
		B(WW)	B(LR)	B(LW)	B(CW)			
<u>Farmers Cr.</u>								
35.			X					
Mouth (S24, T85N, R2E, Jackson Co.) to confluence with an unnamed tributary (W 1/2, NW 1/4, S8, T86N, R3E, Jackson Co.)								
<u>Lytle Cr.</u>								
36.			X					
Confluence with Buncomb Cr. (S19, T87N, R2E, Dubuque Co.) to confluence with an unnamed tributary (N 1/2, S4, T87N, R2E, Dubuque Co.)								
<u>Otter Cr.</u>								
37.			X					
Mouth (S21, T86N, R2E, Jackson Co.) to confluence with an unnamed tributary (S36, T87N, R2E, Dubuque Co.)								
<u>Buncombe Cr.</u>								
38.			X					
Mouth (S19, T87N, R2E, Dubuque Co.) to confluence with an unnamed tributary (S10/11 line, T87N, R2E, Dubuque Co.)								
<u>Cline Branch</u>								
39.			X					
Mouth (S7, T85N, R2E, Jackson Co.) to confluence with an unnamed tributary (S1, T85N, R1E, Jackson Co.)								
<u>Whitewater Cr.</u>								
40.			X					
Confluence with Curran Branch to confluence with an unnamed tributary (S18, T88N, R1E, Dubuque Co.)								
<u>Johns Cr.</u>								
41.			X					
Mouth (S26, T87N, R1W, Dubuque Co.) to confluence with Bakers Cr. (S36, T88N, R2W, Dubuque Co.)								
<u>Curran Branch</u>								
42.			X					
Mouth (S12, T87N, R1W, Dubuque Co.) to confluence with an unnamed tributary (S26/35 line, T88N, R1W, Dubuque Co.)								
<u>Durion Cr.</u>								
43.			X					
Mouth (S36, T88N, R3W, Delaware Co.) to confluence with an unnamed tributary (S20, T88N, R2W, Dubuque Co.)								
<u>Bear Cr.</u>								
44.			X					
Mouth (S31, T89N, R2W, Dubuque Co.) to confluence with an unnamed tributary (NW 1/4, S2, T89N, R3W, Delaware Co.)								
<u>Hewitt Cr.</u>								
45.			X					
Mouth (S 29/30 line, T89N, R2W, Dubuque Co.) to confluence with Hickory Cr. (S21, T89N, R2W, Dubuque Co.)								
<u>Hickory Cr.</u>								
46.			X					
Mouth (S21, T89N, R2W, Dubuque Co.) to confluence with an unnamed tributary (SE 1/4, S14, T89N, R2W, Dubuque Co.)								

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

		Water Uses						
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAQUOKETA RIVER TRIBUTARIES								
<u>Bear Cr. (aka Big Bear Creek)</u>								
47.	Confluence with Beers Cr. (S22/23 line, T84N, R1E, Jackson Co.) to confluence with an unnamed tributary (W 1/2, S28, T84N, R2W, Jones Co.)		X					
<u>Beers Cr.</u>								
48.	Mouth (S 22/23, T84N, R1E, Jackson Co.) to confluence with an unnamed tributary (S9, T84N, R1W, Jones Co.)		X					
<u>Mineral Cr.</u>								
49.	Mouth (S32, T85N, R1E, Jackson Co.) to confluence with an unnamed tributary (S35, T85N, R2W, Jones Co.)		X					
<u>Unnamed Cr.</u>								
50.	Mouth (S30, T86N, R2E, Jones Co.) to confluence with an unnamed tributary (S19, T86N, R2W, Jones Co.)		X					
<u>Kitty Cr.</u>								
51.	Mouth (S22, T86N, R3W, Jones Co.) to confluence with an unnamed tributary (SE 1/4, S27, T86N, R3W, Jones Co.)		X					
<u>Cline Cr.</u>								
52.	Mouth (S16, T86N, R3W, Jones Co.) to confluence with an unnamed tributary (SW 1/4, S34, T87N, R3W, Delaware Co.)		X					
<u>Silver Cr.</u>								
53.	Mouth (S8, T86N, R3W, Jones Co.) to confluence with an unnamed tributary (S10, T86N, R4W, Jones Co.)		X					
<u>Buck Cr.</u>								
54.	Mouth (S11, T87N, R4W, Delaware Co.) to confluence with Golden Branch (S11, T87N, R5W, Delaware Co.)		X					
<u>Plum Cr.</u>								
55.	Confluence with an unnamed tributary (S24, T89N, R4W, Delaware Co.) to confluence with an unnamed tributary (S8, T89N, R4W, Delaware Co.)		X					
<u>Sand Cr.</u>								
56.	Mouth (S9, T88N, R5W, Delaware Co.) to confluence with Todds Cr. (S8, T88N, R5W, Delaware Co.)		X					
<u>Coffins Cr.</u>								
57.	Mouth (S19, T89N, R5W, Delaware Co.) to confluence with an unnamed tributary (S29, T89N, R6W, Delaware Co.)		X					
<u>Prairie Cr.</u>								
58.	Mouth (S29, T89N, R6W, Buchanan Co.) to confluence with an unnamed tributary (SW 1/4, NW 1/4, S22, T89N, R7W, Buchanan Co.)		X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Water Uses							
	A	B(W)	B(LR)	B(LW)	B(CW)	C	HO	HQR
<u>Honey Cr.</u>								
59.			X					
Mouth (S19, T89N, R5W, Delaware Co.) to confluence with Rutherford Branch (S26, T90N, R5W, Delaware Co.)								
<u>Unnamed Cr.</u>								
60.			X					
Mouth (NW 1/4, SW 1/4, S1, T89N, R6W, Delaware Co.) to confluence with an unnamed tributary (S30, T90N, R5W, Delaware Co.)								
<u>Sand Hagen Cr.</u>								
61.			X					
Mouth (S34, T90N, R6W, Delaware Co.) to confluence with an unnamed tributary (S29, T90N, R6W, Delaware Co.)								
<u>South Fork Maquoketa River</u>								
62.			X					
Mouth (S16, T90N, R6W, Delaware Co.) to confluence with an unnamed tributary (NE 1/4, SW 1/4, S30, T91N, R7W, Fayette Co.)								
<u>Bruce Cr.</u>								
63.			X					
Mouth (S19/30 line, T91N, R6W, Clayton Co.) to confluence with an unnamed tributary (S27, T91N, R7W, Fayette Co.)								
<u>Maquoketa R.</u>								
64.			X					
Hwy 3 crossing (N line, S24, T91N, R7W, Fayette Co.) to confluence with an unnamed tributary (S11, T91N, R7W, Fayette Co.)								
MISSISSIPPI RIVER TRIBUTARIES								
<u>Pleasant Cr.</u>								
65.			X					
Mouth (S33, T86N, R5E, Jackson Co.) to confluence with an unnamed tributary (S15, T85N, R4E, Jackson Co.)								
<u>Duck Cr.</u>								
66.			X					
Mouth (S29, T86N, R5E, Jackson Co.) to confluence with an unnamed tributary (Center, S25, T86N, R4E, Jackson Co.)								
<u>Spruce Cr.</u>								
67.			X					
Mouth (S36, T87N, R4E, Jackson Co.) to confluence with an unnamed tributary (SE 1/4, S33, T87N, R4E, Jackson Co.)								
<u>Plum Cr.</u>								
68.			X					
Mouth (S23, T91N, R1W, Clayton Co.) to confluence with an unnamed tributary (S26, T91N, R1W, Clayton Co.)								
Turkey River Tributaries								
<u>Little Turkey R.</u>								
69.			X					
Confluence with White Pine Hollow (S31, T91N, R2W, Clayton Co.) to Clayton-Delaware Co. line.								

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

		Water Uses						
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
70.	S line S11, T90N, R3W, Delaware Co. to confluence with an unnamed tributary (S 1/2, S15, T90N, R3W, Delaware Co.)		X					
<u>Joles Cr.</u>								
71.	Mouth (S1, T91N, R3W, Clayton Co.) to confluence with an unnamed tributary (N 1/2, SW 1/4, S23, T92N, R3W, Clayton Co.)		X					
<u>Carlan Cr.</u>								
72.	Mouth (S2, T91N, R3W, Clayton Co.) to confluence with an unnamed tributary (S10, T91N, R3W, Clayton Co.)		X					
<u>S. Cedar Cr.</u>								
73.	Mouth (S33, T92N, R3W, Clayton Co.) to S. line (S6, T91N, R3W, Clayton Co.)		X					
<u>Tuecke Hollow</u>								
74.	Mouth (S20, T92N, R3W, Clayton Co.) to confluence with an unnamed tributary (S9, T92N, R3W, Clayton Co.)		X					
<u>W. Br. S. Cedar Cr.</u>								
75.	Mouth (S31, T93N, R3W, Clayton Co.) to confluence with an unnamed tributary (S23, T93N, R4W, Clayton Co.)		X					
<u>Elk Cr.</u>								
76.	Confluence with Steeles Branch (S26, T91N, R4W, Clayton Co.) to confluence with an unnamed tributary (NE 1/4, S13, T90N, R4W, Delaware Co.)		X					
<u>Wolf Cr.</u>								
77.	Mouth (S2/3 line, T91N, R4W, Clayton Co.) to confluence with an unnamed tributary (S10, T91N, R4W, Clayton Co.)		X					
<u>Schechtman Br.</u>								
78.	Mouth (S14, T90N, R4W, Delaware Co.) to confluence with an unnamed tributary (S23, T90N, R4W, Delaware Co.)		X					
VOLGA RIVER TRIBUTARIES								
<u>Bear Cr.</u>								
79.	Mouth (S34, T92N, R4W, Clayton Co.) to Class B cold segment (N line, S20, T91N, R4W, Clayton Co.)		X					
<u>Rabbit Cr.</u>								
80.	Mouth (S17, T91N, R4W, Clayton Co.) to confluence with an unnamed tributary (NE 1/4, S31, T91N, R4W, Clayton Co.)		X					
<u>Doe Cr.</u>								
81.	Mouth (S30, T92N, R4W, Clayton Co.) to confluence with an unnamed tributary (S1, T91N, R5W, Clayton Co.)		X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

		Water Uses							
		A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
	<u>Honey Cr.</u>								
82.	Mouth (S25, T92N, R5W, Clayton Co.) to confluence with an unnamed tributary (second upstream trib. S5, T91N, R5W, Clayton Co.)			X					
	<u>Cox Cr.</u>								
83.	Mouth (S21, T92N, R5W, Clayton Co.) to confluence with Kleinlein Cr. (S36, T92N, R6W, Clayton Co.)			X					
	(Hewitt Cr. tributary)								
	<u>Unnamed Cr.</u>								
84.	Mouth (S28, T92N, R6W, Clayton Co.) to Spring in Section 34, T92N, R6W, Clayton Co.)			X					
	<u>Nagle Cr.</u>								
85.	Mouth (S10, T92N, R6W, Clayton Co.) to confluence with an unnamed tributary (W 1/2, S17, T92N, R6W, Clayton Co.)			X					
	<u>Unnamed Cr.</u>								
86.	Mouth (S33, T93N, R6W, Clayton Co.) to confluence with an unnamed tributary (S29, T93N, R6W, Clayton Co.)			X					
	<u>Willow Cr.</u>								
87.	Mouth (S32, T93N, R6W, Clayton Co.) to spring source (S13, T92N, R7W, Fayette Co.)			X					
	<u>Deep Cr.</u>								
88.	Mouth (S32, T93N, R6W, Clayton Co.) to confluence with an unnamed tributary (S2, T92N, R7W, Fayette Co.)			X					
	<u>Mink Cr.</u>								
89.	Class B cold end (W line, S15, T93N, R7W, Fayette Co.) to confluence with an unnamed tributary (NE 1/4, S8, T93N, R7W, Fayette Co.)			X					
	<u>Unnamed Cr.</u>								
90.	Mouth (S19, T93N, R6W, Clayton Co.) to confluence with an unnamed tributary (SW 1/4, NE 1/4, S19, T93N, R6W, Clayton Co.)			X					
	<u>Brush Cr.</u>								
91.	Mouth (S26, T93N, R7W, Fayette Co.) to confluence with Bear Cr. (S8, T92N, R7W, Fayette Co.)			X					
92.	E line of Section 17, T92N, R7W, Fayette Co. to confluence with an unnamed tributary (S28, T92N, R7W, Fayette Co.)			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Water Uses

	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
<u>Beaver Cr.</u>								
104. Mouth (S19, T94N, R6W, Clayton Co.) to dam in S34, T94N, R7W, Fayette Co.)			X					
<u>Otter Cr.</u>								
105. Confluence with an unnamed tributary (aka Glovers Cr., S22, T94N, R8W, Fayette Co.) to confluence with an unnamed tributary (NW 1/4, S17, T94N, R8W, Fayette Co.)			X					
(Mississippi R. Tributaries)								
<u>Buck Cr.</u>								
106. West line of S9, T93N, R3W, Clayton Co. to confluence with an unnamed tributary (S32, T94N, R3W, Clayton Co.)			X					
YELLOW R. SUBBASIN								
<u>Teeple Cr.</u>								
107. Mouth (Allamakee Co.) to W line of Section 11, T97N, R6W, Allamakee Co.					X			X

ITEM 3. Amend the following entries in paragraph 61.3(5)"e" to correct typographical errors.

WESTERN IOWA RIVER BASIN

Boyer River - 3 Milford Creek (aka Mill Cr.) - 17 Soldier River - 4

Water Uses

	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
5b. Mouth (Plymouth Co.) to confluence with an unnamed tributary (NE 1/4, S1135, T93N4, R44+3, Plymouth Co.)			X					
7. Mouth (Harrison Co.) to Hwy. 3 Cherokee (S26, T92N, R40W, Cherokee Co.)		X	-X-					
<u>Milford Cr. (aka Mill Cr.)</u>								
17. Mouth (Dickinson Co.) to confluence with an unnamed tributary (S18, T98N, R36W, Dickinson Co.)			X					

DES MOINES RIVER BASIN

Big Creek - 14 *-
Big Creek Lake - 13a, 14-*

Water Uses

	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
2b. Confluence with Little Muchakinock Cr. (S34, T75N, R16W, Mahaska Co.) to confluence with Little Muchakinock-(See--34;--T75N;--R16W; <u>an unnamed tributary (NW 1/4, SW 1/4, S27, T76N, R17W, Mahaska Co.)</u>			X					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
3g. Mouth (Polk Co.) to confluence with North-Branch-North R.-(S35;-T77N;-R27W;-Madison-Co-) <u>County Rd. R63 (S16, T77N, R24W, Warren Co.)</u>		X						
<u>3ga. County Rd. R63 (S16, T77N, R24W, Warren Co.) to confluence with Badger Cr. (S33, T77N, R25W, Warren Co.)</u>		<u>X</u>						<u>X</u>
<u>3gb. Confluence with Badger Cr. (S33, T77N, R25W, Warren Co.) to confluence with North Branch North R. (S35, T77N, R27W, Madison Co.)</u>			<u>X</u>					<u>X</u>
5. Center St. Dam in Des Moines to Hwy. I-80/I-35 (S17, T9779N, R24W, Polk Co.)	X	X						
28. City of Panora Water Works Intakes						X		-X-
30. Lake Panorama to-Guthrie-Carroll-County-line <u>confluence with Willey Branch (S26, T83N, R34W, Carroll Co.)</u>	-X-	<u>X</u>						
30a.-Guthrie-Carroll-Co.-line-to-confluence-with-Willey Branch-(S26;-T83N;-R34W;-Carroll-Co:)		-X-						

SKUNK RIVER BASIN

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
8a. Mouth (Des Moines Co.) to confluence with an unnamed tributary (S3, T69N, R4W, Des Moines Co.)		-X-	<u>X</u>					
13d. Mouth (S16, T82N, R22W, Story Co.) to confluence with an unnamed tributary (S1, T83N, R243W, Story Co.)			X					

IOWA-CEDAR RIVER BASIN

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
13aa.Mouth (Washington Co.) to confluence with Ramsey Cr. (S14, T77N, R8W, Washington Co.)		X						<u>X</u>
15a. Confluence with Galls Creek (Hancock Co.) to confluence with an unnamed tributary (N-line; S3427, T97N, R24W, Hancock Co.)			X					
24. Waverly impoundment to Chickasaw County, Section 29, T94N, R14W, (south corporate limits, Nashua)	X	<u>X</u>						X
25. South corporate limits of Nashua to dam at Nashua	-X-	<u>X</u>						

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

NORTHEASTERN IOWA RIVER BASINS

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
5. Town of McIntire to N line of Section 20, T100N, R15W, Mitchell Co.		-X-			X		X	
35. -E- <u>W</u> line of Section 11, T85N, R4E, to W line of Section 15, T85N, R4E, Jackson Co.					X			X
43. S line of Section 9, T88N, R2E, to W line of Section-7- <u>30</u> , T88N, R2E, Dubuque Co.)					X			X
50. Mouth (Clayton Co.) to confluence with the Volga R. (Section 26, T92N, R4W, Etinton <u>Clayton Co.</u>)		X						
60. Mouth to confluence with Steels Br. (Clayton Co.)		X						
67a. Mouth (Clayton Co.) to bridge crossing at (<u>W 1/2</u> , S25, T94N, R5W, Dubuque <u>Clayton Co.</u>)			X					

ITEM 4. Amend the following entry in paragraph 61.3(5)"e" for Prairie Creek.

CEDAR RIVER BASIN

	Water Uses							
	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
32. <u>Prairie Cr.</u> Mouth (Linn Co.) to confluence with Mud Cr. an unnamed tributary (SE 1/4 of the SW 1/4, S13, T83N, R12W, Benton Co.)		-X-	X					

ARC 2999A

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 83, "Medicaid Waiver Services," appearing in the Iowa Administrative Code.

The Ill and Handicapped Waiver and the Elderly Waiver use spousal impoverishment guidelines to determine income, resources, and client participation. These amendments provide that the date of application for the waiver shall be used as the date for initiation of attribution of resources and for the date of entry to a facility. These amendments also clarify that when married couples both apply for a waiver their income shall be determined using the same policies as used for married couples who are living together in the same room in a medical institution.

The date used to determine the attribution of resources to an institutionalized spouse and a community spouse is the beginning of the institutionalized spouse's first continuous period of institutionalization. The manner in which income is considered for waiver recipients is dependent on the date of institutionalization. Since there is no period of institutionalization for waiver recipients, a date had to be designated to use as the beginning date of

HUMAN SERVICES DEPARTMENT[441](cont'd)

ARC 2998A

institutionalization, and the date of application for the waiver was selected.

Married couples who are institutionalized and living together in the same room in a medical institution are treated as a couple until the first day of the seventh calendar month that they continuously reside in the facility. Effective the first day of the seventh calendar month of continuous residency the couple may continue to be considered as a couple for Medicaid if one spouse would be ineligible for Medicaid or receive reduced benefits by considering them separately or if they choose to be considered together. A couple may wish to be considered separately after the first six months if their incomes both are within limits as they can accumulate more resources considered separately.

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 June 3, 1992.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend rule 441—83.3(249A) by adding the following new subrule:

83.3(5) Attribution of resources. The date of application for the waiver shall be the date used for the initiation of the attribution of resources.

ITEM 2. Amend subrule 83.4(1), paragraph "b," as follows:

b. A married recipient who has a spouse or a spouse and a dependent living with the recipient shall have resources and the client participation determined by rules 441—75.5(249A) and 441—75.16(249A) except for subrule 75.16(2), paragraph "a." *The date of application for the waiver shall be used as the date of entry into the facility. When each spouse of a married couple applies for the waiver, their income shall be determined using the provisions at 441—subrule 75.5(2), paragraph "b."*

ITEM 3. Amend rule 441—83.23(249A) by adding the following new subrule:

83.23(5) Attribution of resources. The date of application for the waiver shall be the date used for the initiation of the attribution of resources.

ITEM 4. Amend subrule 83.24(1), paragraph "b," as follows:

b. A married recipient who has a spouse or a spouse and a dependent living with the recipient shall have resources and the client participation determined by rules 441—75.5(249A) and 441—75.16(249A) except for subrule 75.16(2), paragraph "a." *The date of application for the waiver shall be used as the date of entry into the facility. When each spouse of a married couple applies for the waiver, their income shall be determined using the provisions at 441—subrule 75.5(2), paragraph "b."*

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 235A.14, the Department of Human Services proposes to amend Chapter 175, "Abuse of Children," appearing in the Iowa Administrative Code.

These amendments expedite the release of child abuse information to subjects of child abuse investigations.

At the present time subjects of child abuse investigations receive a notification form advising them that they are the subject of an investigation and advising them of their rights. After receipt of the notification they must obtain and fill out another form in order to request a copy of the report which concerns them. This form is sent to the Central Registry for approval to disseminate the information. Due to staff shortages this may take weeks and there have been many complaints from subjects that they have been unable to obtain copies of child abuse reports concerning them in a timely manner.

Under these amendments the notification form which is sent to subjects will also contain an abbreviated request for child abuse information which subjects can use to request information. The county office is authorized to release the information to subjects immediately without waiting for authorization from the Central Registry.

Consideration was given to automatically releasing copies of reports to all subjects when reports are completed. This was seen as overly solicitous of client rights, in that many subjects do not want a copy of the report which concerns them, or are unable to understand its significance due to their youth or disabling condition. Automatic release would not allow for record keeping of requests for dissemination and would be costly in terms of labor and supplies.

There are approximately 12,000 requests for child abuse information yearly from subjects of child abuse investigations out of a potential 56,000 or more subjects. It is anticipated that making dissemination easier and faster will result in an additional 5,000 requests, but these requests will take much less time and effort to process than current practice.

These amendments also update organizational references.

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 June 3, 1992.

These amendments are intended to implement Iowa Code sections 235A.14, 235A.15, 235A.16, 235A.17, and 235A.19.

The following amendments are proposed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend subrules 175.8(1) and 175.8(3) as follows:

175.8(1) Written requests. Requests for child abuse information shall be submitted on Form SS-1606-0, Request for Child Abuse Information, for persons authorized to receive this information in Iowa Code section 235A.15 or on Form 470-0686, Child Abuse Notification, for subjects of child abuse investigations to the local or district county office of the department. ~~except requests~~ Requests made for the purpose of determining employability of a person in a department operated facility shall be submitted to the central registry.

175.8(3) Verification of identity. The ~~local or district~~ county office or the central registry shall verify the identity of the person making the request on Form SS-1606-0, Request for Child Abuse Information or on Form 470-0686, Child Abuse Notification. Upon receipt of a request and verification of the identity of the person making the request, the ~~local or district~~ county office shall disseminate the requested information (to subjects of the investigation or their legal representatives) or shall transmit the request to the central registry (for persons who are not subjects of the investigation or their legal representatives).

For requests made pursuant to ~~subrule~~ 175.8(4)"b," the ~~district area~~ administrator or designee shall transmit a written record of the request and approval on Form SS-1606-0, Request for Child Abuse Information, to the central child abuse registry.

ITEM 2. Amend subrule 175.8(4) by amending paragraph "b" and adding a new paragraph "c" as follows:

b. Approval by ~~district regional~~ administrator or designee. Upon receipt of a request for information from an individual, agency or facility, including an educational agency or facility, providing care, treatment or supervision to a child about whom information is requested, the ~~district regional~~ administrator or designee shall approve dissemination of child abuse information. The information disseminated shall be limited to that which is necessary to monitor or treat abuse-related problems of the child. The ~~district regional~~ administrator or designee shall submit a written record of the request and approval on Form SS-1606-0 to the central child abuse registry.

c. Approval by county office. Upon receipt of a request for information from a subject of a child abuse investigation or that person's legal representative on Form 470-0686, Child Abuse Notification, the county office is authorized to release the information upon verification of subject status without contacting the central abuse registry, because authorization for release to subjects is provided on the form itself. The county office shall transmit a written record of the request and dissemination to the central child abuse registry and maintain a record in the investigative case file.

ITEM 3. Amend subrules 175.8(6), 175.8(7), and 175.8(8) as follows:

175.8(6) Method of dissemination. The central registry office shall notify the ~~local or district~~ county office of the decision made pursuant to subrule 175.8(4), paragraph "a." If the request is denied by the central registry, the ~~local or district~~ county office shall inform the person making the request of the denial. If the request is approved by the central registry, the ~~local or district~~ county office shall inform the person making the request of approval and shall disseminate to the person the information specified

by the central registry on Form SS-1606-0, Request for Child Abuse Information.

If the request is approved by the ~~district regional~~ administrator or designee pursuant to subrule 175.8(4), paragraph "b," the ~~district regional~~ administrator or designee shall inform the person making the request of the denial or approval and, if the request is approved, shall disseminate to the person the information specified on Form SS-1606-0, Request for Child Abuse Information.

If the request is approved by the county office, pursuant to subrule 175.8(4), paragraph "c," the county office shall disseminate to the person the information specified on Form 470-0686, Child Abuse Notification.

175.8(7) Requests concerning employees of department facilities. When a request is made by the hiring authority of a department operated facility which provides direct client care and the request is made for the purpose of determining continued employability of a person employed, with or without compensation, by the facility, the information requested shall be disseminated to the personnel office of the department. The personnel office shall redisseminate the information to the hiring authority for the person involved only upon a finding that the information has a direct bearing on employability of the person involved.

When the personnel office determines that the information has no direct bearing on employability, the hiring authority shall be notified that no job-related child abuse information is available. If the central registry and ~~local~~ county office files contain no information, the hiring authority shall be so informed.

175.8(8) Record of dissemination. When the central registry or the ~~district regional~~ administrator or designee approves dissemination of information, notice shall be filed in the registry on Form SS-1606-0, Request for Child Abuse Information.

ARC 2979A

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 10A.104(5) and 99B.13, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 100, "Administration," Iowa Administrative Code.

These amendments are proposed to clarify the requirements to be met by an individual or an organization wishing to conduct an annual game night.

Interested persons may make written comments or suggestions on the proposed amendments on or before June 2, 1992. Written materials should be addressed to the Direc-

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

tor, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; FAX (515)242-5022.

These amendments are intended to implement Iowa Code sections 99B.2 and 99B.8.

The following amendments are proposed.

ITEM 1. Amend rule 481—100.60(99B) as follows:

481—100.60(99B) License. A license to hold an annual game night *not to exceed 12 consecutive hours once per calendar year is may be* obtained according to rule 100.3(99B).

An annual game night approved by a school board for students during which only play money is used and no participation fee is charged requires no license.

ITEM 2. Amend rule 481—100.61(99B) as follows:

481—100.61(99B) Games. Casino gambling, games of skill and games of chance, card games, and raffles may be played for 12 consecutive hours. This occasion may occur one time in a calendar year.

Slot machines are not allowed.

Social gambling is not permitted during an annual game night.

ITEM 3. Amend rule 481—100.62(99B) as follows:

481—100.62(99B) Restriction on location. *A An annual game night shall not be conducted at a licensed concession game or at a state, county, or agricultural fair when the fair is in progress.*

ITEM 4. Rescind rule 481—100.63(99B) and insert in lieu thereof the following:

481—100.63(99B) Sponsor. An annual game night may be conducted if an established employment or social relationship exists between the sponsor of an annual game night and all of the participants.

100.63(1) If the sponsor of an annual game night is an individual or a nonqualified organization, the following shall apply:

a. A participant shall not be required to pay any consideration either directly or indirectly.

b. The person conducting the event shall receive no consideration other than good will.

c. All moneys or items wagered shall be provided by the sponsor.

100.63(2) If the sponsor of an annual game night is a qualified organization, the following shall apply:

a. The organization must be licensed to conduct games under Iowa Code section 99B.7.

b. Participants may be charged an entrance fee or participation fee and may wager their own funds. The sponsor shall ensure that a participant's maximum loss will be no more than \$50 in fees and wagers during an annual game night.

c. A qualified organization sponsor may profit from the event. The event may be a fund-raiser.

d. Participants who have an established social relationship with a qualified organization do not include the general public, but may include the following:

(1) Members, their families, and accompanied guests;

(2) Employees of the sponsoring licensee, their families, and accompanied guests; and

(3) Individuals and their families invited by the organization who have a social relationship with the sponsoring licensee which is realized or evidenced by the invi-

tee's volunteerism, support, or contributions to the organization.

The organization must maintain at the annual game night a list of all individuals who were invited to attend.

e. Guests and their hosts must have an existing relationship prior to the annual game night which is not based solely on the guest's desire to participate in the annual game night's activities.

ARC 2990A**LABOR SERVICES DIVISION[347]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 88A.3 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 62, "Safety Rules for Amusement Parks and Rides," Iowa Administrative Code.

The amendment to rule 347—62.2(88A) relates to design criteria for amusement rides and devices. This amendment adopts safety procedures for bungee jumping operations.

If requested by June 4, 1992, a public hearing will be held on June 9, 1992, 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 amendment. Written data or arguments to be considered may be submitted by interested persons no later than June 4, 1992, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209.

The Division has determined that this Notice of Intended Action may have an impact on small business.

The Division 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 June 4, 1992, 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 amendment is intended to implement Iowa Code section 88A.3.

This amendment was also Adopted and Filed Emergency and is published herein as ARC 2989A. The content of that submission is incorporated by reference.

ARC 2994A

NURSING BOARD[655]

Notice of Termination

Pursuant to the authority of Iowa Code sections 17A.3 and 258A.2, the Iowa Board of Nursing terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on March 18, 1992, as ARC 2856A, amending Chapter 5, "Continuing Education," Iowa Administrative Code.

These amendments [5.1, 5.2(2), 5.3(2)] were also Adopted and Filed Emergency as ARC 2855A. The Notice was published to allow for public comment. Since no comments were received and no changes are required to the emergency adopted amendments, there is no further need to proceed with rule making for ARC 2856A.

ARC 2991A

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code Supplement section 455G.4(3), the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby proposes to rescind Chapter 15, "Installers and Inspectors," Iowa Administrative Code, and to adopt a new Chapter 15 with the same title.

The new chapter is designed to establish board procedure and policy for testing and licensing of individuals and companies performing new installations or upgrades of underground liquid storage systems and to establish the procedures for the licensees to follow.

The UST Board determined that the rules were difficult to understand by the installers and inspectors being licensed. To allow for clearer understanding, the UST Board is proposing changes to make the licensing and overall installation process easier to understand and administer. Language dealing with temporary licenses was removed. Insurance and educational requirements were simplified, and specific responsibilities of all licensed companies and individuals were detailed. While the overall concept remains the same, the proposed new chapter provides a clearer and better explanation of the expected procedure for the various licensees to follow.

The proposed rules will not necessitate additional annual expenditures exceeding \$100,000 by political subdivisions or agencies which contract with political subdivisions. Therefore, no fiscal note accompanies this Notice.

The UST Board has determined that these rules may have an impact on small business. The UST Board has considered the factors listed in Iowa Code section 17A.31(4). The UST Board 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 June 2, 1992, to the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, c/o Robb Hubbard, Administrator, UST Program, P. O. 1809, 1000 Illinois Street, 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 are registered under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed new chapter on or before June 2, 1992. Such written comments should be directed to the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, c/o Robb Hubbard, Administrator, UST Program, P. O. Box 1809, 1000 Illinois Street, Des Moines, Iowa 50306. Persons who want to orally convey their views should contact Robb Hubbard, Administrator, Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, at (515)284-1616.

There will be a public hearing on June 2, 1992, at 10 a.m. in the Conference Room of the Iowa UST Program Administrator's Office, 1000 Illinois Street, Des Moines, Iowa 50306. Persons may present their views at this meeting either orally or in writing.

The proposed new chapter was approved by the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board at their April 13, 1992, board meeting.

The UST Board anticipates an effective date of August 12, 1992.

This chapter is intended to implement Iowa Code Supplement chapter 455G.

The following chapter is proposed.

Rescind 591—Chapter 15 and adopt the following new chapter:

CHAPTER 15 INSTALLERS AND INSPECTORS

591—15.1(455G) Definitions. As used herein:

"Administrator" means the Iowa comprehensive petroleum underground storage tank fund program administrator as provided in Iowa Code section 455G.5.

"DNR" means the Iowa department of natural resources.

"Inspector" means a licensed individual, as defined herein, who is engaged in the inspection and approval of the installation of new or upgraded underground liquid storage systems.

"Installer" means a licensed company or individual, as defined herein, engaged in the installation of new, upgraded or lined underground liquid storage systems or removal of underground liquid storage systems.

"Licensed company" means a corporation, partnership, or duly constituted individual proprietorship which holds itself out as being qualified to install, upgrade, repair, test or line underground liquid storage systems.

"Licensed individual" means an individual connected with a licensed company as defined above. The term shall be understood to include such individuals as the

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD[591](cont'd)

crew chief, expediter, engineer, supervisor, leadman, or foreman in charge of lining, testing, repairing, upgrading and installing underground liquid storage systems.

"Liner" means a licensed company or an individual who lines a tank using an acceptable procedure under 15.7(2)"a."

"OSHA" means the Occupational Safety and Health Act.

"Precision test" means a tank and line tightness test that meets the requirements in 40 CFR Part 280, Subpart D, Federal Register, Friday, September 23, 1988.

"Removal" means the process of removing and disposing of an underground liquid storage system no longer in service, and shall also mean the process of abandoning such a system, in place, through use of prescribed techniques for the purging of vapors and the filling of the vessel with an inert material. A company or individual which only does tank removal is not required to be licensed or to meet the educational requirements under this chapter.

"Repair" means modification or correction of an underground liquid storage system through such means as replacement of valves, fill pipes, vents, and liquid level monitoring systems and the maintenance and inspection of the efficacy of cathodic protection devices. Repair, as defined herein, does not include maintenance, which is minor service work to petroleum equipment which is installed above grade level and a submersible pump if accessible in a pit which can be visually observed from grade level. Maintenance does not require licensing or educational requirements under these rules. Replacement of piping, fill tubes or lines, repairs associated with leak detection equipment or any work done below ground level which is not accessible at grade level, shall not be considered maintenance.

"Tester" means a licensed company or individual who lines a tank using an acceptable procedure under subrule 15.6(2).

"Testing" means systems used to test tanks or underground liquid storage systems for tightness, leak detection, cathodic protection or monitoring.

"Underground liquid storage system" means a tank, together with its related piping:

1. Which has a liquid capacity in excess of 110 U.S. gallons;
2. Which is intended for use as a storage vessel for liquid petroleum derivatives such as, but not limited to, gasoline, heating oil, diesel fuel, and aviation fuels;
3. At least 10 percent of which is located beneath the surface of the ground, provided, however, that a tank and piping system located in an underground structure, such as in the basement of a building, shall not be considered to be an "underground liquid storage system" if the storage tank rests upon or above the surface of the floor.

"USEPA" means the United States Environmental Protection Agency.

"UST board" means the Iowa comprehensive underground storage tank fund board.

591—15.2(455G) Licensing and fees. Owners may elect not to have the installation certified by the UST board. Any installation which is not certified in accordance with these rules shall not be eligible for program benefits until such time as the installation can be certified. Installations not certified in accordance with these rules do not require a licensed installer to perform the work. Effective January 1, 1993, new and renewal licenses shall be on a calen-

dar year basis, with the licensing fees to be prorated from the date of application or expiration of license.

15.2(1) Licensing of individuals. The following individuals shall be licensed:

a. Installers, liners and testers. The license application will note the type of work the individual will be performing: installation or upgrading of underground liquid storage systems, corrosion protection, monitoring and leak detection, tank lining, tank and line tightness testing and removal done in conjunction with the above. The annual license fee is \$35. The annual \$35 individual fee is waived for a sole proprietor doing business as a licensed company.

b. Inspectors. The application for an inspector will note the type of work the inspector will be performing: inspections of underground storage systems or any part thereof on new or upgraded equipment. The annual license fee is \$50.

15.2(2) Licensed company. Companies employing licensed individuals for installation, upgrading, lining or testing of underground liquid storage systems shall be registered as a licensed company. A company shall lose its license if it fails to employ at least one licensed individual or if it employs unlicensed individuals to do work requiring a license. Licensed companies may be required to post a license bond of \$10,000 on a form approved by the UST board. Sole proprietors need only to apply for a company license. However, employees of a sole proprietor must be licensed individually under 15.2(1)"a." The annual license fee is \$50.

15.2(3) License not required. A license is not required for the following list of exceptions:

a. Individuals or companies performing only underground storage tank system removal. Please note that they may be subject to requirements in 15.2(4).

b. Individuals or companies performing maintenance work as defined in the definition of "Repair" in rule 15.1(455G).

c. Individuals installing groundwater or vapor monitoring wells used in the remediation of a site, or to be used for leak detection at a site, unless part of the overall new installation or upgrade being performed by a licensed company. Please note that individuals installing wells might be subject to the requirements in 567—Chapter 134.

d. Testers who test only systems that are owned by the company the tester is employed by, if done in connection with leak detection requirements alone.

15.2(4) OSHA safety requirements. All licensed individuals and companies regulated under this chapter will conduct their work as required by OSHA safety requirements defined under 29 CFR 1910. OSHA standards apply whenever flammable, combustible or hazardous materials are present, especially during the following activities:

a. Excavating, placing tanks in excavations, and ballasting tanks with flammable, combustible or hazardous materials.

b. Purging, cleaning and removal of tanks which have contained flammable, combustible or hazardous materials.

c. Testing as a part of an installation or after the system has been placed in service.

591—15.3(455G) Educational requirements for installers and inspectors.

15.3(1) Education and examination. Applicants for licensure as installers, liners and inspectors shall success-

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fully complete a course of instruction and shall pass the qualification examination approved by the UST board prior to the issuance of a license. Applicants who have completed a training course offered by another state covering installations of underground liquid storage tanks for installers, liners or inspectors are not required to complete the Iowa educational requirements if they provide evidence of the successful completion of that course and subsequently take and pass the Iowa examination. Individuals employed by licensed companies doing testing only are encouraged, but not required, to complete the educational requirement. Examination requirements for all installers, liners, and inspectors are as follows:

a. A passing grade of not less than 85 percent is required on the examination.

b. Candidates who have failed the examination may not perform work unless supervised by a licensed installer, liner or inspector. A candidate who has not passed the required examination is not eligible to apply for licensing until after passing the requisite examination.

c. Installers, liners, testers or inspectors with more than two years' experience may take the examination without taking the course. Upon successful completion, they will be eligible for licensing. If the candidate is not successful, then an approved course must be successfully completed to obtain a license. Nothing herein shall limit the right of the UST board to require additional educational requirements of license holders.

d. A fee as approved by the UST board may be charged for each examination.

15.3(2) Reciprocity. Completion of the University of Wisconsin Liquid Storage Tank Program or a program offered by another state for licensing will be acceptable, if the candidate successfully passes the Iowa examination.

15.3(3) Continuing education. The UST board may develop or evaluate and certify relevant continuing education courses. All licensed individuals may be required to complete the following annual continuing education:

a. Safety training.

b. Storage tank and piping, lining, or testing technology.

591—15.4(455G) Environmental liability insurance requirements. All licensed installers, liners, testers and inspectors are required to have environmental liability insurance with minimum liability limits of \$250,000 per occurrence and in the aggregate, as approved by the administrator.

15.4(1) Licensed company. A licensed company, as defined herein, is required to provide environmental liability insurance for all licensed activities of the company and its licensed installers, liners and testers.

15.4(2) Licensed installers, liners, testers and inspectors. Licensed installers, liners, testers and inspectors, as defined herein, are required to provide proof of environmental liability insurance covering their licensed activities. The insurance may be provided by the licensed company employing the individual or by the individual licensee.

15.4(3) Exception. Licensed installers, liners, testers and inspectors employed by owners or operators of USTs to work on their own system(s) and not for others may be exempted from this requirement. If the licensed activities are performed by an owner or operator employee, no environmental liability insurance is mandated, but it is recommended.

591—15.5(455G) Installers. Installers of underground liquid storage systems shall apply for a license as an installer and shall indicate on the license application the types of installations and upgrade procedures they use.

15.5(1) Installer licensing requirements. The requirements are as follows:

a. The applicant must possess two years of experience in UST installation procedures or other experience approved by the administrator.

b. The applicant must pay the annual licensing fee as provided for in rule 15.2(455G).

c. The educational requirement described in rule 15.3(455G) must be completed.

d. The applicant must provide evidence of environmental liability insurance as provided for in rule 15.4(455G).

e. The applicant shall provide proof of certification, training or approval from the manufacturers or suppliers of underground liquid storage systems for which the applicant is requesting a license to install or upgrade, including, but not limited to:

(1) Tank systems.

(2) Piping systems.

(3) Leak detection and monitoring systems.

(4) Corrosion protection systems.

15.5(2) Responsibilities of installers. A licensed installer shall be on-site throughout the project, but a licensed installer is not required to actually be on-site during paving or when electrical work is being conducted. If removal is a part of the work being completed by or subcontracted by the installer, these same rules apply. While some of the work may be subcontracted by the licensed installer or done by others, the licensed installer is responsible for the integrity of the complete installation. Tank installation includes all work associated with the placement of the tanks, pumps, dispensers, gauging systems, monitoring systems, corrosion protection, containment devices, and ancillary systems which, if installed incorrectly, could cause or delay detection of a leak. This specifically includes excavation, equipment placement, backfilling, piping, electrical work, paving, testing calibration and start-up.

15.5(3) Documentation of work performed. Installations of all new or upgraded underground liquid storage systems require the completion of a new DNR Form 148 by the owner or operator. The licensed installer responsible for the new installation and upgrade shall sign the DNR Form 148 as required by 567—135.3(3)"e." A copy of the DNR Form 148 shall be retained by the owner, operator and installer. The original DNR Form 148 shall be mailed to the DNR. The inspector is responsible to submit a copy of the DNR Form 148 to the administrator within 30 days of the completion of the installation or upgrade.

591—15.6(455G) Testers. Testers of underground liquid storage systems shall apply for licensing as a tester and note on the license application the systems and method(s) of testing being performed. If the applicant is employed by a licensed installer company as an installer or liner, a separate tester application is not required.

15.6(1) Tester licensing requirements. The requirements are as follows:

a. The applicant must possess one year's experience in testing UST installations.

b. The applicant must pay the annual licensing fee as provided for in rule 15.2(455G).

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c. The applicant must provide evidence of environmental liability insurance as provided for in rule 15.4(455G).

d. The applicant must provide the administrator proof of certification, training or approval from the manufacturers or suppliers of testing methods and systems for which the applicant is seeking a license.

15.6(2) Approval of testing systems. Testing systems which have been evaluated by the USEPA and the DNR and which meet or exceed the USEPA criteria for the detection of leaks and cathodic protection shall be approved. The administrator shall approve the testing system. (For more information refer to 567—Chapter 135.)

15.6(3) Documentation of work performed. A copy of the test results shall be attached to the DNR Form 148 when testing is done in connection with a new or upgraded underground liquid storage system installation. A precision test is not required until the system is covered and ready to be placed into service. The test results shall identify the tanks tested, the test method employed, the results of the test, and shall be dated and signed by the licensed tester performing the tests. A copy of the DNR Form 148 with the test results shall be retained by the owner, operator and tester. The original DNR Form 148 without attachments shall be mailed to the DNR. The inspector is responsible to submit a copy of the DNR Form 148 with the test results to the administrator within 30 days of the completion of the testing.

a. Inspectors are not required for testing tanks, lines, leak detection and cathodic protection as required by 567—Chapter 135 after the tanks have been put into service and certified by the UST board. Testers shall submit a copy of the test results to the administrator within 30 days after completion of the testing.

b. Reserved.

591—15.7(455G) Liners. Liners of underground liquid storage systems shall apply for licensing as a liner, and the liner and lining system must be a USEPA-approved system.

15.7(1) Liner licensing requirements. The requirements are as follows:

a. The applicant must possess one year's experience in lining USTs with an approved lining method (see subrule 15.7(2)).

b. The applicant must pay the annual licensing fee as provided for in rule 15.2(455G).

c. The applicant must meet the education requirements as provided for in rule 15.3(455G).

d. The applicant must provide evidence of environmental liability insurance as provided for in rule 15.4(455G).

e. The applicant must be certified, licensed or approved by a lining system manufacturer or supplier for which the applicant is requesting a license and which meets the requirements in subrule 15.7(2). A copy of the lining system specification installation instructions and other documentation shall be provided to the administrator with the license application.

15.7(2) Approval of lining systems. The lining system employed must be specifically designed for the purpose, compatible with the product stored, and meet acceptable national standards. Licensed liners will have their systems approved by the administrator based on the following acceptable standards:

a. American Petroleum Institute, Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks, API 1631; or

b. National Leak Detection Association, Interior Inspection, Repair and Lining of Steel and Fiberglass Storage Tanks, NLP Standard 631, Draft of the Third Edition, February 1990.

15.7(3) Documentation of work performed. A copy of the lining report shall be attached to the DNR Form 148 when lining is done in connection with a new or upgraded underground liquid storage system installation. The report shall identify the tanks lined, the lining system employed, and the satisfactory completion of the work and shall be dated and signed by the licensed liner. A copy of the DNR Form 148 with the lining report shall be retained by the owner, operator and liner. The original DNR Form 148 shall be mailed to the DNR. The inspector is responsible to submit a copy of the DNR Form 148 with the lining report to the administrator within 30 days of the completion of the lining.

15.7(4) Inspection of lining. The inspector shall inspect the lining of the upgrade a minimum of two times as follows:

a. At the time the tank has been cleaned and prepared for interior lining, but prior to filling of the perforations.

b. Upon completion of the interior lining by acceptable methods in 15.7(2)"a."

591—15.8(455G) Inspectors. Inspectors of underground liquid storage systems shall apply for licensing as an inspector and shall be trained and licensed to do the requisite work. Licensed engineers may be exempt from the educational requirement as provided for in rule 15.3(455G), but not the examination requirement.

15.8(1) Inspector licensing requirements. The requirements are as follows:

a. The applicant must possess one year's experience in UST system installations, lining, testing, inspecting or design.

b. The applicant must pay the annual licensing fee as provided for in rule 15.2(455G).

c. The applicant must meet the educational requirement as provided for in rule 15.3(455G).

d. The applicant must provide evidence of environmental liability insurance as provided for in rule 15.4(455G).

15.8(2) Documentation of work performed. A copy of the inspection report which has been approved by the administrator shall be attached to the DNR Form 148, when the inspection is done in connection with a new or upgraded underground liquid storage system installation. A licensed inspector shall inspect the job site a minimum of two times during the course of the tank installation, upgrade or lining. The inspector shall inspect the lining per subrule 15.7(4). New installations and upgrades shall have one of the inspections take place prior to the covering of the system when all tanks and pipes are exposed and after the entire system has been connected. The final inspection shall include viewing the integrity of the full system via precision testing and other appropriate method(s) to ensure that the systems, including leak detection devices, are operational. A copy of the DNR Form 148 with the inspection report shall be retained by the owner, operator and inspector and a copy shall be submitted to the administrator within 30 days of the completion of the installation and upgrade. The inspector shall be responsible for completion of all necessary reports and submission to the administrator within 30 days of the system completion.

15.8(3) Compensation. Licensed inspectors shall be compensated on the basis of a fee for each inspection by

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the owner or operator or by the installer at the discretion of the owner or operator.

591—15.9(455G) Inspection and registration process. To be eligible for program benefits all new installations and upgrading of underground liquid storage systems shall be inspected by a UST board licensed inspector and registered with the DNR.

15.9(1) Notification and inspection.

a. The licensed company is responsible for notifying the licensed inspector prior to performing approved work which requires an inspection. The licensed company is responsible for notifying any state or local agency with rules impacting installations or upgrades and identifying who the inspector shall be if other than a governmental entity.

b. Work plan approval requires at least a 30-day notice to the inspector. The notification shall include, at a minimum, the following information:

(1) Description of the work planned.

(2) The licensed individual responsible for the work to be performed.

(3) A schedule of the work to be performed.

The inspector shall review the work plan, and any required changes by the inspector must be submitted to the installer or liner at least 14 days prior to the beginning of the described work.

c. New installations and upgrades subject to 591—11.4(455B,455G) (board reimbursement for tank system upgrades and replacements) may require budget approval. Such approval request must be submitted 30 days prior to installation or removal.

d. A "preinstallation checklist" as approved by the administrator shall be submitted by the licensed company to the inspector and administrator at least 14 days prior to an installation or upgrade.

e. Inspectors are required to use an inspection form or checklist which has been approved by the administrator. Payment for services and board-approved secondary containment is dependent on the licensed individual or company, as required herein, having the work inspected. The completed inspection report shall be submitted to the administrator within 30 days of completion of the inspection.

f. The licensed inspector and licensed contractor shall agree upon an inspection schedule before work commences.

g. Rescheduling due to weather or unforeseen job-site conditions shall be done as soon as the extenuating circumstances are recognized to minimize the disruption of schedules.

h. If not inspected, preinstallation tank, piping and leak detection tests may be required to be redone if the failure to inspect is caused by the licensed company. A reinspection fee may be charged by the licensed inspector, such fee to be paid by the licensed company and not the owner or operator.

i. The final inspection shall be made before the facility may be placed in service. There are no exceptions.

j. Inspectors may not inspect the work of companies they are employed by. If the inspector establishes a contract to perform inspection services for a licensed company or individual in any form, or performs more than five inspections per calendar year for any one licensed company or individual, then the inspector is required to disclose that relationship in the report to the administrator. The administrator may require the installer to seek alternative

inspection services for any reason deemed prudent to ensure quality installations.

k. An inspector has the right to keep work from starting or to stop work on a job if standards as outlined herein are not followed by the installer or liner. Furthermore, once an inspector has been placed on a job by the installer or liner, that inspector cannot be replaced without the administrator's approval.

l. Inspections of testing procedures are only required if the tests are being performed as part of an installation or upgrade.

15.9(2) Reserved.

591—15.10(455G) Standards. Standards for new tank installations are prescribed in 567—Chapter 135, the federal technical standards for USTs (40 CFR Part 280) and the following publications:

1. Underground Storage Tanks; Technical Requirements and State Program Approval Final Rules, 40 CFR Parts 280 and 281, Part II, Federal Register, Friday, September 23, 1988, and 567—Chapter 135, except as mandated by upgrade requirements in 591—11.4(455G).

2. Installation of Underground Storage Systems, American Petroleum Institute Publication 1615, 1987.

3. Recommended Practice for the Installation of Underground Liquid Storage System, Petroleum Equipment Institute RP100-90.

4. American National Standard Code for Pressure Piping, American Society of Mechanical Engineers Standard ANSI B31.

591—15.11(455G) General procedures.

15.11(1) Data base. The administrator will maintain a data base including the following information:

a. Registered tank systems (UST regulatory requirement).

b. Licensed individuals (installers, liners, testers, inspectors).

c. Licensed companies (employers of licensed individuals).

d. Violations (including disposition or status).

15.11(2) Revocation of license. A license may be revoked if the licensed company or individual, including installers, testers, liners or inspectors:

a. Fails to perform duties or the assigned work satisfactorily.

b. Falsifies reports to the UST board or DNR.

c. Fails to report to the administrator or DNR.

d. Fails to report any practice which is prohibited under these rules to the administrator.

e. Acts in collusion with any other party.

f. Fails to report a release to the UST board or DNR.

g. If a guarantee or warranty is withdrawn or curtailed by the manufacturer.

15.11(3) Nothing herein shall eliminate the ability of the license holder to appeal under Iowa Code chapter 17A procedures any administrative action allowed by these rules.

These rules are intended to implement Iowa Code Supplement chapter 455G.

ARC 2983A**PROFESSIONAL LICENSURE
DIVISION[645]****BOARD OF PHYSICAL AND OCCUPATIONAL
THERAPY EXAMINERS****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy Examiners hereby gives Notice of Intended Action to amend Chapter 200, "Physical Therapy Examiners," and Chapter 202, "Physical Therapist Assistants," Iowa Administrative Code.

The proposed amendments make necessary clerical corrections regarding the name of the national licensing examination, clarify documentation needed for a name change and clarify reinstatement procedures for inactive licensees.

Any interested person may make written comments on the proposed amendments on or before June 2, 1992, addressed to Marilyn Ubaldo, Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The proposed amendments are intended to implement Iowa Code chapter 147.

The following amendments are proposed.

ITEM 1. Rescind subrule 200.2(2) and insert the following:

200.2(2) The board requires the satisfactory completion of the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

ITEM 2. Add a new subrule 200.2(5) as follows and renumber existing subrule 200.2(5) as **200.2(6)**:

200.2(5) A notarized copy of the official document of name change, if applicable, is required with initial application.

ITEM 3. Amend paragraph **200.3(1)"c"** as follows:

c. If the professional examination is taken in another state, a certified copy from ~~Assessment System, Inc. of the scores from the appropriate examination.~~

ITEM 4. Amend rule **645—202.7(147)** as follows:

Amend subrule **200.7(1)** as follows:

200.7(1) Submit written application for reinstatement to the board upon forms provided by the board, *pay the current renewal fee and reinstatement fee*; and

Amend subrule **200.7(2)**, paragraph "a," as follows:

a. Completion of a total number of hours of accredited continuing education computed by multiplying ~~20~~ **40** by ~~the number of years a certificate of exemption shall have been in effect for such applicant for each renewal period the license has been inactive; or~~

ITEM 5. Amend subrule 200.9(8) as follows:

200.9(8) Fee for failure to report, *in writing*, change of name ~~within 30 days by notarized copy of official document~~ is \$10.

ITEM 6. Amend subrule 202.2(2) as follows:

202.2(2) The board requires the satisfactory completion of the examination prepared by the Assessment Systems, Inc. (~~AST~~) *National Physical Therapy Examination (NPTE)* or other nationally recognized equivalent examination as defined by the board.

ITEM 7. Add a new subrule 202.2(5) as follows and renumber existing subrules 202.2(5) and 202.2(6) as **202.2(6)** and **202.2(7)**, respectively:

202.2(5) A notarized copy of the official document of name change, if applicable, is required with initial application.

ITEM 8. Amend paragraph **202.3(1)"c"** as follows:

c. If the professional examination is taken in another state, a certified copy from ~~Assessment System, Inc. of the scores from the appropriate examination.~~

ITEM 9. Amend rule **645—202.8(147)** as follows:

Amend subrule **202.8(1)** as follows:

202.8(1) Submit written application for reinstatement to the board upon forms provided by the board, *pay current renewal and reinstatement fee*; and

Amend subrule **202.8(2)**, paragraph "a," as follows:

a. Completion of a total number of hours of accredited continuing education computed by multiplying ~~10~~ **20** by ~~the number of years a certificate of exemption shall have been in effect for the applicant for each renewal period the license has been inactive; or~~

ITEM 10. Amend subrule 202.10(8) as follows:

202.10(8) Fee for failure to report, *in writing*, change of name ~~within 30 days by notarized copy of official document~~ is \$10.

ARC 3007A**PUBLIC SAFETY
DEPARTMENT[661]****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 100.35 and Iowa Code Supplement section 135C.5, the Iowa Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 5, "Fire Marshal," Iowa Administrative Code.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The State Fire Marshal receives numerous requests for exceptions to, or waivers of, rules contained in Chapter 5. There are several existing provisions for granting exceptions to specific rules in the chapter. However, many of the requests which are received refer to rules other than those for which specific authority to grant exceptions already exists. These amendments will eliminate existing provisions for granting exceptions to specific rules, and replace them with a consolidated procedure for considering requests to grant variances from any rules within Chapter 5.

Existing procedures for granting exceptions, waivers, and variances from adopted rules promulgated by other agencies of Iowa state government have been considered in formulating the proposed amendments. Criteria to be considered in considering whether or not to grant variances from rules contained in Chapter 5 include demonstration of hardship, provision of equivalent safety to that which would be achieved by following the rule as written, and utilization of technology equivalent or superior in providing fire protection to technology specified in the rule.

A public hearing on these proposed amendments will be held on June 24, 1992, at 10:30 a.m. in the Third Floor Conference Room (east half) of the Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Plans, Training, and Research Bureau, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, or by telephone at (515)281-5524, at least one day prior to the public hearing. Any written comments or information regarding these amendments should be directed to the Plans, Training, and Research Bureau at the indicated address. Persons who wish to convey their views orally may contact the Plans, Training, and Research Bureau by telephone or in person at the Bureau office.

These amendments are intended to implement Iowa Code chapter 100.

The following amendments are proposed.

ITEM 1. Amend rule 661—5.1(17A,80) by adding the following subrule:

5.1(5) Variance from rules. The state fire marshal may grant variances from rules in this chapter. Variances may be granted at the discretion of the state fire marshal, upon a finding that a need for the variance has been established and that the safety standard of the rule will be achieved through equivalent technology or compensating factors.

Requests for variances shall be addressed in writing to the State Fire Marshal, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319. Forms for this purpose may be obtained from the state fire marshal. Each application must contain the following information:

- a. The specific rule(s) from which a variance is requested.
- b. Documentation of the need for a variance. Explanation should be given of the unreasonable hardship which would be created by compliance with the rule(s) cited in 5.1(5)"a."
- c. Explanation of alternative means to achieve the safety standard of the rule(s) through use of equivalent technology or compensating factors.

The state fire marshal may request any additional information deemed relevant to a variance request. The state fire marshal shall grant or deny the requested variance within 60 days of receiving all requested information.

Further amend rule 5.1(17A,80), parenthetical implementation, by striking "(17A,80)" and inserting "(100)".

ITEM 2. Amend rule 661—5.100(100) by rescinding and reserving subrule 5.100(5).

ITEM 3. Amend rule 661—5.650(100) by rescinding subrule 5.650(8).

ARC 3005A**SECRETARY OF STATE[721]****Notice of Termination**

Pursuant to the authority of Iowa Code section 17A.3(1)"b," the Secretary of State terminates the rule making initiated by the Notice of Intended Action published in the Iowa Administrative Bulletin on March 18, 1992, as **ARC 2852A**, amending Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

The purpose of the proposed amendment [21.1(4)] was to provide interested people with an opportunity to review the summary to be printed on the ballot for the proposed constitutional amendment that will be voted upon at the November 3, 1992, general election. The period for comments has passed and a public hearing was held. The summary has been revised in response to the comments received.

The Secretary of State finds that no benefit would be achieved by adopting this amendment as a permanent part of the Iowa Administrative Code; the purpose of soliciting comments has been accomplished. The rule-making process with regard to **ARC 2852A** is therefore terminated.

**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 Richard Buenneke, 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 May is 9.50%.

**INTEREST RATES FOR PUBLIC
OBLIGATIONS AND ASSESSMENTS**

74A.2 Unpaid Warrants Maximum 6.0%
74A.4 Special Assessments Maximum 9.0%

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.

TREASURER OF STATE — INTEREST RATE(*cont'd*)

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 May 6, 1992, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7 - 31 days	Minimum 3.10%
32 - 89 days	Minimum 3.30%
90 - 179 days	Minimum 3.60%
180 - 364 days	Minimum 3.70%
One year	Minimum 4.00%
Two years or more	Minimum 5.00%

These are minimum rates only. The one year and less are six-tenths of a percent below average rates. Public body treasurers and their 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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

CHART OF BASIC NEEDS COMPONENTS
(all figures are on a per person basis)

Number of Persons	1	2	3	4	5	6	7	8	9	10 or More
Shelter	72.00	61.43	44.00	32.05	29.65	24.56	24.00	21.04	19.54	19.22
	<u>77.14</u>	<u>65.81</u>	<u>47.10</u>	<u>35.20</u>	<u>31.74</u>	<u>26.28</u>	<u>25.69</u>	<u>22.52</u>	<u>20.91</u>	<u>20.58</u>
Utilities	10.02	15.36	11.00	0.21	7.41	6.14	6.00	5.26	4.00	4.01
	<u>19.29</u>	<u>16.45</u>	<u>11.77</u>	<u>8.80</u>	<u>7.93</u>	<u>6.57</u>	<u>6.42</u>	<u>5.63</u>	<u>5.23</u>	<u>5.14</u>
Household Supplies	3.99	4.97	3.75	3.50	3.14	3.05	2.90	2.87	2.77	2.73
	<u>4.27</u>	<u>5.33</u>	<u>4.01</u>	<u>3.75</u>	<u>3.36</u>	<u>3.26</u>	<u>3.10</u>	<u>3.08</u>	<u>2.97</u>	<u>2.92</u>
Food	32.24	41.99	37.67	36.52	34.25	34.61	31.77	31.35	30.72	30.22
	<u>34.49</u>	<u>44.98</u>	<u>40.31</u>	<u>39.11</u>	<u>36.65</u>	<u>37.04</u>	<u>34.00</u>	<u>33.53</u>	<u>32.87</u>	<u>32.36</u>
Clothing	10.44	10.73	0.13	0.17	6.37	6.39	6.11	5.97	5.79	5.70
	<u>11.17</u>	<u>11.49</u>	<u>8.70</u>	<u>8.75</u>	<u>6.82</u>	<u>6.84</u>	<u>6.54</u>	<u>6.39</u>	<u>6.20</u>	<u>6.10</u>
Pers. Care & Supp.	3.07	3.40	2.50	2.22	1.00	1.70	1.70	1.60	1.56	1.53
	<u>3.29</u>	<u>3.64</u>	<u>2.68</u>	<u>2.38</u>	<u>2.02</u>	<u>1.91</u>	<u>1.82</u>	<u>1.72</u>	<u>1.67</u>	<u>1.64</u>
Med. Chest Supp.	.92	1.31	1.25	1.05	1.00	1.04	1.01	.99	1.02	1.01
	<u>.99</u>	<u>1.40</u>	<u>1.34</u>	<u>1.13</u>	<u>1.15</u>	<u>1.11</u>	<u>1.08</u>	<u>1.06</u>	<u>1.09</u>	<u>1.08</u>
Communi- cations	6.75	5.76	3.59	3.03	2.33	1.93	1.70	1.55	1.41	1.39
	<u>7.23</u>	<u>6.17</u>	<u>3.85</u>	<u>3.25</u>	<u>2.50</u>	<u>2.07</u>	<u>1.82</u>	<u>1.66</u>	<u>1.51</u>	<u>1.49</u>
Transportation	23.49	23.55	20.70	19.95	16.29	15.50	14.24	14.75	14.42	14.19
	<u>25.13</u>	<u>25.23</u>	<u>22.24</u>	<u>21.38</u>	<u>17.43</u>	<u>16.59</u>	<u>15.24</u>	<u>15.79</u>	<u>15.44</u>	<u>15.19</u>

ITEM 2. Amend rule 441—49.10(239) by rescinding subrule 49.10(5).

ITEM 3. Amend subrule 52.1(3), first paragraph, as follows:

52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$13.49 \$14.03 or on a cost-related reimbursement system with a maximum reimbursement per diem rate of \$18.86 \$19.62. A cost-related per diem rate shall be established for each facility choosing this method of payment according to rule 441—54.3(249).

ITEM 4. Amend rule 441—75.1(249A), introductory paragraph, as follows:

441—75.1(249A) Persons covered. ~~Persons under the age of 21 determined eligible are provided coverage as granted under the Medicaid program. Persons aged 21 and over determined eligible shall be limited to the following Medicaid services:~~

~~Case management services;
Family and pediatric nurse practitioner services;
Family planning services;
Federally qualified health center services;
Home health agency services;
Hospital inpatient and outpatient services;
Intermediate care facility for the mentally retarded;
Laboratory and X-ray services;~~

~~Maternal health center services;
Medical transportation services;
Medicare certified skilled nursing facility services;
Nurse midwife services;
Nursing facility services;
Physician services;
Prescribed drug services for all months except May, 1992;
Rural health clinic services;
State mental institutional services.~~

ITEM 5. Amend rule 441—78.16(249A) by adding the following new subrule 78.16(6):

78.16(6) Payment to a community mental health center will be approved for day treatment services if the center is certified by the department for these services.

a. Community mental health centers providing day treatment services must submit an application to the department's fiscal agent for certification before payment will be made. The fiscal agent will review the application against the requirements for providing day treatment services and notify the community mental health center whether certification has been approved. Application will consist of a written narrative providing the following information:

(1) Documented need for day treatment including studies, needs assessments, and consultations with other health care professionals.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (2) Goals and objectives of the day treatment program.
- (3) Organization and staffing including how the day treatment program fits with the rest of the community mental health center, the number of staff, staff credentials, and the staff's relationship to the program, e.g., employee, contractual, or consultant.
- (4) Policies and procedures including admission criteria, patient assessment, treatment plan, discharge plan, and postdischarge services, and the scope of services provided.
- (5) Any accreditations or other types of approvals from national or state organizations.
- (6) The physical facility and any equipment to be utilized.
- b. Day treatment services shall be structured, long-term services designed to assist in restoring, maintaining or increasing levels of functioning, minimizing regression, and preventing hospitalization.
- (1) Service components include training in independent functioning skills necessary for self-care, emotional stability and psychosocial interactions and training in medication management.
- (2) Services are structured with an emphasis on program variation according to individual need.
- (3) Services are provided for a period of three to five hours per day, three or four times per week.

ITEM 6. Amend subrule 78.31(4), paragraph "d," subparagraph (7), by adding the following new numbered paragraph "6":

6. Partial hospitalization and day treatment services to reduce or control a person's psychiatric or psychological symptoms so as to prevent relapse or hospitalization, improve or maintain the person's level of functioning and minimize regression.

Partial hospitalization services means an active treatment program that provides intensive and structured support that assists persons during periods of acute psychiatric or psychological distress or during transition periods, generally following acute inpatient hospitalization episodes.

Service components may include individual and group therapy, reality orientation, stress management and medication management.

Services are provided for a period of four to eight hours per day.

Day treatment services means structured, long-term services designed to assist in restoring, maintaining or increasing levels of functioning, minimizing regression and preventing hospitalization.

Service components include training in independent functioning skills necessary for self-care, emotional stability and psychosocial interactions, and training in medication management.

Services are structured with an emphasis on program variation according to individual need.

Services are provided for a period of three to five hours per day, three or four times per week.

ITEM 7. Amend subrule 79.1(5), paragraph "u," as follows:

u. Determination of payment amounts for outpatient hospitalization. For outpatient hospital services as described in 441—subrule 78.31(1), paragraphs "g" to "l," except for partial hospitalization and day treatment services, the maximum allowable fee will be a daily unit rate calculated by applying the statewide ratio of cost to

charges computed according to Medicare principles to the 75th percentile rate for that particular outpatient service as of September 1, 1987. The maximum fee will be adjusted annually through use of an index.

The fees for partial hospitalization and day treatment services will be an hourly unit rate with a per session cap based on recommendations from a reimbursement study conducted by the Center for Health Policy Studies.

ITEM 8. Adopt the following 441—Chapter 86.

CHAPTER 86 MEDICALLY NEEDY

441—86.1(249A) Definitions.

"ADC-related" shall mean those persons who would be eligible for aid to dependent children except for income or resources.

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

"Applicant" shall mean a person for whom assistance is being requested.

"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.

"Caretaker relative" means a person who would be eligible for ADC as a specified relative as defined in 441—subrule 41.2(3), except for income or resources.

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

"CMAP-related" shall mean those individuals under age 21 who would be eligible for ADC except for income or resources and who do not qualify as dependent children.

"Conditionally eligible recipient" shall mean a medically needy person who has completed the application process and has been assigned a certification period and spenddown amount but who has not spent down for the certification period.

"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 is expected to last for a continuous period of not less than 12 months.

"Eligible recipient" shall mean a medically needy person who has income at or less than the medically needy income level (MNIL) or who has reduced excess income through spenddown to the MNIL during the certification period.

"Incurred medical expenses" shall mean (1) medical bills paid by a recipient, responsible relative or state or political subdivision program other than Medicaid during the retroactive certification period or certification period or (2) unpaid medical expenses for which the recipient or responsible relative remains obligated.

"Medically needy income level" (MNIL) shall mean 133 percent of the ADC schedule of basic needs (payment level) based on family size. (See 441—subrule 41.8(2).)

"Medically needy person" shall mean an ADC, CMAP or SSI-related individual whose resources are within medically needy limitations and whose income is no more than the MNIL or whose income has been reduced to the MNIL through the spenddown process.

"Necessary medical and remedial services" shall mean medical services recognized by law which are currently covered under the Iowa Medicaid program.

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"Noncovered Medicaid services" shall mean medical expenses that are not covered under Medicaid because the provider was not enrolled in Medicaid, the bill is for a responsible relative who is not in the Medicaid eligible group or the bill is for services delivered before the start of a certification period.

"Obligated medical expense" shall mean a medical expense for which the recipient or responsible relative continues to be legally liable.

"Responsible relative" shall mean spouse, parent(s), stepparent, living in the household of the eligible recipient.

"Retroactive certification period" shall mean three calendar months prior to the date of application for applications filed on or after February 1, 1985, two calendar months for applications filed on or after January 1, 1985, and one calendar month for applications filed on or after December 1, 1984.

"Spendedown" shall mean the process by which a medically needy person obligates excess income for allowable medical expenses to reduce income to the appropriate MNIL.

"SSI-related" shall mean those aged, blind, or disabled persons who would be eligible for supplemental security benefits except for income.

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

441—86.2(249A) Application. An application for the ADC-related or CMAP-related medically needy program shall be submitted to a local or area office of the department on the Public Assistance Application, Form PA-2207-0, or Form PA-2230-0 (Spanish). An application may also be filed directly with an income maintenance worker at any satellite office of the department. The application shall be signed by a spouse, both parents, or a parent and stepparent whose income and resources are considered in determining eligibility.

An application for the SSI-related medically needy program shall be submitted to a local or area office of the department on the Application for Medical Assistance, Form PA-1107-0. An application may also be filed directly with an income maintenance worker at any satellite office of the department.

86.2(1) Each person wishing to do so shall have the opportunity to apply for assistance without delay. When a parent is in the home with a child and is not prevented from acting on the child's behalf by reason of physical or mental impairment, a parent shall make the application.

86.2(2) An applicant may be assisted by other persons in the application process. The client may be accompanied and represented by these persons when contacting the department. When the applicant has a guardian or conservator, the guardian or conservator shall participate in the application process.

86.2(3) The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the department shall send the necessary forms in the next outgoing mail.

86.2(4) A new application shall be made whenever a person is added to the eligible group, except as specified in 441—subrule 75.1(20), when a responsible relative becomes a member of the household, or when the certification period has expired.

86.2(5) The date of application shall be the date an identifiable application is received in a local or area office or directly by an income maintenance worker at any satel-

lite office of the department. An identifiable application is a signed application containing the client's name and address.

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

441—86.3(249A) Application processing.

86.3(1) The eligibility decision shall be based primarily on information furnished by the applicant. The county office shall assist the applicant, when requested, in providing information needed to determine eligibility and amount of assistance.

86.3(2) In processing an application the county office shall conduct at least one face-to-face interview with the applicant prior to approval of the application for assistance.

In those instances where an application has been filed to add a person to an existing eligible group, the face-to-face interview requirement shall be waived.

86.3(3) The applicant shall report no later than at the time of the face-to-face interview any change as defined in 86.6(4). Any change which occurs after the face-to-face interview shall be reported by the applicant within five days from the date the change occurred.

In those instances where an application has been filed to add a person to an existing eligible group, the five-day requirement for reporting changes shall be waived. These applicants and eligible groups shall be subject to the recipient's ten-day-reporting requirement as defined in 86.6(4).

86.3(4) The county office shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or verification, or refusal by the applicant to authorize the county office to secure the information or verification from other sources, shall serve as a basis for denial of assistance. Five working days shall be allowed for the applicant to supply the required information or verification. Any time taken beyond the five days shall be considered a delay on the part of the applicant, unless the county office extends the deadline because the applicant is making every effort to secure the information or verification but is unable to do so.

86.3(5) All eligibility factors shall be reviewed on reapplications. A face-to-face interview is not required for reapplications if the last face-to-face interview was less than six months ago and there has not been a break in assistance.

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 applicant'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 Hu-

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man 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 of the 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 disability report must be obtained from the applicant or recipient or the applicant's or recipient's authorized representative. The disability report must be submitted on Form 470-2465, Disability Report. 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.

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.

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

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 45 days from the date of application. This time standard shall apply except in unusual circumstances such as when the county office and the applicant have 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 county office. Determination of eligibility based on disability shall be completed according to time frames established in 441—subrule 75.20(3).

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

441—86.5(249A) Effective date of approval.

86.5(1) Eligibility during the certification period shall be effective as of the first day of the first month of the certification period when the medically needy income level (MNIL) is met.

86.5(2) The effective date of retroactive eligibility shall be as specified in 441—86.1(249A) when the individual:

a. Received any covered medical service during the retroactive period which is still not paid, and

b. Would have been eligible for medical assistance benefits in the month services were received if they had applied, regardless of whether the individual was alive when the application for medical assistance was made.

The applicant need not be eligible in the certification period to be eligible in any month of the retroactive period.

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

441—86.6(249A) Responsibilities of recipients.

86.6(1) The recipient shall cooperate by giving complete and accurate information needed to establish eligibility. Failure to do so shall serve as a basis for cancellation of assistance.

86.6(2) The recipient shall supply additional information needed to establish eligibility within five working days from the date a written request is mailed by the county office to the recipient's current mailing address or

given to the recipient. The recipient shall give written permission for release of information on Authorization for Release of Information, Form PA-2206-0, when the recipient is unable to furnish information needed to establish eligibility. Failure to supply the information or refusal to authorize the county office to secure the information from other sources shall serve as a basis for cancellation of assistance.

86.6(3) The recipient or applicant shall cooperate with the department whenever the recipient's or applicant's case is selected by quality control or the food stamp investigation section of the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect Medicaid eligibility. (See department of inspections and appeals rules 481—Chapter 72.) Failure to do so shall serve as a basis for cancellation or denial of assistance unless the Medicaid eligibility is determined by the Social Security Administration. Once denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

86.6(4) The recipient or individual applying to be added to an existing eligible group shall timely report any change in the following circumstances:

a. Income from all sources, any change in full-time or part-time employment status, and any changes in dependent care expenses.

b. Resources.

c. Members of the household.

d. Change of mailing or living address.

e. Payment for child support, alimony or dependents.

f. Change in medical resources.

86.6(5) A report shall be considered timely when made within ten days from:

a. The receipt of resources or increased or decreased income.

b. The date dependent care expenses increase or decrease or the date full-time or part-time employment status changes.

c. The date the address changes.

d. The date a person enters or leaves the household.

e. The date the payment increases or decreases for child support, alimony or dependents which is paid by the recipient, responsible relative or sponsor.

f. The date the applicant or recipient becomes aware of a change in medical resources.

86.6(6) When a change is not timely reported, any excess medical assistance paid shall be subject to recovery from the applicant or recipient.

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

441—86.7(249A) Effective date of change. After assistance has been approved, changes reported during the month will be effective the first day of the next calendar month, provided timely notice is not required as specified in 441—subrule 7.7(1) and the certification has not expired. When an application is completed to add a new person to the eligible group, and that person meets the eligibility requirements, assistance shall be effective the first of the month in which the application was filed.

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

441—86.8(249A) Coverage groups. Subject to other requirements of this chapter, Medicaid shall be available to the following coverage groups:

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86.8(1) Pregnant women. Pregnant women who would be eligible for ADC, ADC-related medical programs, or SSI except for income or resources. For ADC-related programs, pregnant women shall have the unborn child or children counted in the household size as if the child or children were living with them.

86.8(2) ADC-related persons under age 19. Persons under age 19 who would be eligible for ADC except for income or resources.

86.8(3) CMAP-related persons under age 21. Persons under age 21 who would be eligible in accordance with 441—subrule 75.1(15) except for income and resources.

86.8(4) SSI-related persons. Persons who would be eligible for SSI except for income or resources.

86.8(5) ADC caretaker relatives. Persons who would be eligible for ADC as a specified relative as defined in 441—subrule 41.2(3), except for income or resources.

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

441—86.9(249A) Resources and income of persons considered.

86.9(1) Resources and income of all responsible relatives and of all potentially eligible individuals living together except as specified in subrule 86.9(2) shall be considered in determining eligibility.

86.9(2) The amount of income of the responsible relative that has been counted as available to an ADC household or SSI individual shall not be considered in determining the countable income for the medically needy eligible group.

86.9(3) The resource determination shall be according to 441—subrules 75.5(3) and 75.5(4) when one spouse is expected to reside at least 30 consecutive days in a medical institution.

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

441—86.10(239,249A) Resources.

86.10(1) The resource limitation for SSI-related households shall be \$10,000 per household.

86.10(2) Reserved.

86.10(3) Disposal of resources for less than fair market value by SSI-related applicants or recipients shall be treated according to policies specified in rule 441—75.6(249A).

86.10(4) The resource limitation for ADC and CMAP-related persons shall be \$10,000 per household. Resources shall be considered according to department of public health subrule 641—75.4(2) when determining eligibility for ADC or CMAP-related persons under this chapter.

86.10(5) The resources of SSI-related persons shall be treated according to SSI policies.

86.10(6) Where a resource is jointly owned by SSI-related persons and ADC-related persons, the resource shall be treated according to SSI policies for the SSI-related persons and according to ADC-related policies for the ADC-related persons.

This rule is intended to implement Iowa Code sections 239.5 and 249A.4.

441—86.11(249A) Income.

86.11(1) All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted shall be considered in determining initial and continuing eligibility.

86.11(2) ADC policies as specified in 441—subrules 41.7(1) through 41.7(8), 41.7(9)"c," "g," "h," "i," and 41.7(10) regarding treatment of all earned and unearned income are applied to ADC and CMAP-related groups in determining initial and continuing eligibility unless otherwise specified in these rules.

86.11(3) SSI policies as specified in federal SSI regulations regarding treatment of all earned and unearned income are applied to SSI-related groups in determining initial and continuing eligibility.

86.11(4) The monthly income shall be determined prospectively unless actual income is available.

86.11(5) The income for the certification period shall be determined by adding both months' net income together to arrive at a total.

The income for the retroactive certification period shall be determined by adding each month of the retroactive period to arrive at a total.

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

441—86.12(239,249A) Medically needy income level (MNIL).

86.12(1) The MNIL is based on one hundred thirty-three and one-third percent of the ADC schedule of basic needs calculated according to federal formula based on family size as follows:

Number of Persons	1	2	3	4	5	6	7	8	9	10
MNIL	483	483	566	666	733	816	891	975	1058	1158
Each additional person 116										

86.12(2) When determining household size for the MNIL, all potential eligibles and all individuals whose income is considered as specified in rule 441—86.9(249A) shall be included.

86.12(3) The MNIL for the certification period shall be determined by adding both months' MNIL to arrive at a total.

The MNIL for the retroactive certification period shall be determined by adding each month of the retroactive period to arrive at a total.

86.12(4) The total net countable income for the certification period shall be compared to the total MNIL for the certification period based on family size as specified in subrule 86.12(2).

a. If the total countable net income is equal to or less than the total MNIL, the medically needy individual(s) shall be eligible for Medicaid.

b. If the total countable net income exceeds the total MNIL, the medically needy individual(s) shall not be eligible for Medicaid unless incurred medical expenses equal or exceed the difference between the net income and the MNIL.

This rule is intended to implement Iowa Code sections 239.5, 249A.3 and 249A.4.

441—86.13(249A) Verification of medical expenses to be used in spenddown calculation. The applicant or recipient shall submit evidence of medical expenses on the Medical Expense Verification, Form MA-4069, which shall be completed by the medical provider. In cases where the provider is uncooperative or where returning to the provider would constitute an unreasonable requirement of the applicant or recipient, the form shall be com-

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pleted by the worker. Verification of allowable expenses incurred for transportation to receive medical care as specified in rule 441—78.13(249A) shall be verified on Form MA-3022-1, Medical Transportation Claim.

Applicants who have not established that they met spenddown in the current certification period shall be allowed 35 days following the end of the certification period to submit medical expenses for that period.

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

441—86.14(249A) Spenddown calculation.

86.14(1) Incurred medical expenses shall be used to meet spenddown if not already used to meet spenddown in a previous certification period.

86.14(2) Incurred medical expenses, including those reimbursed by a state or political subdivision program other than Medicaid, but excluding those otherwise subject to payment by a third party, shall be deducted in the following order:

a. Medicare and other health insurance premiums, deductibles, or coinsurance charges.

b. Medical expenses for necessary medical and remedial services that are recognized under state law but not covered by Medicaid.

c. Medical expenses for necessary medical and remedial services that are covered by Medicaid.

86.14(3) When incurred medical expenses have reduced income to the applicable MNIL, the individual(s) shall be eligible for Medicaid.

86.14(4) Reserved.

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

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

441—86.15(249A) Medicaid services. Persons eligible for Medicaid through the medically needy program will be eligible for all services covered by Medicaid except:

86.15(1) Care in a nursing facility or an intermediate care facility for the mentally retarded.

86.15(2) Care in an institution for mental disease.

86.15(3) Care in a Medicare-certified skilled nursing facility.

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

441—86.16(249A) Right to appeal. The individual's right to appeal shall be as specified in 441—Chapter 7.

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

ITEM 9. Amend subrule 150.3(5) by rescinding paragraph "v."

ITEM 10. Amend 441—Chapter 156 by rescinding rule 441—156.20(234).

ITEM 11. Amend subrule 177.4(3) as follows:

177.4(3) Maximum costs. The maximum cost of service shall be \$390.15. ~~The amount paid by the department as stated in the Provider Agreement, Form SS-1511-0, shall be reduced by 12.33 percent.~~ The provider shall accept the payment made and shall make no additional charges to the recipient or others. ~~The amount of client participation is not affected by the reduction.~~

ITEM 12. Amend rule 441—202.9(234) as follows:

Amend subrule 202.9(1), paragraph "a," subparagraph (1), as follows:

(1) Be at least 16 1/2 years old. If aged 18 or older, meets the definition of a child in ~~subrule 156.20(4) Iowa Code section 234.1~~ and has been in foster care or state institutional placement immediately prior to reaching age 18. A person 18 or over, who has received a high school diploma or a high school equivalency diploma, is not eligible for the independent living program.

Amend subrule 202.9(6), paragraph "a," subparagraph (1), as follows:

(1) ~~No longer meets the definition of a child in subrule 156.20(4) Iowa Code section 234.1.~~

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[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2985A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 75, "Conditions of Eligibility," and Chapter 76, "Application and Investigation," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments April 15, 1992. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on February 19, 1992, as ARC 2790A.

These amendments adopt an additional application form for Medicaid for pregnant women and families with children, the Health Services Application form. This form will also replace Form 470-2578, Application for Presumptive Medicaid Eligibility, and will be the only application form for WIC and for Maternal Health Services and Well Child Health Services.

1990 Iowa Acts, chapter 1259, section 10, directed the Department of Public Health, through cooperation and collaborative agreements with the Department of Human Services and the Mobile and Regional Child Health Specialty Clinics, to establish common intake proceeding for maternal and child health services. 1990 Iowa Acts, chapter 1270, section 29, subsection 7, directed the Department of Human Services, in cooperation with the Department of Human Rights and the Department of Public Health, to develop a proposal outlining necessary actions to simplify and integrate the exchange of information across major programs serving the health and nutrition needs of low-income women and children, including the Aid to Dependent Children program, the food stamp program, Medicaid, and the Women, Infants, and Children Nutrition program (WIC).

HUMAN SERVICES DEPARTMENT[441](cont'd)

In addition, Section 1902(a)(55) of the Social Security Act requires states to provide a different application form for Medicaid for pregnant women and children under 18.

This form was developed jointly with staff from the Department of Public Health. Use of this form will provide easier access to health care for pregnant women and families with children by allowing them to apply for WIC, Well Child Health Services, Maternal Health Services, Presumptive Medicaid Eligibility for pregnant women and ADC-related Medicaid using only one form. This form is also much shorter than the Public Assistance Application, Form PA-2207-0, and, therefore, easier for the applicant to complete.

The filing date, which establishes the earliest time Medicaid can be effective, will be the date that this form is date-stamped at WIC, the Maternal and Child Health Clinic, or the qualified provider's office. Previously, except for presumptive eligibility, the filing date was the date an application was received and date-stamped at a Departmental office.

The Department of Human Services finds these amendments confer a benefit on pregnant women and families with children by providing easier access to health care by allowing them to apply for several programs on one form and by simplifying the application form for Medicaid. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

Subrule 76.1(3) was revised to provide that the WIC, Maternal and Child Health Clinic, or qualified provider shall forward the application to the office which is responsible for completion of the eligibility determination, rather than the county in which the applicant resides.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments became effective May 1, 1992.

The following amendments are adopted.

ITEM 1. Amend subrule 75.1(30), first paragraph, as follows:

75.1(30) Presumptive eligibility for pregnant women. A pregnant woman who is determined by a qualified provider to be presumptively eligible for Medicaid, based only on her statements regarding family income, shall be eligible for ambulatory prenatal care until the last day of the month following the month of the presumptive eligibility determination unless the pregnant woman is determined to be ineligible for Medicaid during this period based on a Medicaid application filed either prior to the presumptive eligibility determination or during this period. In this case, presumptive eligibility shall end on the date Medicaid ineligibility is determined. The pregnant woman shall complete Form 470-2578, ~~Application for Presumptive Medicaid Eligibility 470-2927, Health Services Application~~, in order for the qualified provider to make the presumptive eligibility determination. The qualified provider shall complete Form 470-2629, Income Calculation Worksheet for Presumptive Medicaid Eligibility Determinations, in order to establish that the pregnant woman's family income is within the prescribed limits of the Medicaid program.

Further amend subrule 75.1(30), paragraph "c," by amending subparagraph (3) and adding a new subparagraph (4) as follows:

(3) Inform the pregnant woman in writing, at the time the determination is made, that *if she chose not to apply for Medicaid on the Health Services Application, Form 470-2927*, she has until the last day of the month following the month of the preliminary determination to file an

application with the department. A Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580, shall be issued by the qualified provider for this purpose.

(4) *Forward copies of the Health Services Application, Form 470-2927, to the appropriate offices for eligibility determinations if the pregnant woman indicated on the application that she was applying for any of the other programs listed on the application. These copies shall be forwarded within two working days from the date of the presumptive determination.*

ITEM 2. Amend rule 441—76.1(249A), first paragraph, and subrule 76.1(3), as follows:

441—76.1(249A) Application. An application for ADC-related Medicaid shall be submitted on the Public Assistance Application, Form PA-2207-0, or Form PA-2230-0 (Spanish) or the Health Services Application, Form 470-2927. The application shall be signed by a spouse, both parents, or a parent and stepparent when the stepparent is living in the home.

76.1(3) Date of filing of application. An application is considered as filed on the date an identifiable Form PA-1107-0, PA-2207-0, PA-2230-0, or MA-2124-0 or 470-2927 is received and date-stamped in any local or area office of the department or by an income maintenance worker in any satellite office of the department. An identifiable Form 470-2927 which is filed to apply for ADC-related Medicaid at a WIC office, Well Child Health clinic, Maternal Health clinic, or the office of a qualified provider of presumptive eligibility for pregnant women shall be considered filed on the date received and date-stamped in one of those offices. An application so received shall be forwarded within two working days to the department office which is responsible for completion of the eligibility determination. An identifiable application is an application containing a legible name and address that has been signed.

[Filed Emergency After Notice 4/16/92, effective 5/1/92]
[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2989A

LABOR SERVICES DIVISION[347]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 88A.3 and 17A.4(2), the Labor Commissioner hereby adopts an amendment to Chapter 62, "Safety Rules for Amusement Parks and Rides," Iowa Administrative Code.

This amendment is also published herein under Notice of Intended Action as ARC 2990A to allow for public comment.

This amendment is being adopted as an emergency rule. The Commissioner finds that notice and public participation are impracticable. The Commissioner received information within the past week of a bungee jumping activity within the state of Iowa in the immediate future.

The Commissioner also finds, pursuant to Iowa Code section 17A.5(2)"b"(3), that the normal effective date, 35

LABOR SERVICES DIVISION[347](cont'd)

days after publication, should be waived and that this subrule be made effective upon filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by providing for the public safety and health.

The amendment to rule 347—62.2(88A) relates to design criteria for amusement rides and devices. This amendment adopts safety procedures for bungee jumping operations.

This amendment is intended to implement Iowa Code section 88A.3.

The following amendment is adopted.

Amend rule 347—6.2(88A) by adding the following new subrule:

62.2(13) Bungee jumping activities. Bungee jumping activities shall be conducted pursuant to "1992 NABA Guidelines" as published by the North American Bungee Association and occupational safety and health rules adopted at 347—Chapter 10, "General Industry Safety and Health Rules," and 347—Chapter 26, "Construction Safety and Health Rules." If a conflict exists between the rules of the association and OSHA, the OSHA rules shall apply. Variances from the OSHA rules may be requested.

[Filed Emergency 4/17/92, effective 4/17/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 3000A

CAMPAIGN FINANCE
DISCLOSURE COMMISSION[121]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 56.10, the Campaign Finance Disclosure Commission hereby adopts amendments to Chapter 1, "Complaint Procedure," Chapter 4, "Reporting Requirements," Chapter 5, "Campaign Finance Disclosure Commission," and Chapter 6, "Civil Penalties," Iowa Administrative Code.

The majority of the changes are to more clearly establish existing practices and procedures.

The Commission adopted these amendments on April 7, 1992.

These amendments are identical to those published under Notice of Intended Action in the Iowa Administrative Bulletin, February 19, 1992, as ARC 2782A.

These amendments shall become effective June 17, 1992.

The following amendments are hereby adopted.

ITEM 1. Rescind rule 121—1.1(56). See Item 18 herein.

ITEM 2. Rescind rule 121—1.2(56,22) and insert in lieu thereof the following:

121—1.2(56) Formal complaints and informal complaints.

1.2(1) Except as provided in subrule 1.2(2), for purpose of this chapter, "complaint" shall mean a commission-initiated or third-party-initiated formal complaint filed subject to the provisions of Iowa Code sections 56.11 and 17A.12. A formal complaint shall be verified and accompanied by a supporting affidavit, both of which shall be public information. Sample complaint and affidavit forms are available from the commission.

1.2(2) Nothing in this chapter shall preclude a person from submitting an informal complaint to the commission for appropriate agency action which may include, but not be limited to, voluntary compliance or formal action. Confidentiality shall be governed pursuant to Iowa Code subsection 22.7(16).

ITEM 3. Rescind rule 121—1.5(56) and insert in lieu thereof the following:

121—1.5(56) Acceptance procedure—third-party complaints.

1.5(1) The chairperson and vice chairperson of the commission shall confer and have the authority to accept a third-party complaint on behalf of the commission except that the following shall be deferred to the next meeting of the full commission:

a. A complaint received within ten calendar days of a scheduled commission meeting at which time the complaint could be reviewed by the full commission.

b. A complaint which involves matters which have already come to the attention of the commission and where informal settlement or voluntary compliance can reasonably be expected.

c. A complaint alleging violations entirely outside the scope of Iowa Code chapter 56.

1.5(2) After a complaint has been accepted, the chairperson or vice chairperson of the commission shall designate the time and place of the hearing and shall appoint a hearing officer. Changes in the time and place of the hear-

ing may be made by the chairperson or the hearing officer.

ITEM 4. Amend rule 121—1.7(56) to read as follows:

121—1.7(56) Representation by counsel—rules of evidence. All persons interested in the proceedings of a complaint shall have the right to be represented by counsel and the. The rules of evidence in such proceedings shall be those applying to equitable actions, but subject to the hearing officer's power to rule on relevancy, materiality and form of the question are those set out in Iowa Code section 17A.14.

ITEM 5. Amend rule 121—1.9(56) as follows:

121—1.9(56) Findings of fact and proposed orders.

1.9(1) Upon completion of the receipt of testimony and documents, the hearing officer shall make the complete record available to the state commission together with the hearing officer's findings of fact and proposed orders. The state commission shall review the record and the proposed findings of fact and order and shall, by majority vote, affirm, modify or reverse the findings of fact and proposed order of the hearing officer. The final decision shall be made within ten days of the date that the hearing officer files the record, proposed findings and order with the state commission.

1.9(2) The options available for the commission to resolve a formal complaint include, but are not limited to, any one or combination of the following:

a. If the commission finds reasonable grounds to believe that a violation has occurred:

(1) Referral for civil injunctive action.

(2) Assessment of a civil penalty.

(3) Directions for voluntary penalty.

b. If the commission finds reasonable grounds to believe that a violation has occurred which a preponderance of the evidence shows to be willful, the commission shall refer the matter for criminal prosecution.

c. If the commission does not find reasonable grounds to believe that a violation has occurred, the commission shall dismiss the complaint.

ITEM 6. Amend subrule 4.5(4) to read as follows:

4.5(4) For purposes of this chapter, "disclaimer" means the statement placed on political advertising to clearly indicate the name of the registered political committee or the full name and complete address of a person or organization which has paid for the advertising. If the political advertisement is paid for by the candidate who has filed an affidavit of candidacy or by a candidate's committee which has filed a statement of organization under Iowa Code chapter 56, the specific name and address are available to the public, and the disclaimer shall be acceptable on all advertising if it contains the words "Paid for by the Candidate" or "Paid for by the Candidate's Committee", whichever is applicable. In any event, a disclaimer statement must contain the words "Paid for by" before the name of the sponsor in order to be acceptable.

ITEM 7. Amend subrule 4.5(5) to read as follows:

4.5(5) For purposes of this chapter, "yard sign" means a political sign with dimensions of 16 square feet or less which has been placed in the yard of a private residential property or on a noncorporate business or farm property with the permission of the owner.

ITEM 8. Amend rule 121—4.5(56) by adding the following new subrules:

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4.5(9) For purposes of this chapter, "newspaper or magazine" means a regularly scheduled publication of news, articles of opinion, and features available to the general public which does not require membership in or employment by a specific organization.

4.5(10) For purposes of this chapter, the term "endorse" means the public announcement, either orally or in writing, of a person's or organization's chosen position on a ballot question or in the choice of a candidate to hold a public office to be filled by election.

4.5(11) For purposes of this chapter, the term "support" means the campaign activity intended to influence an elector to vote for a specific candidate or a specific ballot question, including, but not limited to, monetary contributions and expenditures, independent expenditures, loans, and donations of goods and services. "Oppose" means the same kind of activity intended to influence an elector to vote against a specific candidate or a specific ballot question.

ITEM 9. Adopt a new rule 121—4.6(56) as follows:

121—4.6(56) Reporting of honoraria required. All amounts of honoraria received by statewide officeholders, state senators, state representatives, county officeholders, municipal officeholders, and school board officeholders shall be reported by these officeholders in accordance with the reporting schedule and designated depository as set out in these rules.

4.6(1) For purposes of these rules, "honoraria" is defined as remuneration to an officeholder for speechmaking, writing an article for a magazine or publication, or participation on a panel, workshop, or seminar. Honoraria does not include meals or refreshments consumed at an event. Honoraria does not include reimbursement for actual expenses, including meals, mileage or transportation, lodging and incidental expenses in conjunction with an event in which the officeholder participated.

4.6(2) Holders of the office of governor, lieutenant governor, secretary of state, treasurer of state, auditor of state, secretary of agriculture and attorney general shall file notice of the receipt of honoraria with the state commissioner of elections in the office of the Iowa secretary of state.

4.6(3) Holders of the office of state senator shall file notice of the receipt of honoraria with the secretary of the Iowa senate.

4.6(4) Holders of the office of state representative shall file notice of the receipt of honoraria with the chief clerk of the Iowa house of representatives.

4.6(5) Holders of the following county and local offices shall file notice of the receipt of honoraria with the county commissioner of elections in the office of the county auditor: county auditor, county attorney, county recorder, county sheriff, county treasurer, county supervisor, county agricultural extension council member, county conservation commissioner, county public hospital trustee, regional library trustee, township clerk, township trustee, mayor, city council member, school board member or merged area school director.

4.6(6) In the event the boundaries for any candidate cross county lines, the filing shall be made in the office of the county commissioner who is responsible for administering the election for that office.

4.6(7) All notices of the receipt of honoraria shall contain the date the honoraria was received, the name and address of the person or organization providing the

honoraria and the reason, the name of the recipient of the honoraria and the amount. The notice may be in letter format or on forms designed for this purpose by the officials serving as the depository.

4.6(8) Notices of honoraria shall be received in the designated depository on the date immediately following its receipt on which a campaign finance disclosure report is required to be filed by the officeholder. For officeholders who are not required to file disclosure reports, the report must be received in the designated depository no later than 30 days following its receipt.

4.6(9) All notices of honoraria filed are open records available to the public for review and copying in the designated depository office within 24 hours of receipt.

This rule is intended to implement Iowa Code section 56.10A.

ITEM 10. Adopt new rule 121—4.7(56) as follows:

121—4.7(56) Commission's official letters of reprimand. If the commission finds that a committee covered by the provisions of Iowa Code chapter 56 has violated one or more provisions of law or administrative rules, and further finds that the violation has subsequently been rectified, and that the committee had information available which should have prevented the violation, the commission may, in official action, vote to issue an official letter of reprimand in lieu of proceeding with a formal complaint. The letter of reprimand shall set out the violation which has occurred and inform the committee that any future violation will result in the commission taking more serious action.

4.7(1) Letters of reprimand are public documents available to the public, which will be filed in a central location in the commission's offices in Des Moines, as well as in the commission's respective disclosure file of the committee and in the county commissioner's files in the case of a committee which is required to file its reports at the county level.

4.7(2) The commission may include a record of letters of reprimands it has issued when periodically providing a public report of official actions taken in administering the law.

This rule is intended to implement Iowa Code section 56.4.

ITEM 11. Amend rule 121—4.17(56) as follows:

121—4.17(56) Inactive status for ~~statutory county central committees.~~

4.17(1) *Statutory county central committees.* If a county central committee of either the Democratic or Republican political party disbands temporarily because it has no officers and has ceased to function, application for inactive status may be granted by the campaign finance disclosure commission for disclosure reporting purposes. A committee has ceased to function when it holds no administrative, organizational, or candidate meetings or fundraisers; and when it has made no expenditures for a period of three months. In order to receive inactive status, the county central committee's disbanding must be requested in writing by the former chair or treasurer of the central committee and must be certified in writing by an officer of the respective state political party. The certification will state the date of the central committee's last meeting or function, the date of its last financial transaction, the name and address of the financial institution in which the central committee's funds are on deposit, the

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fund balance and the estimated duration of the requested inactive status. The requirement of campaign finance disclosure reports will be waived after inactive status is granted.

a. In order for a county central committee to return to active status, the committee shall file an amended statement of organization which names the new officers of the committee. The county central committee shall also verify the fund balance. Campaign finance disclosure reports will be due on the next report due date following return to active status and for each reporting period thereafter.

b. A person or persons violating the provisions of Iowa Code section 56.6 may be subject to the filing of a formal complaint as provided in Iowa Code section 56.11. The committee is also subject to any civil penalties incurred due to nonfiling or late filing of required reports.

4.17(2) Political committees. *A political committee as defined in Iowa Code section 56.2(15) may apply to the commission for inactive status if it has not accepted contributions, made expenditures or incurred debts for the purpose of supporting or opposing candidates for public office or ballot issues for a period of five consecutive years. In the application the political committee shall provide an affidavit signed by two officers of the committee which verifies the current cash balance, the names of all financial institutions in which committee funds are held, the date of the last financial transaction in support or opposition of a candidate or ballot issue and the committee's reason for requesting inactive status. The commission shall act upon requests for inactive status at the next regularly scheduled meeting provided all information has been received. A committee which subsequently crosses the financial threshold for reporting shall automatically lose its inactive status and shall file an amended statement of organization within ten days of crossing the reporting threshold. Disclosure reports shall be due on the first due date following return to active status and on each reporting date thereafter.*

This rule is intended to implement Iowa Code sections 56.6 and 56.2(15).

ITEM 12. Amend 121—4.23(56), introductory paragraph, and subrule 4.23(2) as follows:

121—4.23(56) Use of corporate property prohibited. It is unlawful for a candidate's committee or other political committee to use any property of a corporate entity, and it is unlawful for a corporate entity to knowingly permit the use of its property by a candidate's committee or other political committee. "Corporate entity" as used in these rules means any profit or nonprofit corporation, and includes, but is not limited to, ~~all profit and nonprofit corporations, farm corporations, including~~ professional corporations (P.C.s), banks, savings and loan institutions, credit unions and insurance companies. For the purpose of these rules, the prohibited use of the property of a corporate entity shall include, but not be limited to, the following:

4.23(2) The placement of a yard sign on the lawn or grounds of property belonging to a corporate entity, unless the property is rented or leased to an individual for residential purposes ~~or to a nonincorporated business which is operated by an individual or a partnership.~~

ITEM 13. Amend rule 121—4.28(56) by adding the following new unnumbered paragraph:

A corporate entity may apply for status as a political corporation under Iowa Code chapter 56 by submitting a letter signed by a corporate officer which affirms the

above requirements and provides other pertinent details of the corporation's activities. A letter of approval or denial from the commission will be provided to the corporation. The acceptance of contributions from a corporation seeking status as a political corporation is subject to the letter of approval and, if approval is not granted, any corporate contributions received shall be refunded by the candidates' committees or other political committees.

ITEM 14. Adopt new rule 121—4.29(56) as follows:

121—4.29(56) Political corporations required to file disclosure reports. A political corporation which accepts contributions, makes expenditures or incurs indebtedness in the aggregate of more than \$250 in any one calendar year for the purpose of supporting or opposing a candidate for public office or a ballot issue is deemed to be a political committee subject to the reporting requirements of Iowa Code sections 56.5 and 56.6. A political corporation not domiciled in Iowa which is currently filing full reports of activities with another state disclosure commission or with the Federal Election Commission may file verified statement registration forms in lieu of full disclosure reports.

This rule is intended to implement Iowa Code section 56.6.

ITEM 15. Adopt new rule 121—4.30(56) as follows:

121—4.30(56) Leftover funds.

4.30(1) A committee may file a Notice of Dissolution when all of its debts and obligations are paid or satisfied and when its cash balance is reduced to zero.

4.30(2) If a committee owes a debt to a corporate entity which it is unable to repay because the company has disbanded, the record of the debt has been lost or some similar reason, the committee will be considered to have satisfied this obligation if it pays an amount equal to the debt owed the corporate entity to either a charitable organization or the state of Iowa general fund, and if it provides evidence of this payment to the commission.

This rule is intended to implement Iowa Code sections 56.6(5) and 56.15.

ITEM 16. Adopt new rule 121—4.31(56) as follows:

121—4.31(56) Corporate involvement with political committee funds.

4.31(1) Corporate payroll deductions. For purposes of interpretation of Iowa Code section 56.29, the administrative functions performed by a corporation (profit or nonprofit corporation including, but not limited to, a bank, savings and loan institution, credit union or insurance company) to make payroll deductions for an employee organization's political action committee and to transmit the deductions in lump sum to the treasurer of the political action committee shall not be a prohibited corporate activity so long as the corporate entity is serving only as a conduit for the contributions.

4.31(2) Joint solicitations and electronic transfer deposits. Corporate sponsors of political committees which receive membership dues are permitted to solicit and receive contributions to their political action committees (PACs) subject to the following requirements:

a. The corporate sponsor shall initially submit a copy of its joint solicitation form for prior approval of the commission. The joint solicitation form shall include a prominent statement that financial participation in the political action committee (PAC) is voluntary and not a require-

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ment of membership with the sponsor. The form further shall state that a check containing both membership dues and PAC contributions cannot be written on a corporate account.

b. The corporate sponsor shall resubmit its joint solicitation form each year with its PAC January disclosure report. If changes in the form have been made (other than dates), the form shall not be used until approved.

c. Checks which include both dues and PAC contributions may be deposited in the respective banking accounts by electronic transfer deposit so long as the sponsor maintains no control over the PAC portion of the funds and records of the individual checks received are retained by the sponsor or PAC for a period of three years. These records shall be available to the commission upon request.

This rule is intended to implement Iowa Code section 56.15.

ITEM 17. Adopt new rule 121—4.32(56) as follows:

121—4.32(56) Permanent organizations which become temporary political committees. When a permanent organization which is not a political committee engages in political activities by accepting contributions, making expenditures or incurring debts in the aggregate of more than \$250 in a calendar year, the organization is required to file a statement of organization and one or more disclosure reports. Covered activities include direct and indirect contributions, in-kind contributions and independent expenditures. If the committee uses only existing funds and does not accept money from other sources, no separate banking account is required.

This rule is intended to implement Iowa Code section 56.2(15).

ITEM 18. Renumber and amend rule 121—5.6(56) as follows:

~~121—5.6(56)~~ **121—1.1(56) Informal settlements prior to the filing of a complaint.** When a person or committee has not complied with the campaign disclosure law and the noncompliance could be the basis for a complaint though no complaint has been filed, that person or committee may, after ~~taking~~ **initiating** whatever action necessary to come into compliance, make a written request to the state commission for a ~~temporary extension specific period of time in which to complete voluntary compliance.~~ **A temporary extension shall mean The request shall include a statement that the person or committee admits it has failed to timely comply with the law by failing to do commission or omission of specific acts, that the state commission acknowledges the person's or committee's subsequent compliance with the law, and further, that the state commission will not entertain a complaint against the person or committee based upon the person's or committee's failure to timely comply with the law with regard to the acts specified in the request. The state commission may grant a temporary extension when it believes the person or committee has unavoidably, unintentionally, or for good cause shown, failed to comply with the disclosure law and the public interest in accurate and timely disclosure is not an overriding consideration.**

ITEM 19. Amend rule 121—6.4(56), second unnumbered paragraph, to read as follows:

Payment may be made at the discretion of the delinquent committee, from the funds of the committee or from personal funds of an officer of the committee, or, in

the case of a candidate, from the candidate's personal funds. *If payment is made from a source other than committee funds, the fine payment shall be listed as an in-kind contribution to the committee. Fine payments from corporate entities as described in Iowa Code section 56.29 are prohibited, except in the case of ballot issue committees.*

[Filed 4/23/92, effective 6/17/92]
[Published 5/13/92]

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ARC 2986A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 52, "Payment," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment on April 15, 1992. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on January 8, 1992, as ARC 2687A.

Under current policy a client in a residential care facility (RCF) is entitled to 30 visitation days per calendar year away from the facility. During these 30 days the State Supplementary Assistance program continues to pay the full per diem rate. For the year the client enters the facility, 2 and 1/2 days per month for the remaining months in the calendar year are allocated.

When the client or facility requests days beyond this allocation, a Departmental service worker completes an assessment and authorizes, when appropriate, the additional days for which payment will be made. Absences are to be for the benefit of the resident and not the convenience of the facility.

The amendment placed under notice would have limited payment for visitation days in an RCF to 30 days per calendar year and provided that the client would be entitled to 30 days per calendar year regardless of the date the client enters the facility. Extensive comments were received opposing the reduction in the number of days allowed. Comments were received supporting removal of the limit of 2 and 1/2 days per month for the year the client enters the facility.

Based on the comments received the Department reviewed its position on the reserve bed issue. The Department's main interest in limiting the number of days of absence from a facility is to ensure that any extended periods of absence are desired by the resident and not for the convenience of the facility. The qualifications of the person signing the authorization seem secondary to the need for the person to be in a position of representing the interests of the resident.

Therefore, the Department decided to revise the proposed amendment to allow the facility to hold the bed for a period exceeding 30 days per calendar year if a family

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member, or legal guardian of the resident, the resident's physician, case manager, or Department service worker provide signed documentation that additional days are desired by the resident and are for the benefit of the resident. This documentation shall be obtained by the facility for each period of paid absence which exceeds the 30-day annual limit and shall be retained in the resident's personal file. If documentation is not available to justify periods of absence in excess of the 30-day annual limit, the facility shall submit a Case Activity Report, Form AA-4166-0, to the county office to terminate the state supplementary assistance payment.

This revision is in response to the comments received on the Notice of Intended Action and will confer a benefit to the residents involved.

A paragraph was also added to clarify that family members may contribute to the cost of care of a resident in response to comments.

The Department did feel the need to maintain some oversight and control of reserve bed utilization and payment. The current oversight responsibility rests with the Audits Division of the Department of Inspections and Appeals. There will be no change in this responsibility with this revision. An auditor will continue to review days of paid absence and will expect a written authorization from one of the identified persons representing the interests of the resident if these days of paid absence exceed 30 per calendar year.

This amendment is intended to implement Iowa Code section 249.3.

This amendment shall become effective July 1, 1992.

The following amendment is adopted.

Amend subrule 52.1(3), paragraph "e," as follows:

e. Payment will be made for periods the resident is absent overnight for the purpose of visitation or vacation. The facility will be paid to hold the bed for a period not to exceed 30 days during any calendar year, unless the ~~department of human services caseworker has devised a service plan which justifies the allowance of additional leave a family member or legal guardian of the resident, the resident's physician, case manager, or department service worker provide signed documentation that additional visitation days are desired by the resident and are for the benefit of the resident. This documentation shall be obtained by the facility for each period of paid absence which exceeds the 30-day annual limit. This information shall be retained in the resident's personal file. If documentation is not available to justify periods of absence in excess of the 30-day annual limit, the facility shall submit a Case Activity Report, Form AA-4166-0, to the county office of the department to terminate the state supplementary assistance payment. The number of days for which a recipient is eligible is based upon the date of entry into the program at the rate of two and one-half days per month for the remaining months in the current calendar year.~~

A family member may contribute to the cost of care for a resident subject to supplementation provisions at rule 441—51.2(249) and any contributions shall be reported to the county office of the department by the facility.

[Filed 4/16/92, effective 7/1/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2987A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 82, "Intermediate Care Facilities for the Mentally Retarded," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments April 15, 1992. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on March 4, 1992, as ARC 2827A.

These amendments impose additional limits on allowable costs for Medicaid reimbursement for both new and existing intermediate care facilities for the mentally retarded (ICFs/MR). In addition, these amendments establish criteria for new ICF/MR programs seeking certificate of need approval.

1991 Iowa Acts, chapter 267, section 103, subsection 14, requires the Department to work with the Iowa State Association of Counties and the accounting firm of Ryun, Givens, Smith & Co., or another capable entity, to adopt rules "to develop cost containment measures for intermediate care facilities for the mentally retarded which are permitted under federal Medicaid requirements."

These amendments provide that new facility start-up costs must be amortized over a five-year period and allowable costs are limited to the eightieth percentile of existing facility costs during the first six months of operation. Current policy provides that allowable costs for new facilities are limited to the weighted average cost per diem of existing facility costs during the first three months of operation.

These amendments further provide that administrative costs for existing facilities are limited to 20 percent of total costs and annual cost increases are limited to the percentage of the Consumer Price Index (CPI) for all urban consumers. The incentive factor shall only be paid to facilities with annual cost increases which are less than the CPI. The last six months of state fiscal year 1992 are established as the base period for existing facility costs with rebasing of actual costs to be done every four years.

In the absence of these amendments, it is estimated that ICF/MR costs will continue to increase at an average rate of approximately 9.58 percent per year. If these amendments are adopted, it is estimated that ICF/MR costs will only increase at an average rate of 4.7 percent per year.

1991 Iowa Acts, chapter 267, section 103, subsection 5, requires the Department to adopt rules that "establish criteria for intermediate care facilities for the mentally retarded, providing for family-scale size, location, and appropriate inclusion in the community." The legislation also requires the Health Facilities Council of the Iowa Department of Public Health to consider whether the proposed facility is in compliance with the rules so adopted in determining whether a certificate of need for an intermediate care facility for the mentally retarded shall be issued.

These amendments provide that proposed facilities shall submit written plan proposals prior to filing Certificate of Need applications. The plans shall demonstrate a family-scale size of two to eight persons or a family-scale

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size that would be common to the neighborhood; consumer access to and utilization of service and resources typically used by other residents of the area; use of an existing structure or new construction consistent with the style of the community residential neighborhood; and how consumer access to services and resources will be met and why the location is beneficial for a location outside of a community residential neighborhood.

The following revisions were made to the Notice of Intended Action in response to public comments.

Subrule 82.5(14), paragraph "a," has been revised by adding language to clarify how cost reporting and rate setting will be handled for new facilities which are certified within the six-month period prior to July 1, 1992.

Subrule 82.5(16) has been replaced with recommended language from fourteen commentors. This language requires each facility to file a cost report for the period from January 1, 1992, to June 30, 1992, and these cost reports shall be used to establish the base rate for each facility. This change also requires all facilities to establish a standard cost reporting period for the purpose of establishing base rates. Other reorganization and minor wording changes are included in the new language.

These amendments are intended to implement Iowa Code section 249A.16 and 1991 Iowa Acts, chapter 267, section 103, subsections 5 and 14.

These amendments shall become effective July 1, 1992.

The following amendments are adopted.

ITEM 1. Amend rule 441—82.5(249A) as follows:

Amend subrule 82.5(3) as follows:

82.5(3) Submission of reports. The report shall be submitted to the department no later than three (3) months after the close of each six (6) month period of the facility's established fiscal year. Failure to submit the report within this time shall reduce payment to ~~seventy-five~~ 75 percent (75%) of the current rate. The reduced rate shall be paid for no longer than three (3) months, after which time no further payments will be made.

Rescind subrule 82.5(14) and insert the following in lieu thereof:

82.5(14) Payment to new facility. A facility receiving Medicaid ICF/MR certification on or after July 1, 1992, shall be subject to the provisions of this subrule. A facility receiving initial Medicaid certification within the six-month period prior to July 1, 1992, shall continue to operate according to rules in place prior to July 1, 1992, until December 31, 1992, at which time a cost report shall be submitted by the new facility covering the period of operation prior to that date and all provisions of subrule 82.5(14), paragraphs "b" and "c," and subrules 82.5(15) and 82.5(16) shall apply.

a. A facility receiving initial Medicaid certification for ICF/MR level of care shall submit a budget for six months of operation beginning with the month in which Medicaid certification is given. The budget shall be submitted at least 30 days in advance of the anticipated certification date. The Medicaid per diem rate for a new facility shall be based on the submitted budget subject to review by the accounting firm under contract with the department and shall be subject to a maximum rate set at the eightieth percentile of all participating community-based Iowa ICFs/MR with established base rates. The state hospital schools shall not be included in the compilation of facility costs. The beginning rates for a new facility shall be effective with the date of Medicaid certification. The eight-

ietth percentile maximum rate shall be adjusted July 1 of each year.

b. Following six months of operation as a Medicaid-certified ICF/MR, the facility shall submit a report of actual costs. The rate computed from this cost report shall be adjusted to 100 percent occupancy. Business start-up and organization costs shall be amortized over a five-year period as per Medicare and Medicaid standards.

(1) Start-up costs. In the period of developing a provider's ability to furnish patient care services, certain costs are incurred. The costs incurred during this time of preparation are referred to as start-up costs. Since these costs are related to patient care services rendered after the time of preparation, the costs must be capitalized as deferred charges and amortized over a five-year period.

Start-up costs include, for example, administrative and program staff salaries, heat, gas and electricity, taxes, insurance, mortgage and other interest, employee training costs, repairs and maintenance, and housekeeping. Any other costs that are properly identifiable as organization costs or capitalizable as construction costs must be appropriately classified as such.

(2) Organization costs. Organization costs are those costs directly incident to the creation of a corporation or other form of business. These costs are an intangible asset in that they represent expenditures for rights and privileges which have a value to the enterprise. The services inherent in organization costs extend over more than one accounting period and affect the costs of future periods of operation. Organization costs must be amortized over a five-year period.

1. Allowable organization costs. Allowable organization costs include, but are not limited to, legal fees incurred in establishing the corporation or other organization (such as drafting the corporate charter and bylaws, legal agreements, minutes of organization meetings, terms of original stock certificates), necessary accounting fees, expenses of temporary directors and organizational meetings of directors and stockholders, and fees paid to states for incorporation.

2. Unallowable organization costs. The following types of costs are not considered allowable organization costs: costs relating to the issuance and sale of shares of capital stock or other securities, such as underwriters' fees and commissions, accountant's or lawyer's fees; costs of qualifying the issues with the appropriate state or federal authorities; and stamp taxes.

c. Completion of 12 months of operation. Following the first 12 months of operation as a Medicaid-certified ICF/MR, the facility shall submit a cost report for the second six months of operation and an on-site audit of facility costs shall be performed by the accounting firm under contract with the department. Based on the audited cost report, a rate shall be established for the facility which shall be considered the base rate until rebasing of facility costs shall occur. A new facility shall be given an opportunity to adjust their second-year cost report to coincide with their established fiscal year.

Amend subrule 82.5(15) as follows:

82.5(15) Payment to new owner. An existing facility with a new owner shall continue with the previous owner's per diem rate until a new financial and statistical report has been submitted and a new rate established according to subrule 82.5(16). The facility may submit a report for the period from beginning of actual operation to the end of the fiscal year or may submit two cost reports within the fiscal year provided the second report covers a

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period of six months ending on the last day of the fiscal year. The facility shall notify the department of the date its fiscal year will end and of the reporting option selected.

Rescind subrule 82.5(16) and insert the following in lieu thereof:

82.5(16) Payment to existing facilities. The following reimbursement limits shall apply to all nonstate-owned ICFs/MR:

a. Each facility shall file a cost report covering the period from January 1, 1992, to June 30, 1992. This cost report shall be used to establish a reimbursement rate to be paid to the facility and shall be used to establish the base allowable cost per unit to be used in future reimbursement rate calculations. Subsequent cost reports shall be filed annually by each facility covering the twelve months from July 1 to June 30.

b. The reimbursement rate established based on the report covering January 1, 1992, to June 30, 1992, shall be calculated using the method in place prior to July 1, 1992, including inflation and incentive factors.

c. The audited per unit cost from the January 1, 1992, to June 30, 1992, cost report shall become the initial allowable base cost. A new maximum allowable base cost will be calculated each year by increasing the prior year's allowable cost by the annual percentage increase of the Consumer Price Index for all urban consumers, U.S. City average.

d. Administrative costs shall not exceed 20 percent of total facility costs. Administrative costs are comprised of those costs incurred in the general management and administrative functions of the facility. Administrative costs include, but are not necessarily limited to, the following:

- (1) Administrative salaries.
- (2) Accounting costs.
- (3) Clerical costs.
- (4) Data processing.
- (5) Personnel department.
- (6) Management fees.
- (7) Home office and other organizational costs.
- (8) Office supplies and postage.
- (9) Indirect business expense.

e. Facilities which have an annual per unit cost increase of less than the percentage of the Consumer Price Index for all urban consumers, U.S. City average, shall be given their actual increase plus one-half the difference of their actual increase compared to the allowable maximum rate of increase.

f. Facility rates shall be rebased using the cost report for the year covering state fiscal year 1996 and shall subsequently be rebased each four years. The department shall consider allowing special rate adjustments between rebasing cycles if:

- (1) An increase in the minimum wage occurs.
- (2) A change in federal regulations occurs which necessitates additional staff or expenditures for capital improvements, or a change in state or federal law occurs, or a court order with force of law mandates program changes which necessitate the addition of staff or other resources.
- (3) A decision is made by a facility to serve a significantly different client population or to otherwise make a dramatic change in program structure (documentation and verification will be required).
- (4) A facility increases or decreases licensed bed capacity by 20 percent or more.

g. Total patient days for purposes of the computation shall be inpatient days as determined in subrule 82.5(7) or

80 percent of the licensed capacity of the facility, whichever is greater. The reimbursement rate shall be determined by dividing total reported patient expenses by total patient days during the reporting period. This cost per day will be adjusted by an inflation factor which shall equal the percentage change in the Consumer Price Index for all urban consumers, U.S. City average.

This rule is intended to implement Iowa Code sections 249A.12 and 249A.16 and 1991 Iowa Acts, chapter 267, section 103, subsection 14.

ITEM 2. Amend 441—Chapter 82 by adding the following new rule:

441—82.19(249A) ICF/MR development. Service providers seeking Medicaid certification for ICF/MR conversion or construction shall address the following requirements of the Iowa Medicaid program prior to filing certificate of need applications.

82.19(1) Inclusion in the community. Written plans shall demonstrate individualized consumer access to and utilization of service and resources typically used by other residents of the area in which the proposed facility is to be located. The distance, availability of transportation, convenience of parking and physical accessibility to people with a range of disabilities shall be considered. The program name and home location must blend with characteristics of other homes in the area. There must be a broad range, number, and type of opportunities for social activities and interactions for individuals or groups small enough in size to be assimilated into the activity.

82.19(2) Family-scale size. Written plans shall demonstrate that the proposed facility will meet family-scale size conditions of two to eight persons per environment or be a size that would be common to the area or neighborhood in which the facility is proposed to be located.

82.19(3) Location in community residential neighborhood. If the proposed facility is located within a community residential neighborhood, written plans shall demonstrate the use of an existing structure or new construction which is consistent with the size and style of the neighborhood.

a. The proposed facility shall not be located contiguous to another licensed health care facility or residential program for persons with disabilities.

b. The number of residential programs for persons with disabilities in a community should be relative to community size so that the number of programs is in keeping with the number, types and range of services and supports in the community.

82.19(4) Location outside of community residential neighborhood. If the proposed facility is located outside a community residential neighborhood, written plans shall demonstrate how conditions stated in subrules 82.19(1) and 82.19(2) and paragraphs "a" and "b" of subrule 82.19(3) shall be met and shall explain why a location outside a community residential neighborhood would be beneficial for the particular consumer population to be served.

82.19(5) Submission of plans. Written plans shall be submitted to the Division of Medical Services, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, and to the Health Facilities Council, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319. The health facilities council shall consider the requirements set forth in this rule when reviewing certificate of need applications.

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This rule is intended to implement 1991 Iowa Acts, chapter 267, section 103, subsection 5.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2988A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249C.15, the Department of Human Services hereby amends Chapter 93, "PROMISE JOBS Program," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments April 15, 1992. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on February 19, 1992, as ARC 2777A.

These amendments make revisions in the participant assessment processes of the PROMISE JOBS program. These revisions will expand the current assessment of less than one day into a one-, two-, or three-week assessment component, depending on client need. Participants will receive allowances to meet the costs of transportation and child care needed to allow the participant to take part in the expanded assessment component. In addition, further revisions are made in the rules to clarify the treatment of Aid to Dependent Children (ADC) recipients who are in self-initiated training at the time of PROMISE JOBS call-up and to incorporate changes in the Employability Plan.

Although the PROMISE JOBS program has been very successful at providing training and increasing the number of ADC recipients becoming employed and achieving self-sufficiency, there has been more unplanned attrition than expected. People are forced to drop out of training because it is harder than they expected, or they find that they are not compatible with the training program once they get into it. Other participants complete their training but find that they might have made different choices if they could do it again.

This type of attrition drains program resources and results in a negative attitude on the part of some participants. PROMISE JOBS funds are very limited and it is essential that participants make the best possible choices regarding their education and training goals. The PROMISE Work Group has recommended that the Department expand the assessment process to greatly increase the amount of time that participants spend in assessment.

Although participants will still be required to attend an orientation session lasting approximately one-half day, assessment will be established as a separate program component. All new or recycled program participants will be required to take part in expanded assessment except:

1. Those persons who would have to delay entry into high school one or more semesters if they were required to participate in an expanded assessment.

2. Persons already involved in approvable self-initiated training at the time of program call-up or at the time of call-in for assessment.

3. Persons who are employed 86 or more hours a month who are still requesting program services.

4. Persons participating in the Family Development and Self-Sufficiency (FaDSS) program when the FaDSS grantee believes that the participant is not yet ready to become involved in PROMISE JOBS services.

5. Persons in need of English as a second language training before the person can meaningfully participate in assessment.

6. Persons who have been accepted for training by either the Self-Employment Investment Demonstration (SEID) project or Iowa's Self-Employed Household Incentive Program (ISHIP) training providers.

Persons who are waived from the assessment component will not receive any type of formal assessment and are not entitled to expense allowances for any type of quick appraisal or assessment that may occur following orientation.

In the first week of assessment, the local PROMISE JOBS office will conduct literacy level and other tests, and provide training in self-esteem, motivation, role models, general career information and exploration of non-traditional employment. In the second week of expanded assessment, additional testing and teaching tools (such as CHOICES) will be used and some PROMISE JOBS offices will be able to work with the community colleges to do more in-depth assessment. In addition, the local PROMISE JOBS offices will engage in additional career exploration activities.

The only persons not required to attend the second week of assessment would be those identified in the first week as being in need of basic educational services such as ABE, GED, ESL, and high school completion. Most persons will only be involved in the first two weeks of expanded assessment. However, an additional third week may be provided if it is needed and both the worker and the participant agree that the additional assessment is necessary.

Although the Department of Employment Services (DES) is responsible for administering the assessment component, both DES and Job Training Partnership Act (JTPA) local office staff will be involved in determining the length of each participant's assessment and in interpreting the results of the assessment.

This change will result in some changes in the current job club component. Some of the services being incorporated into the revised assessment process were previously services offered by DES in job-seeking skills training. In addition, clients will no longer be able to leave job club for education or training since this decision will now be made prior to job club. Most choices regarding education and training will now be made during assessment rather than during job club.

The following amendments are made to the rules in addition to the changes in the assessment process:

1. DES will no longer be making referrals to or maintaining an active caseload of participants in basic educational programs. JTPA will now be responsible for the provision of all educational programs. DES will continue to be responsible for program call-in, orientation, assessment, job-seeking skills training and job search.

2. A change in the Employability Plan is incorporated. The current Employability Plan is a multipage form that needs to be updated as clients flow through the program. Much of its current length is the result of the fact that it is used to make participants aware of their complete rights

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and responsibilities in each PROMISE JOBS component. Field staff have suggested that the Employability Plan be limited to one page and that the rights and responsibilities information instead be provided in a pamphlet for which the client would provide written acknowledgment of receipt. This will greatly simplify the form and will reduce printing costs. This revised format has been discussed with staff from Legal Services Corporation of Iowa who are agreeable to this change, provided the client attests in writing that the pamphlet has been received.

3. The rules have been revised to incorporate the current interpretation that a person is considered to be self-initiated when that person has attended training prior to participating in PROMISE JOBS orientation.

4. A person shall be ineligible for classroom training services for one year when an existing training plan for classroom training services is terminated because the person has failed to cooperate with PROMISE JOBS requirements, such as applying for free educational assistance, providing grade reports, etc.

5. PROMISE JOBS services are considered approved and notice shall be sent at that point in time that the client is assigned to begin participation in the assessment component.

The following revisions were made to the Notice of Intended Action in response to public comments:

Subrules 93.2(2) and 93.2(3) were revised to make it clear that the Bureau of Refugee Services and PROMISE JOBS staff in JTPA offices serving remote areas shall provide orientation and assessment to the extent compatible with resources at their command.

Rule 441—93.8(249C) was revised to clarify the criteria which must be met to approve self-initiated training.

Subrule 93.11(1), paragraph "c," was revised to clarify that no payments for missed portions of the first week of assessments will be needed when no repeated days will be required.

Subrule 93.11(1), paragraph "i," and subrule 93.14(6) were revised to clarify that the participant's agreement is still needed before the third week of assessment is assigned.

Subrule 93.12(1), paragraph "b," was revised to provide that participants in job club shall contact 25 employers per day, rather than a minimum of 25 employers per day, unless fewer contacts are required by staff.

Rule 441—93.36(249C) was revised to clarify that sanctions for second offenses will not be imposed when good cause exists.

These rules are intended to implement Iowa Code sections 239.2 and 239.5 and chapter 249C.

These rules shall become effective July 1, 1992.

The following amendments are adopted.

ITEM 1. Amend the preamble to 441—Chapter 93 as follows:

PREAMBLE

This chapter implements the PROMISE JOBS program which is designed to increase the availability of employment and training opportunities to aid to dependent children (ADC) recipients. The program assigns responsibility for the provision of services to the Iowa department of employment services (DES) and the Job Training Partnership Act (JTPA) program, Iowa's two primary providers of employment-oriented services. In addition, the bureau of refugee services (BRS) of the department of human ser-

vices is assigned the responsibility of providing program services to all refugees.

Program services include *orientation, assessment, job-seeking skills training, job search or career exploration activities, classroom training programs ranging from basic education to postsecondary education opportunities, and work experience.* In addition, clients have access to all services offered by the provider agencies.

The program also implements the federal Job Opportunities and Basic Skills (JOBS) program of the Family Support Act of 1988.

ITEM 2. Amend subrules 93.2(1), 93.2(2) and 93.2(3) as follows:

93.2(1) Except as specified in subrules 93.2(2) and 93.2(3), DES is responsible for providing orientation, and assessment, job club, job development and job placement services. ~~In addition, DES is authorized to refer participants to educational services which include adult basic education (ABE), high school completion activities, and English as a second language (ESL) training when individuals either volunteer for or are required to participate in these services prior to job club participation.~~

93.2(2) The bureau of refugee services shall provide ~~these orientation, assessment and other services to refugees. These services will be equivalent to those services which are referenced in these rules as being provided by DES to the extent compatible with resources available.~~

93.2(3) The JTPA program is responsible for providing ~~orientation, and assessment, where not provided by DES; educational services which include adult basic education (ABE), high school completion activities, GED, English as a second language training; postsecondary classroom training services; work experience services; and JTPA-funded employment and training services. In addition JTPA is authorized to refer PROMISE JOBS participants to ABE, ESL or high school completion activities. For clients remote from job club, JTPA is authorized to provide other employment-oriented services, excluding job club. JTPA is responsible for providing orientation and assessment to ADC recipients who live in areas designated as remote as agreed upon by DES and JTPA. JTPA shall provide a level of orientation, assessment and other services similar to those same services which are referenced in these rules as being provided by DES to the extent compatible with resources available. JTPA is authorized to issue expense allowances for the assessment component only to participants living in areas designated as remote by DES and JTPA.~~

ITEM 3. Amend rule 441—93.3(249C) as follows:

441—93.3(249C) **Contracts with other agencies and provision of services.** The department of human services shall contract with the departments of employment services and economic development as well as county boards of supervisors and local county agencies to provide employment and training services to ADC recipients. Services shall include orientation, and assessment, job-seeking skills training, group job search ~~or career exploration activities~~, job placement and job development, high school completion, ABE, GED, and ESL, vocational classroom training, postsecondary education, work experience and community work experience program services. If the department determines that sufficient funds are not available to offer on-location services in each county, it

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shall prioritize the availability of services in those counties having the largest ADC populations.

ITEM 4. Rescind rule 441—93.6(249C) and insert the following in lieu thereof:

441—93.6(249C) Orientation. Every ADC recipient who is called up shall participate in orientation. During orientation, each participant shall be reviewed to determine possible exemption, waiver of participation or deactivation status, to determine employability potential and to determine the probable services that will be needed to facilitate employment. Each recipient shall receive an explanation of the other programs available through PROMISE, specifically the cash bonus and transitional Medicaid and child care assistance programs.

During orientation, each recipient shall also complete Form WI-2101, Self-Assessment, to provide a social and vocational profile, and shall sign Form WI-3305, Your Rights and Responsibilities, acknowledging that a complete explanation of the PROMISE JOBS program has been provided. Recipients are required to complete a current employment services registration, Form 62-2019, Application Card, when requested by PROMISE JOBS staff.

The PROMISE JOBS worker shall meet with each participant to determine ability to participate, establish expenses and a payment schedule and to discuss child care needs. Participants who are referred to the Job Training Partnership Act program after participating in activities administered by DES may be reassessed by JTPA. Assessment shall be an ongoing process for the duration of a client's participation in the program.

ITEM 5. Rescind rule 441—93.8(249C) and insert the following in lieu thereof:

441—93.8(249C) Self-initiated training. Registrants who at the time of call-up are enrolled in self-initiated classroom training, as defined at rule 441—93.18(249C), including government-sponsored training programs, shall be referred to JTPA for a determination as to whether or not the training program meets acceptable criteria as prescribed for the classroom training component at rule 441—93.14(249C).

Except as specified at 93.14(11)"d," when a determination is made that the self-initiated training does not meet acceptable criteria, the registrant may be required to participate in PROMISE JOBS activities or may be deactivated or have participation waived, depending on whether the self-initiated training, although not approvable by PROMISE JOBS standards, can still be reasonably expected to result in self-sufficiency.

When a self-initiated training program meets PROMISE JOBS program standards, including the self-employment investment demonstration (SEID) program and Iowa's self-employed household incentive program (SHIP) as described at 441—subrule 48.3(4), the client may be enrolled in the classroom training component in order to be eligible for child care and transportation financial assistance.

The registrant enrolled in approvable self-initiated training must provide all information and the signature required to approve an Employability Plan, Form WI-3304, for vocational classroom training, as described at 93.14(10)"b," in order to be eligible for assistance with transportation or child care costs.

Clients enrolled in approvable self-initiated training at the time of call-up are not eligible for financial assistance

to cover tuition, fees, books or supplies. The client shall be exempt from being required to participate in other PROMISE JOBS activities until the determination as to whether the training is approvable has been made.

ITEM 6. Rescind rule 441—93.9(249C) and insert the following in lieu thereof:

441—93.9(249C) Employability plan. Prior to active participation, a case plan shall be developed for each registrant using Form WI-3304, Employability Plan, and Form 470-2926, Employability Plan Guide Book. The employability plan shall be developed through joint coordination and discussions between the client, DES and JTPA during assessment. The employability plan must be signed by the registrant, the worker and project supervisors, when project supervisors are available, before the registrant can become an active participant. The employability plan guide book is also signed by the worker and the participant. The employability plan and guide book will generally be completed during assessment, but may be completed during orientation for some participants, such as those participants in approvable self-initiated training, or those participating in the family development and self-sufficiency (FaDSS) program. A person is considered as becoming a participant when the person attends the first day of the assessment component, as described at rule 441—93.11(249C), or the person signs an employability plan and an employability plan guide book, whichever occurs first.

The employability plan shall, to the maximum extent possible, reflect the goals of the registrant, subject to program rules, funding, the registrant's capability, experience and aptitude, and the potential market for the job skills currently possessed or to be developed. The employability plan shall also describe services to be provided, including child care and other supportive services, and the activities that will be undertaken by the participant to achieve the employment goal, including vocational classroom training activities when appropriate. Development of the employability plan is an ongoing process. The employability plan shall be revised when need is shown by change and reassessment of the participant's circumstances.

ITEM 7. Amend rule 441—93.10(249C) as follows:

Amend subrule 93.10(1) by adding the following new paragraph "e":

e. Participants may receive a child care allowance for each PROMISE JOBS activity, including the assessment component described at 93.11(1)"c," but shall not receive a child care allowance for orientation, nor for assessment activities sponsored solely by JTPA except as specified at subrule 93.2(3).

Amend subrule 93.10(6), introductory paragraph, as follows:

93.10(6) Participants may receive a transportation allowance for each PROMISE JOBS activity ~~except orientation and assessment, including the assessment component described at 93.11(1)"c,"~~ but shall not receive a transportation allowance for orientation, or for assessment activities sponsored solely by JTPA except as specified at subrule 93.2(3). This allowance shall be paid monthly at the start of each month of participation or when participation begins, whichever is earlier.

Transportation allowances for the assessment component shall be issued in advance in weekly increments based on four dollars for each anticipated day of atten-

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dance, with payments for the second or third week of assessment being issued as soon as it is determined that the participant will be required to participate in the second or third week of the component.

~~This allowance~~ *Transportation allowances* shall be based on the normally scheduled ~~days~~ *hours* of participation per week for the PROMISE JOBS activity.

ITEM 8. Amend rule 441—93.11(249C) as follows:

Rescind rule 441—93.11(249C), introductory paragraph, and subrule 93.11(1) and insert the following in lieu thereof:

441—93.11(249C) Assignment to activities and components. PROMISE JOBS components include assessment, job club, classroom training, work experience and community work experience. Participants who complete orientation, assessment as described at subrule 93.11(1), job club and a 30-day suspension period and who have been unable to secure employment of at least 86 hours per month shall be referred to JTPA for reassessment and the determination of further PROMISE JOBS services. In addition, participants who have been referred to JTPA may volunteer to participate in JTPA-funded services. Participants who refuse to participate in JTPA-funded services, other than on-the-job training, shall not be sanctioned. Participants who obtain employment of 86 or more hours but less than 129 hours per month are not required to participate but may do so at their option.

Except as specified at subrule 93.2(3), DES is responsible for the administration of the assessment component. The purpose of the assessment component is to provide for a thorough assessment of each participant to determine employability potential and to determine the services that will be needed to facilitate employment. Assessment shall be conducted to ensure that there will be more worker control over participant choices, involvement by both DES and JTPA during assessment, more successfully completed training, better participant choices and fewer attritions and dropouts.

93.11(1) Persons waived from participation in assessment.

a. Once a participant has completed orientation, the participant shall be required to participate in the assessment component unless the participant is not required to do so because:

(1) Requiring the person to participate in extended assessment would delay entry into high school for one or more semesters.

(2) The person is in need of English as a second language training before the person can meaningfully participate in assessment.

(3) The person has been accepted for training by either SEID or an ISHIP training provider.

(4) The person is already involved in approvable self-initiated training at time of PROMISE JOBS call-up.

(5) Participation in assessment would interfere with training initiated by the participant after call-up and JTPA has determined that the training is approvable for PROMISE JOBS. Participants who initiate training after call-up are not considered self-initiated but are otherwise treated in accordance with rule 441—93.8(249C) or in accordance with 93.11(1)"b."

(6) The person is employed 86 or more hours a month but is requesting specific program services, and attendance of the person at extended assessment would interfere with employment.

(7) The person is participating in the family development and self-sufficiency (FaDSS) program and the FaDSS grantee has not approved the participant to begin involvement in other PROMISE JOBS activities.

b. When persons described at 93.11(1)"a"(4) or 93.11(1)"a"(5) are still within the first quarter or semester of involvement with the training program that they have chosen, expense allowance assistance through PROMISE JOBS cannot be approved, even if the training is otherwise approvable, until the persons have completed the assessment component or have successfully completed the first quarter or semester of the training program in accordance with the requirements of the educational institution being attended. Persons involved in training programs where quarters or semesters are not used must successfully complete four months of the training program before assistance can begin, except for SEID and ISHIP participants who are exempt from the limitations of this paragraph.

Otherwise, assistance shall only be approved effective with the second quarter or semester, or with the fifth month of participation in the training program, as applicable to the client's situation.

c. The assessment component runs from one to three weeks, depending on participant needs. It is expected that assessment activities will be designed to require at least 20 hours of activity per week from each participant. However, less than 20 hours of weekly activity may be scheduled depending on individual client needs and local office resources.

Both JTPA and DES local office staff shall be involved in the assessment process, with DES being primarily responsible for the provision of services. DES and JTPA local office staff shall be involved in determining the length of each participant's assessment and in interpreting the results of the assessment.

The first week of assessment shall include, but not be limited to, such activities as literacy or aptitude testing, educational level and basic skills assessment, assessment of the participant's family and living situation to determine possible barriers to participation, self-esteem building, interest assessment, exposure to nontraditional jobs, exposure to job retention skills, goal setting, motivational exercises, needs assessment, aptitude assessment, exposure to job-seeking skills and exposure to role models.

A person who misses any portion of the first week of assessment may be required to repeat the entire first week, or may be required to make up the missed portions of the first week during the second week of assessment, based on worker judgment and participant needs.

Participants who are required to repeat days in assessment because of absence with good cause as defined elsewhere in these rules shall receive an additional transportation allowance of four dollars for each assessment day the participant is required to repeat. No payment shall be made for missed portions that are made up during the second week of assessment, since no repeated days are required.

Participants who are required to repeat days because of absence without good cause shall not receive an additional transportation allowance although necessary child care shall be paid.

d. All participants who attend the first week of the assessment component shall also attend week two of assessment unless it is determined that the participant should be referred to adult basic education, high school completion activities, GED or English as a second lan-

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guage classes or is a parent under age 20 who has not completed high school or GED. However, persons who will be required to participate in adult basic education, high school completion activities, GED or English as a second language, may be required to attend week two and three of assessment when the PROMISE JOBS worker believes that the participant would benefit from the additional assessment, or when the PROMISE JOBS worker believes that attendance in the additional weeks of assessment will allow the worker to establish a training plan that will designate those PROMISE JOBS activities that will be completed once basic education needs are met.

Persons who are referred to adult basic education, high school completion, GED or English as a second language, who complete assigned activities in those components, and who only completed the first week of assessment, shall be referred by JTPA back to DES for completion of the assessment component, before enrollment in any additional PROMISE JOBS activities.

e. Week two of the assessment component shall include, but not be limited to, the same tools utilized in week one as described above. Additional activities shall also be included such as developing job goals, examining career earnings potential, examining specific occupations, job shadowing and any other activity that the local PROMISE JOBS office believes will aid in the participant assessment, or which will help the participant to make a more informed choice regarding training goals and needs. The second week of the assessment component may also be used to repeat or make up activities not completed successfully in the first week.

f. At the end of week two, a participant will be assigned to an additional week of the assessment component only if the worker and the participant both agree that more assessment is needed. The assessment conducted in week three could include any of the assessment tools described in 93.11(1)"c" and 93.11(1)"e" or may include additional assessment tools and exercises.

g. Persons participating in assessment are entitled to receive allowances for transportation and child care needed to allow participation, but only when assessment is administered by DES. Persons participating in JTPA assessment or reassessment are not entitled to expense allowances except as specified at subrule 93.2(3).

h. At the end of a participant's assigned activities in assessment, the participant shall be assigned either to DES for job club activities, or to JTPA for the determination of educational and training activities, depending on the results of the assessment.

i. On an exception basis only, persons who did not participate in the third week of assessment, and who agree that more assessment is needed, may be referred back to DES by JTPA to complete the third week of assessment when both DES and JTPA believe that the additional week of assessment is needed.

j. Persons who previously participated in assessment and then were canceled from ADC may be required to participate in assessment again unless the PROMISE JOBS worker determines that participation in assessment is unnecessary.

k. Otherwise, a person shall not participate in more than three weeks of assessment until the person has participated in one or more PROMISE JOBS components other than assessment.

Amend subrules 93.11(3) through 93.11(6), 93.11(11), and 93.11(14) as follows:

93.11(3) Parents who are under the age of 16 and have not completed high school are exempt from PROMISE JOBS. However, these parents may volunteer through for PROMISE JOBS for referral to the local education agency for assessment and enrollment and may be enrolled in high school completion activities.

93.11(4) Parents who are aged 16 or 17 who are not in high school and have not completed high school shall not be enrolled in job club but shall be referred to the local education agency or GED program for considered for enrollment in high school completion activities or the GED program. Clients deemed incapable of participating in these activities by the local education agency shall be exempted from this requirement have participation in these activities waived.

93.11(5) Parents who are aged 18 or 19 who are not in high school and have not completed high school shall be assessed by employment services for capability of completing regular high school, alternate high school activities or GED. Clients Participants deemed capable shall be referred to participate in high school completion activities. Clients Participants deemed incapable shall be enrolled in alternate activities deemed appropriate to facilitate employment job club.

93.11(6) For those clients participants who are enrolled in adult basic education, high school completion activities, GED, or English as a second language prior to job club participation, these services may shall be facilitated by either employment services or the Job Training Partnership Act program. Determination of which agency facilitates these services shall be jointly determined by the local employment services and local Job Training Partnership Act program offices. Clients who participate in these services prior to job club shall be required to participate in job club once training is terminated.

93.11(11) Participants who are referred to DES after completing one or more components of classroom training or a work experience program or, for unemployed parents, a community work experience program shall not be eligible to have participation waived for job seeking skills training and group job search may be required to participate in the assessment component or may be required to participate in job club.

93.11(14) Participants who complete any PROMISE JOBS component, other than assessment, shall have a 30-day suspension period before referral to another PROMISE JOBS agency or placement in another component unless the suspension period is waived under these rules, or the client participant requests immediate referral to another PROMISE JOBS agency or placement in another component, or the client participant agrees to immediate placement in a component already indicated on the employability plan. Persons who are in suspended status are considered to be active program participants.

a. Participants who complete the assessment component shall be immediately referred to job club except that those participants who have expressed a need for training, and who have an approvable training goal, shall be referred to JTPA for the determination of additional PROMISE JOBS services and for the provision of vocational classroom training services.

b. Once a person has been referred to JTPA and has been assigned a training slot, that person retains that training slot until ADC eligibility is lost for more than four consecutive months, or the person is deactivated, or becomes exempt from PROMISE JOBS and the person

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does not choose to volunteer to continue to participate in the program. JTPA has the ability to refer to DES assessment a person who completed the first week of assessment but who was then referred to JTPA for the provision of adult basic education, high school completion, GED, or English as a second language. This type of participant may receive additional weeks of assessment and then be referred back to JTPA and the assigned slot, without being required to participate in job club.

c. A person who previously completed one or more weeks of assessment but who was then exempted or deactivated or who had participation in the program waived may be required to attend orientation and assessment again at the option of the PROMISE JOBS local office, at the time the deactivation or period of waived participation is over.

ITEM 9. Amend rule 441—93.12(249C) as follows:

Rescind subrule 93.12(1) and insert the following in lieu thereof:

93.12(1) Job club consists of one week of job-seeking skills training and two weeks of group job search. It is expected that job clubs will be designed to require at least 20 hours a week of participation in each week. However, less than 20 hours a week may be scheduled based on local office need and resources.

Job-seeking skills training includes, but is not limited to: self-esteem building, goal attainment planning, resumé development, grooming, letters of application and follow-up letters, job application completion, job retention skills, motivational exercises, identifying and eliminating employment barriers, positive impressions and self-marketing, finding job leads, obtaining interviews, use of telephones, interviewing skills development and practice interviewing.

a. All participants who are assigned to job club shall receive one week of job-seeking skills training. Daily attendance during the one week of job-seeking skills training is required. A participant who is absent during the week may be required to repeat the entire week of training.

b. Participants shall then take part in a structured employment search activity for a period not to exceed two weeks. Participants shall contact 25 employers per day to schedule employment interviews unless fewer contacts are required by staff. Scheduled activities and required hours of participation may be varied at the discretion of staff for job clubs operating in rural areas.

c. Staff are authorized to waive job club attendance for participants who have completed other job clubs within the past six months which have curriculum and participation requirements similar to the PROMISE JOBS program.

Amend subrule 93.12(2), paragraph "c," as follows:

c. Staff may require job club participants to make up absences which occur during the three-week job search club period. Additional daily allowances shall not be paid to these persons. Required child care payment payments shall be allowed.

ITEM 10. Amend rule 441—93.13(249C) as follows:

441—93.13(249C) **Thirty-day suspension.** Clients Participants who are unable to secure employment of at least 86 hours per month after completing the three-week two-week employment search portion of job club shall have formal PROMISE JOBS services suspended for 30 days

prior to referral to JTPA unless the person requests an immediate referral to JTPA. ~~Clients placed in suspension shall be considered active job club participants.~~ During the 30-day suspension, clients participants shall not receive allowances for transportation or child care. Staff shall encourage but shall not require clients participants who are in suspension to continue job search activities. When no specific JTPA activity is being contemplated, the employability plan shall simply document the referral to JTPA for the provision of additional services.

ITEM 11. Amend rule 441—93.14(249C) as follows:

Amend subrule 93.14(1), introductory paragraph, as follows:

93.14(1) Classroom training means any academic or vocational training course of study which enables a participant to complete high school; or improve one's ability to read and speak English, or which prepares the individual for a specific professional or vocational area of employment. ~~A training plan must include occupational evaluation and assessment.~~ A training plan shall be based on occupational evaluation and assessment as obtained in accordance with the assessment processes described at rule 441—93.11(249C).

Further amend subrule 93.14(1) by adding the following new paragraph "d":

d. A participant's request for classroom training services shall be denied when it is determined through assessment that the participant will be unlikely to successfully complete the requested program. Form SS-1104-0, Notice of Decision-Services, shall be issued to the participant to inform the participant that the request for training is denied.

Amend subrule 93.14(6) as follows:

93.14(6) Prior to plan approval and as part of the client continuing assessment process, staff may require that clients take nationally recognized vocational tests, including the general aptitude test battery, as well as provide grade transcripts from previous training. A participant who has not previously taken part in all three weeks of assessment and who agrees that more assessment is needed may be referred back to DES for one or more additional weeks of assessment on an exception basis only when both DES and JTPA believe that additional assessment is needed. However, assessment shall not exceed three weeks total before participation in another PROMISE JOBS component.

Rescind and reserve subrule 93.14(10), paragraph "a."

Amend subrule 93.14(11) by adding the following new paragraph "d":

d. When a person described at 93.11(1)"a"(4) or 93.11(1)"a"(5) is still within the first quarter or semester of involvement in the person's chosen training program, expense allowances cannot be approved, even if the training is otherwise approvable, until the person has completed assessment or has successfully completed the first quarter or semester of the training program in accordance with the requirements of the educational institution. Persons involved in training programs where quarters or semesters are not used must successfully complete four months of the training program before assistance can begin.

Assistance shall be approved effective with the second quarter or semester, or with the fifth month of participation in the training program, as applicable to the client's situation.

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ITEM 12. Rescind and reserve subrule 93.15(4).

ITEM 13. Rescind rule 441—93.18(249C) and insert the following in lieu thereof:

441—93.18(249C) Self-initiated training. A person is considered to be self-initiated when that person has attended one or more days of training prior to participating in PROMISE JOBS orientation. A person who is not enrolled in training or a person who is enrolled in training, but who has not yet attended training as of the date of orientation, is not considered to be self-initiated.

93.18(1) When a client is self-initiated, eligibility for transportation and child care allowances shall begin for the month in which the training plan is approved.

93.18(2) Self-initiated participants are not eligible for expense allowances to pay for tuition, fees, books, or supplies.

ITEM 14. Amend subrule 93.20(3) as follows:

93.20(3) When a client enrolled in the classroom training component drops out of training without good cause, or the training plan is terminated for failure to comply with PROMISE JOBS requirements as specified at 93.20(4)"a," "d," "e," "f," "g," "h," and "i," or as specified at 93.20(5)"a," the client shall be denied additional PROMISE JOBS funded classroom training services for a minimum of one year from the time that the client dropped out, or from the time that the training plan was terminated for failure to comply with PROMISE JOBS requirements. This one-year period of denied service does not apply to clients who are under the age of 18 and who are required to participate in high school completion activities. Good cause for dropping out of training is specified elsewhere in these rules.

ITEM 15. Amend rule 441—93.29(249C) as follows:

441—93.29(249C) Sanctions for volunteers. Volunteer clients participants who refuse or fail to cooperate prior to completion of an employability plan shall have PROMISE JOBS referral status changed to exempt by the income maintenance worker, but they shall not be subject to a financial or volunteer sanction. However, volunteers who refuse to participate after completion of an employability plan shall be deactivated from the PROMISE JOBS program after completion of the conciliation process described at 441—subrule 41.4(8). Volunteers are not subject to financial sanctions. Volunteer participants who fail to participate shall be placed on probation in the same manner as mandatory participants in accordance with rule 441—93.32(249C). A volunteer who is deactivated from the program for failure to participate shall not be eligible for priority program services as long as other clients are waiting for services.

ITEM 16. Amend rule 441—93.30(249C) as follows:

441—93.30(249C) Sanctions for mandatory participants aged 16 or 17 who are required to participate in high school completion activities. Mandatory participants who fail to participate during orientation or assessment or in the referral to the local education agency or GED program, whichever is applicable, shall be placed on probation. A second failure to comply shall result in sanction. A person who fails to participate or cooperate with attendance and participation requirements of the local education agency or GED program, whichever is ap-

plicable, shall be placed on probation. A second failure to cooperate shall result in sanction. The participant shall also be sanctioned under the circumstances described in subrules 93.32(13) and 93.32(15). Sanctions are described in 441—subrule 41.4(7).

ITEM 17. Amend rule 441—93.32(249C), introductory paragraph, and subrule 93.32(13) as follows:

441—93.32(249C) Sanctions for mandatory participants aged 18 or older for failure to participate. Mandatory participants who fail to participate during orientation, assessment or in component activities other than classroom training and in accordance with other requirements specified in these rules shall be sanctioned as described in 441—subrule 41.4(7).

Sanctionable issues for participants aged 18 or older who fail to participate at any time from the point of call-up are as follows:

93.32(13) A client shall be sanctioned when child care, transportation or educational services become unavailable as a result of failure to use PROMISE JOBS funds to pay the provider, or failure to provide required receipts, or when a plan is terminated based on 93.20(4)"h" or 93.20(78). This sanction does not apply to persons in classroom training, except for persons required to participate in high school completion activities.

ITEM 18. Amend rule 441—93.36(249C) as follows:

441—93.36(249C) Duration of probationary periods. ~~Participants who are being assessed and who are placed on probation shall remain on probationary status for the duration of the assessment period.~~ Persons who are required to participate in orientation or assessment and who are placed on probation shall remain in probationary status until orientation or assessment is completed. Job club participants who are placed on probation shall remain in a probationary status for the duration of job club participation. Participants who are aged 16 or 17 and who are required to participate in high school completion activities shall be placed on probation for 30 days. All other participants who are placed on probation shall remain in a probationary status for 60 days. A second offense, without good cause, while a participant is on probation shall be considered failure to participate and sanctions shall be imposed.

ITEM 19. Amend rule 441—93.39(249C) as follows:

441—93.39(249C) Notice of decision. PROMISE JOBS will send written notice to each client in accordance with 441—Chapter 7 when:

1. Services are approved, rejected, renewed, changed, canceled, or terminated for failure to cooperate or participate. PROMISE JOBS services are considered to be approved at that point in time when the client is assigned to begin participation in the assessment component or when assessment has been waived and the participant is assigned to another PROMISE JOBS component.

2. An expense allowance is offset or the offset amount is changed due to action to recover an overpayment.

ITEM 20. Amend subrule 93.41(3), introductory paragraph and paragraph "a," as follows:

93.41(3) At the discretion of the JTPA PROMISE JOBS worker, a participant may enter and complete up to three components administered by JTPA before being re-

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ferred again to DES for participation in the job club component. At the option of the DES worker and with the advice of the JTPA worker, a participant referred back to DES by JTPA may also be required to complete week one, week two or week three of assessment as well, based on the participant's need for further assessment, and in accordance with 93.11(1)"i," "j" and "k." No more than two of those three JTPA components shall be work experience program placements or, for unemployed parents, community work experience program placements. High school completion, English as a second language, GED, adult basic education plans, and on-the-job training are not considered as component placements for the purpose of this subrule.

a. If an on-the-job training placement is available within 30 days of completing a component which would normally lead to referral to DES for ~~job-seeking skills training and group job search~~ participation in the job club component, a referral shall not be made.

Further amend subrule 93.41(3) by adding the following new paragraph "e":

e. Family development and self-sufficiency (FaDSS) program participants attend orientation but are not referred to assessment until the FaDSS grantee approves the assignment of the FaDSS participant to other PROMISE JOBS activities. FaDSS participants who have completed assessment in the past may be required to complete assessment again when the FaDSS grantee approves assignment to other PROMISE JOBS activities if the PROMISE JOBS worker believes that extended assessment is necessary to reassess the participant's abilities and circumstances.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2993A

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 232.141, the Department of Inspections and Appeals hereby adopts a new Chapter 9, "Indigent Defense—Claims for Compensation," Iowa Administrative Code.

The rules set forth the reporting requirements for claims submitted to the Department for payment. The rules also prescribe the services eligible for reimbursement by the state indigent defense fund for costs of adult indigent defense and costs of juvenile proceedings.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 1992, as ARC 2744A. A public hearing was held on February 25, 1992. One written comment was received suggesting a procedural change in the submission of claims for depositions and other expenses. The proposed change was con-

sidered substantive and will be addressed in future rule amendments.

One change was made to the introductory paragraph of rule 481—9.6(232,815) by removing the words "a judge or". The rule will still require that claims for depositions and other expenses have written approval from the court-appointed attorney assigned to the case.

These rules will become effective on July 1, 1992.

These rules are intended to implement Iowa Code sections 22.11, 232.141(2), 232.141(3), 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, 815.10 and Iowa Code Supplement sections 13B.4(4) and 815.10A.

The following new chapter is adopted.

CHAPTER 9 INDIGENT DEFENSE—CLAIMS FOR COMPENSATION

PREAMBLE

These rules prescribe the services eligible for reimbursement by the state indigent defense fund and set forth the reporting and reimbursement requirements for claimants. Unless otherwise specified, these rules apply equally to adult and juvenile claims.

481—9.1(232,815) Definitions. As used in these rules, unless the context otherwise requires, the following definitions apply:

"Appointed attorney" means an attorney appointed by the court and compensated by the state to represent an indigent person.

"Claimant" means an appointed attorney, a county, or other person authorized by Iowa law and the rules of criminal procedure to make application to the state for reimbursement of attorney fees, depositions, and other expenses incurred from the representation of an indigent person.

"Date of service" means the date of an appointed attorney's signature on a claim certifying the information supplied on a claim to be true and correct.

"Department" means the department of inspections and appeals.

"Indigent person" means a person who has been determined to be unable to employ legal counsel without prejudicing that person's financial ability to provide economic necessities for the person or the person's dependent family.

"Juvenile" means a person under 18 years of age.

"Rules of criminal procedure" means the rules prescribed by the supreme court which govern actions and proceedings in all courts in the state.

"State public defender" means the state public defender appointed pursuant to Iowa Code chapter 13B.

481—9.2(232,814,815) Expenses to be reimbursed. The department shall reimburse a claimant for court-ordered fees and costs incurred in the representation of an indigent person under the provisions of Iowa Code sections 232.141, 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, 815.10, or the rules of criminal procedure. Only court-approved attorney fees and other relevant costs will be paid to a claimant by the department.

9.2(1) Adult cases. The expenses for which reimbursement shall be made include:

- Transcripts;
- Appeals of indictable offenses;
- Costs of witnesses;
- Costs of expert witnesses called by the defense;

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e. Costs for persons confined as material witnesses for the defense;

f. Attorney fees; and

g. Other costs allowed under the rules of criminal procedure.

9.2(2) Juvenile cases. The expenses for which reimbursement shall be made include:

a. Fees and mileage of a witness called to testify in a juvenile proceeding;

b. Expenses and mileage of a sheriff, officer, or other designated person serving a notice or a subpoena;

c. Fees for an appointed attorney representing a child in a juvenile proceeding; and

d. Fees for an appointed attorney representing the parent or guardian of a child in a juvenile proceeding.

9.2(3) Depositions and other expenses. Additional court-ordered expenses for which reimbursement shall be made to a claimant include:

a. Court reporters or certified shorthand reporters;

b. Private investigators;

c. Interpreters; and

d. Evaluations or medical examinations in adult cases.

481—9.3(232,814,815) Amount to be reimbursed. In determining the amount of reimbursement, a judge, a magistrate, or a juvenile referee may allow reasonable compensation consistent with law and supreme court guidelines reflecting customary and ordinary charges for those services.

481—9.4(232,815) Reporting requirements for adult cases. Upon completion of services, a claimant shall file an application with the clerk of court for compensation of attorney fees, depositions, and other expenses. Each claim for attorney fees submitted by an appointed attorney for an adult case shall contain the following:

1. The name of the county in which the proceedings were held;

2. The title of the case;

3. The case number(s);

4. An indication of whether a previous claim has been filed under the same case number;

5. The date of the court-appointed assignment to the case;

6. The number of in-court hours spent on the case;

7. The number of out-of-court hours spent on the case;

8. The total number of hours, in-court and out-of-court, for which an appointed attorney wishes to be compensated;

9. The hourly rate of compensation an appointed attorney wishes to receive;

10. An attached itemized statement of the services performed by an appointed attorney for which compensation is being sought;

11. A statement of the offenses for which the client was prosecuted;

12. The Iowa Code sections under which the prosecutions were prosecuted;

13. The signature of the appointed attorney certifying that all the information supplied by the appointed attorney is true and correct;

14. The date of the appointed attorney's signature;

15. The name of the firm or appointed attorney to whom payment is to be made;

16. The federal identification number of the firm or the social security number of the appointed attorney to whom payment is to be made; and

17. The mailing address of the firm or appointed attorney where payment is to be sent.

481—9.5(232,815) Reimbursement requirements for adult cases. Each claim submitted by an appointed attorney shall include all the information required by rule 481—9.4(232,815). The department will reimburse a claimant for costs incurred in the representation of an indigent person when a claim is submitted according to the following procedures:

9.5(1) Claims shall be submitted by an appointed attorney on a Claim for Attorney Fees and Order Form. The form is available from the clerk of court or district court administrator's office.

9.5(2) Each claim shall also contain the signature of the judge or magistrate.

9.5(3) Claims shall be submitted by the district court administrator's office to the Department of Inspections and Appeals, Indigent Defense Unit, Lucas State Office Building, Des Moines, Iowa 50319-0083.

9.5(4) A claim shall be submitted by an appointed attorney to the clerk of court within three months of the date of service, which is the date of an appointed attorney's signature on a claim. Claims submitted more than three months after the date of service will be forwarded to the state appeal board by the department for a claimant to receive payment.

9.5(5) Claims with a date of service prior to July 1 that are submitted by an appointed attorney or the district court administrator's office after August 15 shall be forwarded to the state appeal board to be paid if the claims cannot be processed for payment before the accounting books for the fiscal year ending June 30 have been closed.

481—9.6(232,815) Reimbursement requirements for depositions and other expenses. Claims may be submitted for the services specified in subrule 9.2(3) only after written approval has been obtained from the court-appointed attorney assigned to the case.

9.6(1) Claims for depositions shall indicate the date the transcript was taken, the date the transcript was ordered, and the date the transcript was delivered.

9.6(2) Charges for an original transcript shall be listed separately from charges for a copy of an original transcript.

9.6(3) Each claim for depositions and other expenses shall be accompanied by:

a. An explanation of the type of service provided;

b. A billing or statement including the name, the mailing address, and the telephone number of the claimant;

c. The name of the county in which the services were provided;

d. The name of the indigent person for whom the services were provided; and

e. The title of the case.

9.6(4) The claim order/claim voucher form shall be signed and dated by the claimant, or an original invoice may be submitted. A generic invoice or a photocopy of an invoice may be submitted if it contains an original signature and is dated by the claimant.

9.6(5) Claims shall be submitted by the district court administrator's office to the Department of Inspections and Appeals, Indigent Defense Unit, Lucas State Office Building, Des Moines, Iowa 50319-0083.

481—9.7(232) Reimbursement requirements for juvenile cases. The department will reimburse a claimant for

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costs incurred in the representation of an indigent person when a claim is submitted according to the following procedures:

9.7(1) Each claim submitted to a county shall be authorized for payment by the judge, magistrate, or juvenile referee.

9.7(2) A claim may be submitted by a county to the department on a Report of Expenditures for Juvenile Justice Program Form provided by the department.

9.7(3) The report form shall contain the original signature of the county auditor or county treasurer and shall be submitted monthly regardless of whether a county has met its base cost pursuant to Iowa Code section 232.141(3)"a."

9.7(4) One copy of each claim for attorney fees submitted to a county shall be attached to the report form submitted to the department.

9.7(5) After a county base has been met, the report form shall be submitted to the department, along with one original and one copy of the claim order/claim voucher form.

9.7(6) The report form shall be submitted by the county auditor to the Department of Inspections and Appeals, Indigent Defense Unit, Lucas State Office Building, Des Moines, Iowa 50319-0083, by the end of the month following the month for which reimbursement is being sought.

9.7(7) The claim shall be forwarded to the state appeal board for a claimant to receive payment if:

a. The claim is submitted more than three months following the month for which reimbursement is being sought; or

b. The claim is for a month prior to July, is submitted after August 15, and cannot be processed for payment before the accounting books for the fiscal year ending June 30 have been closed.

481—9.8(232,815) Claims delayed or rejected. The payment of a claim may be delayed or rejected by the department if any of the following conditions exist:

1. An appointed attorney failed to provide the information required of rule 9.4(232,815).

2. A claim includes services which are eligible for reimbursement under the department of human services rules for court-ordered care and treatment for juveniles in 441 IAC 151.

3. A claim has been determined by the state public defender to be excessive as specified in rule 9.10(13B).

4. A claim contains an error in computation.

5. A claim includes services not eligible for reimbursement under Iowa Code section 815.11.

481—9.9(232,815) Payment errors. If an error resulting in an overpayment or double payment of a claim is discovered by the claimant or by the department, the claimant shall reimburse the department for the amount of the overpayment, unless an agreement has been made with the department to deduct the overpayment from a future claim. An overpayment that is returned to the department shall be paid by check to the Treasurer, State of Iowa, and mailed to the Department of Inspections and Appeals, Indigent Defense Unit, Lucas State Office Building, Des Moines, Iowa 50319-0083.

481—9.10(13B) Claims determined to be excessive. The state public defender may review any claim submitted for reimbursement of expenses. If the state public defender determines a claim to be excessive, within 30 days of the department's receipt of a claim, the state pub-

lic defender may request a hearing before the court granting the claim for the purpose of reviewing the claim. The claim will be:

1. Awarded for the entire amount requested; or

2. Reduced if the court also determines the claim to be excessive.

481—9.11(22) Availability of records. Information collected by the department is available for public inspection and copying unless otherwise provided by rule or law. Information will be provided when requested in writing from the Office of the State Public Defender, Lucas State Office Building, Des Moines, Iowa 50319-0087.

These rules are intended to implement Iowa Code sections 22.11, 232.141(2), 232.141(3), 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, 815.10 and Iowa Code Supplement sections 13B.4(4) and 815.10A.

[Filed 4/22/92, effective 7/1/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2992A

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 amends Chapter 31, "Food Establishment Inspections," and Chapter 32, "Food Service Establishment Inspections," Iowa Administrative Code.

The adopted amendments reflect a change in federal regulations pertaining to the temperature of seafood. The amendments also update language relating to toilets and lavatories and strengthen and clarify requirements for mobile food units and pushcarts.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 18, 1992, as ARC 2858A. No comments were received on the amendments.

At the request of the Administrative Rules Review Committee, language was added to clarify that "This requirement" in subrule 32.4(2), paragraph "d," is referring to the requirement for a three compartment sink. Language was also added to subrule 32.4(2), paragraph "a," for clarity. Installation of a handwashing sink would only be required in mobile food units/pushcarts initially licensed or constructed after the effective date of these amendments.

These amendments will become effective July 1, 1992.

These amendments are intended to implement Iowa Code section 137A.2 and Iowa Code Supplement section 137B.3.

The following amendments are adopted.

ITEM 1. Amend rule 481—31.4(137A) as follows:

481—31.4(137A) Proper care of seafood. All seafood, including fresh fish, shellfish, and other perishable fishery products shall be stored or displayed at an internal temperature of 32°F (0°C) 40°F (4.4°C) or less.

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

ITEM 2. Rescind rule 481—31.9(137A) and the implementation sentence and insert in lieu thereof the following:

481—31.9(137A) Toilets and lavatories. Toilets and lavatories shall be well lighted and available to employees and patrons at all times. Establishments built or extensively remodeled after July 1, 1986, shall be electrically vented to the outside of the building.

These rules are intended to implement Iowa Code chapter 137A.

ITEM 3. Rescind subrule 32.3(4) and insert in lieu thereof the following:

32.3(4) Toilets and lavatories shall be well lighted and available to employees and patrons at all times. Establishments built or extensively remodeled after January 1, 1979, shall be electrically vented to the outside of the building.

ITEM 4. Amend subrule 32.3(6) as follows:

32.3(6) Proper care of seafood. All seafood, including fresh fish, shellfish, and other perishable fishery products shall be stored or displayed at an internal temperature of 32°F (0°C) 40°F (4.4°C) or less.

ITEM 5. Amend 481—Chapter 32 by adding the following new rule and amending the implementation sentence at the end of the chapter as follows:

481—32.4(137B) Mobile food units/pushcarts. In addition to chapter 8 of the 1976 edition of the Food and Drug Administration Food Service Sanitation Ordinance, mobile food units/pushcarts shall comply with the following:

32.4(1) The following requirements apply to all mobile food units/pushcarts:

a. All mobile food units/pushcarts must be licensed by the department. Applications for licenses are available from the Inspections Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. The unit shall be inspected by a representative of the department and determined to be in compliance with the rules and regulations of the department prior to the granting of the license.

b. All equipment and utensils, including the interior of cabinet units or storage compartments, shall be smooth, nonabsorbent, and easily cleanable.

c. During operation, food shall not be displayed, stored, or served from any place other than the unit, or other licensed facility.

d. Food condiments shall be in prepackaged, individual servings or dispensed from department-approved containers.

e. Potentially hazardous foods shall be maintained at 45°F or below, or 140°F or above. Frozen foods shall be kept frozen.

32.4(2) Mobile food units/pushcarts which handle unpackaged food are required to meet the following conditions, in addition to those listed in subrule 32.4(1):

a. A handwashing sink, equipped with pressurized hot and cold running water shall be installed in all mobile food units/pushcarts initially licensed or constructed after July 1, 1992.

b. The mobile/pushcart unit shall contain a fresh water supply tank and a permanently installed waste retention tank with a capacity at least 15 percent larger than the water supply tank.

c. The unit shall contain hand cleanser and sanitary towels.

d. All units shall either contain a three-compartment sink or shall have access, at least daily, to one located at another licensed establishment, where utensils and equipment can be washed, rinsed, and sanitized. This requirement for a three-compartment sink can be waived under the provisions in rule 481—32.1(10A), numbered paragraph 6.

e. A sanitizing solution shall be provided on the location of the mobile/pushcart so the unit and utensils can be kept cleaned and sanitized.

These rules are intended to implement Iowa Code sections 10A.502, 137A.5, and chapter 137B as amended by 1991 Iowa Acts, Senate Files 269 and 529 and Iowa Code Supplement sections 137B.2, 137B.3, 137B.6, and 137B.7.

[Filed 4/22/92, effective 7/1/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2982A

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 505.8, 514B.23 and 135.11(13), the Iowa Division of Insurance and the Iowa Department of Public Health hereby amend 191—Chapter 40, "Health Maintenance Organizations," Iowa Administrative Code.

These amendments serve to redefine present rules in the area of emergency services, formerly identified as "emergency care," including reimbursement for emergency services.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 8, 1992, as ARC 2681A.

A public hearing was held in Des Moines on January 28, 1992. Comments were received at the hearing as well as in writing. A representative of the Iowa Association of Health Maintenance Organizations stated that the Association members can support the proposed amendment. The Iowa Medical Society recognized that the language had been modified from previous unsatisfactory versions and expressed their hope that in practice it will not result in unreasonable denials for services already provided. The Iowa Osteopathic Medical Association has a problem with the HMO making the final decision on reimbursement retroactively. They suggested that a mechanism for provider challenge of denied claims be added and are proposing legislation to this end. Comments received by an individual HMO, Care Choices, raised objection to language that was either in the Iowa Administrative Code prior to these amendments or language proposed and accepted by the Iowa Association of HMOs. No change was made to the Notice of Intended Action as a result of public comments. However, the Board of Health, following their March 11, 1992, meeting, requested the addition of two sentences at the end of rule 40.21(514B) regarding the right to file a complaint about denial of reimbursement for emergency services. This change from the Notice of Intended Action is found at the end of rule 40.21(514B).

INSURANCE DIVISION[191](cont'd)

These amendments were adopted by the Board of Health on April 2, 1992, at an electronic meeting and will become effective June 17, 1992.

These amendments are intended to implement Iowa Code chapter 514B.

The following amendments are adopted.

ITEM 1. Amend rule 191—40.1(514B), definition of "Emergency care," as follows:

~~"Emergency care services" means emergency inpatient and outpatient services provided on a twenty-four (24) hour basis, either by the HMO through its own facilities or through guaranteed arrangements with other providers, those medical and health services provided in cases of life-threatening, disabling, or serious injury or illness, including severe pain, which arises or worsens suddenly and which, if not treated immediately, could reasonably be expected to result in loss of life or serious impairment to bodily functions or serious dysfunction of any bodily organ or part. This definition shall be required in all contracts signed or renewed on or after January 1, 1993, and contained in all other contracts by January 1, 1994. A physician and sufficient other licensed and ancillary personnel shall be readily available at all times.~~

ITEM 2. Amend 191—Chapter 40 by adding the following new rules:

191—40.20(514B) Emergency services. "Emergency services" (inpatient and outpatient), as defined in 191—40.1(514B), shall be provided by the HMO, either through its own facilities or through guaranteed arrangements with other providers, on a 24-hour basis. A physician and sufficient other licensed and ancillary personnel shall be readily available at all times to render such services. Since HMOs may not contract with every emergency care provider in an area, HMOs shall make every effort to inform members of participating providers.

191—40.21(514B) Reimbursement. Reimbursement to a provider of "emergency services," as defined in 191—40.1(514B), shall not be denied by any health maintenance organization without that organization's review of the patient's medical history, presenting symptoms, and admitting or initial as well as final diagnosis, submitted by the provider, in determining whether, by definition, emergency services could reasonably have been expected to be provided. Reimbursement for emergency services shall not be denied solely on the grounds that services were performed by a noncontracted provider. If reimbursement for emergency services is denied, the enrollee may file a complaint with the HMO as outlined in rule 40.9(514B). Upon denial of reimbursement for emergency services, the HMO shall notify the enrollee and the provider that they may register a complaint with the commissioner of insurance.

These rules are intended to implement Iowa Code chapter 514B.

[Filed 4/16/92, effective 6/17/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 3002A

MEDICAL EXAMINERS BOARD[653]

Adopted and Filed

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 19, 1992, as ARC 2781A.

This rule is identical to that published under Notice of Intended Action with the exception of subrule 11.1(3). The Board did not adopt proposed subrule 11.1(3). The requirements of the former subrule 11.1(3) are being adopted.

This rule is intended to implement Iowa Code chapter 147 and Iowa Code sections 148.3, 150.11 and 150A.3.

This rule will become effective June 17, 1992.

The following amendment is adopted.

Rescind rule 653—11.1(147,148,150A) and insert in lieu thereof the following:

653—11.1(147,148,150,150A) General requirements.

11.1(1) Each applicant for a license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy shall:

a. Submit a completed application on a form prescribed by the board with required credentials, all required documentation, and the required fee.

b. Submit a photocopy of the applicant's degree of doctor of medicine and surgery, osteopathic medicine and surgery or osteopathy or its equivalent issued to the applicant by a school or college of medicine and surgery, osteopathic medicine and surgery or osteopathy approved by the board.

(1) The schools or colleges of medicine and surgery approved by the board are those schools or colleges of medicine and surgery approved by the American Medical Association at the time the applicant graduated and was awarded the degree. The schools or colleges of osteopathic medicine and surgery or osteopathy are those schools or colleges approved by the American Osteopathic Association at the time the applicant graduated and was awarded the degree. However, a degree awarded by an approved school or college of medicine and surgery, osteopathic medicine and surgery or osteopathy shall not be accepted if the applicant's academic training was not completed at the said approved school or college.

(2) In lieu of submission of a degree awarded by an approved school or college of medicine and surgery, osteopathic medicine and surgery or osteopathy, the applicant shall submit all of the following:

1. A photocopy of a degree awarded by a school or college of medicine and surgery, osteopathic medicine and surgery or osteopathy which has been neither approved nor disapproved by the board;

2. Documentation of the successful completion of one year of postgraduate internship or resident training which training has been approved by the board; and

3. A photocopy of a valid certificate issued by the Educational Commission for Foreign Medical Graduates or documentation of the successful completion of a fifth

MEDICAL EXAMINERS BOARD[653](cont'd)

pathway program in accordance with criteria established by the American Medical Association.

11.1(2) Each applicant shall submit documentation of the successful completion of one year of postgraduate internship or resident training in a hospital approved by the board. The hospitals approved by the board for postgraduate internship or resident training are those located in the United States and Canada which were, at the time the postgraduate training was received, accredited by the Accreditation Council for Graduate Medical Education of the American Medical Association, accredited by the Committee on Postdoctoral Training of the Committee on Hospitals of the American Osteopathic Association, or accredited by the Royal College of Physicians and Surgeons of Canada.

11.1(3) Applicant must successfully complete the Federation Licensing Examination (FLEX), a national board examination of the United States or the Medical Council of Canada Licentiate Qualifying Examination (MCCLQE) and present official documentation of the successful completion of the respective examination.

11.1(4) Each applicant shall submit the number and the date of issuance of any license issued by another state, territory or country, and shall submit a written statement showing the basis upon which each license was issued. In addition, each applicant shall submit a written statement as to whether any license so issued has ever been suspended, revoked or otherwise disciplined by formal action or by voluntary agreement.

11.1(5) Each applicant shall submit a chronological statement accounting for all time periods from when the applicant graduated from high school until the date of the application.

11.1(6) Any applicant applying for licensure may be required to appear for a personal interview before the board, a board committee or a designee of the board.

This rule is intended to implement Iowa Code chapter 147 and Iowa Code sections 148.3, 150.11 and 150A.3.

[Filed 4/24/92, effective 6/17/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 3008A

PERSONNEL DEPARTMENT[581]

Adopted and Filed

Pursuant to the authority of Iowa Code section 97A.5, the Board of Trustees of the Iowa Department of Public Safety Peace Officers' Retirement, Accident and Disability System hereby amends Chapter 24, "Peace Officers' Retirement, Accident and Disability System," Iowa Administrative Code.

Commencing July 1, 1990, members of the Iowa Department of Public Safety Peace Officers' Retirement, Accident and Disability System were authorized for the first time to withdraw their accumulated contributions to the system if they terminated service other than by virtue of death or disability. Iowa Code section 97A.16 assigns responsibility to the Board of Trustees of the system to de-

termine the interest rate to be paid on contributions. This amendment establishes the method of determining the interest rate and for determining deductions for administrative expenses of operating the system.

A Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on November 27, 1991, as ARC 2555A. The text of this adopted rule is identical to the text of the proposed rule published in the Notice of Intended Action.

This amendment shall become effective on June 18, 1992.

A public hearing on this proposed rule was held on December 19, 1991. No one appeared at the hearing. However, written comments on the proposed rules were received from the Director of the Iowa Department of Personnel. She expressed concern about the inclusion of capital gains and losses on items in the system's investment portfolio when those items continue to be held by the system, and therefore would be subject to fluctuations in value at later times. A comparison was drawn with the interest rate calculations employed by the Iowa Public Employees' Retirement System, in which only current income (accrued interest earnings and cash dividends on stock) is recognized for purposes of establishing interest rates (investment returns).

This Board has elected to retain the language originally proposed for interest rate calculations on withdrawals from the Peace Officers' Retirement, Accident and Disability System. The method of interest rate calculation used with respect to withdrawals from the Iowa Public Employees' Retirement System is established by statute (Iowa Code section 97B.70, subsection 1), whereas the statute being implemented here (Iowa Code section 97A.16) specifically authorizes this Board to establish a rate for withdrawals from the Peace Officers' Retirement, Accident and Disability System.

The Board approached this issue with the intent of fairly compensating those few members who withdraw their contributions, but also establishing a rate calculation method which is not unduly cumbersome or complicated. The rate contemplated by this Board is easily determinable on the basis of annual reports prepared by the fund's investment advisors. In addition, the Board believes that including capital gains and losses in evaluating the rate of return on investments by the system truly reflects fund performance, and failing to include them would unfairly prejudice members whose contributions to the system are required by law. Because both capital gains and losses will be recognized, it is possible that a negative rate of return might be calculated for a particular year's fund performance. Nevertheless, it is the opinion of this Board that over a period of years, returns to members who withdraw their contributions from the system are more likely to approximate the fund earnings experience than if an attempt is made to emulate an interest rate calculation method such as that used by the Iowa Public Employees' Retirement System.

The following amendment is adopted.

Amend 581—Chapter 24 by adding the following new rule:

581—24.26(97A) Withdrawal of contributions.

24.26(1) Members who terminate employment may, in lieu of vesting, withdraw their contributions together with interest thereon.

24.26(2) The interest rate shall be the composite rate of return for the fiscal year as reflected in the Investment

PERSONNEL DEPARTMENT[581](cont'd)

Performance Analysis, provided by the investment consultants for the system, as specified in the report for the quarter ending June 30 of the fiscal year, adjusted by the administrative expense of the system for the fiscal year. The administrative expense rate shall be calculated by dividing the actual administrative expense for the fiscal year by the fund balance on June 30 of the fiscal year.

24.26(3) Interest shall be credited to the member's accounts annually as of June 30. The interest credited to the member shall be calculated by multiplying the annual interest rate by the member's average balance for the fiscal year, with interest credited for each full month of membership.

24.26(4) Members withdrawing contributions under this rule shall submit a written request to the secretary.

This rule is intended to implement Iowa Code section 97A.16.

[Filed 4/24/92, effective 6/18/92]
[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 3001A

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF DIETETIC EXAMINERS

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 258A.3, the Board of Dietetic Examiners adopts amendments to Chapter 80, "Board of Dietetic Examiners," Iowa Administrative Code.

The amendments rescind subrules regarding promulgation of rules and declaratory rulings; clarify the examination required for dietetic licensure; rescind a subrule for grandfathering; waive the examination requirement for applicants who are currently registered with the Commission on Dietetic Registration at time of application; set a time limit for retention of incomplete applications; clarify the requirement for a signed statement indicating completion of continuing education requirements for license renewal; and clarify the method used in auditing continuing education records of licensees.

Notice of Intended Action was published in the Iowa Administrative Bulletin, March 4, 1992, as ARC 2828A. Only editorial changes were made from the Notice of Intended Action. No comments were received during the comment period.

The amendments will become effective on June 17, 1992.

These amendments are intended to implement Iowa Code chapters 152A and 17A.

The following amendments are adopted.

ITEM 1. Rescind and reserve subrules 80.3(4) and 80.3(5).

ITEM 2. Amend subrule 80.4(1), paragraph "c," as follows:

c. Satisfactorily completes an examination approved by the board. See 645—80.6(152A) Examinations.

ITEM 3. Rescind and reserve subrule 80.4(2).

ITEM 4. Rescind subrule 80.4(3) and insert in lieu thereof the following:

80.4(3) The board may waive the examination requirement for an applicant who can show proof of a current registration card from the commission on dietetic registration at the time of application.

ITEM 5. Amend rule 645—80.5(152A) by inserting new subrule 80.5(5) as follows:

80.5(5) Applications for licensure which do not meet the minimum criteria for licensure shall be retained by the professional licensure division for a maximum of five years from the date the application was received. Persons whose application for licensure is more than five years old must submit a new application and fee(s).

ITEM 6. Amend subrule 80.100(7) as follows:

80.100(7) Each licensee shall sign a statement on the license renewal application form indicating compliance with the continuing education requirements. No license shall be renewed without this sworn statement.

ITEM 7. Rescind subrule 80.100(8) and insert in lieu thereof the following:

80.100(8) The board reserves the right to audit a licensee's continuing education records each biennium. Licensees who are audited will be chosen in a random manner or at the discretion of the board. Falsifying reports or failure to meet continuing education requirements may result in formal disciplinary action.

[Filed 4/23/92, effective 6/17/92]
[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 3003A

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF MORTUARY SCIENCE EXAMINERS

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby amends Chapter 100, "Funeral Directors," and Chapter 101, "Board of Mortuary Science Examiners," Iowa Administrative Code.

The amendments rescind the requirement for a burial transit permit to comply with the repeal of Iowa Code section 144.32 and add a fee of \$10 for an unofficial transcript review.

Notice of Intended Action regarding these amendments was published in the March 4, 1992, Iowa Administrative Bulletin as ARC 2835A, and the amendments were adopted by the Board of Mortuary Science Examiners on

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

April 21, 1992. No changes were made to the Notice of Intended Action.

These amendments will become effective June 17, 1992.

These amendments are intended to implement Iowa Code sections 147.32 and 147.76.

The following amendments are adopted.

ITEM 1. Amend subrules 100.5(2), 100.5(4) and 100.5(7) as follows:

100.5(2) A copy of the original death certificate on the standard certificate of death form, signed by the attending physician, ~~permit of local board of health or registrar, and a transit shipping~~ label signed by the shipping funeral director shall be required for the transportation by common carrier of bodies of persons dying in this state. The death certificate shall contain such information as is required in the standard form of death certificate if obtainable. ~~The health officer's or registrar's permit shall authorize the transportation of the body of the person described in the physician's certificate.~~

The shipping label shall be securely attached to the outside receptacle. If the body is sent by air freight, the ~~physician's certificate of death and the permit~~ shall be attached to the waybill and declared with the body at the destination, and the shipping label shall be attached to the outside receptacle.

100.5(4) No disinterred body, dead from any disease or cause, shall be transported by common carriers, unless approved by health authorities having jurisdiction at the place of disinterment, ~~and a transit permit and a transit shipping~~ label shall be required as provided in ~~146.5(2) 100.5(2)~~.

100.5(7) The attached form of death certificate, ~~health officer's or registrar's permit, and shipping~~ label as described herein, ~~with these rules printed thereon,~~ shall be used in this state for shipment of bodies as herein provided.

ITEM 2. Add a new subrule 101.98(11) as follows:

101.98(11) Fee for a board member to unofficially review a transcript prior to the individual applying for licensure in Iowa is \$10.

[Filed 4/24/92, effective 6/17/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2980A

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF PHYSICAL AND OCCUPATIONAL
THERAPY EXAMINERS

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy Examiners hereby amends Chapter 200, "Physical Therapy Examiners," and Chapter 202, "Physical Therapist Assistants," Iowa Administrative Code.

The amendments allow an individual board member to temporarily approve an application until the full board

meets to review applications, set a time limit for keeping incomplete applications and fees on file, set a time limit on accepting examination scores, add as grounds for discipline the failure of a physical therapist to report violation by physical therapist assistant of rule 645—202.20(258A) and make necessary reference correction.

Notice of Intended Action regarding these rules was published in the February 5, 1992, Iowa Administrative Bulletin as ARC 2728A, and the rules were adopted by the Board of Physical and Occupational Therapy Examiners on April 9, 1992. No changes were made to the Notice of Intended Action.

These amendments will become effective June 17, 1992.

These amendments are intended to implement Iowa Code sections 147.36 and 147.55.

The following amendments are adopted.

ITEM 1. Add new subrules 200.2(6) and 200.2(7) as follows:

200.2(6) An individual board member, following verification that an applicant has completed all components of the licensing process, may temporarily approve an applicant's license to practice until such time as the full board shall consider the application.

200.2(7) Incomplete applications that have been on file in the board office for two years shall be considered invalid and be destroyed. The application fee is nonrefundable.

ITEM 2. Add a new subrule 200.3(4) as follows:

200.3(4) Scores of examinations taken more than five years prior to date of application by examination will be considered invalid.

ITEM 3. Amend 200.20(7)"c"(7) as follows:

(7) Appropriately supervising individuals as described in 200.20(7)"k"(8).

ITEM 4. Add a new subrule 200.20(15) as follows:

200.20(15) Failure to report to the board as provided in Iowa Code section 258A.9 any violation by a physical therapist assistant of the reasons for disciplinary action as listed in rule 645—202.20(258A).

ITEM 5. Add a new subrule 202.2(7) as follows:

202.2(7) Incomplete applications that have been on file in the board office for two years shall be considered invalid and be destroyed. The application fee is nonrefundable.

[Filed 4/14/92, effective 6/17/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 3006A

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 100.35 and Iowa Code Supplement section 135C.5, the Iowa Department of Public Safety hereby amends Chapter 5, "Fire Marshal," Iowa Administrative Code.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

These amendments deal with fire safety standards for locked units in residential care facilities and nursing facilities licensed under Iowa Code chapter 135C and with fire safety standards for other businesses operating in health facilities.

Iowa Code section 135C.5 was amended in 1991 to require the State Fire Marshal and the Iowa Department of Inspections and Appeals to promulgate rules regarding the operation of other businesses in licensed health care facilities. Previously, businesses unconnected with the operation of a health care facility had been barred from operating within licensed health care facilities. The Department of Inspections and Appeals has adopted rules on this subject which will become effective July 1, 1992. (ARC 2898A, Item 14, published in the Iowa Administrative Bulletin on April 1, 1992.)

Notice of Intended Action regarding these amendments was published in the February 19, 1992, Iowa Administrative Bulletin as ARC 2806A.

A public hearing on these proposed amendments was held on March 11, 1992. Representatives of the City of Des Moines Fire and Building Departments appeared and expressed concerns about the potentially restrictive nature of certain of the provisions. Comments were also received from representatives of the Iowa Department of Inspections and Appeals, Health Facilities Division. Changes were made in Items 4, 5, 6, and 7 in response to these comments.

These amendments are intended to implement Iowa Code chapter 100.

These amendments will become effective July 1, 1992.

The following amendments are adopted.

ITEM 1. Amend subrule 5.53(3) to read as follows:

5.53(3) Type of lock or ~~hatch~~ latch.

a. Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort.

EXCEPTIONS:

1. This requirement shall not apply to an exterior exit door when used as the primary entrance to the building if there is a readily visible, durable sign on or adjacent to the door stating "THIS DOOR TO REMAIN UNLOCKED DURING BUSINESS HOURS." The sign shall be in letters not less than one inch high on contrasting background. The locking device must be a type that will be readily distinguishable as locked. The use of this exception may be revoked by the authority having jurisdiction for due cause.

2. Exit doors from individual dwelling units and guest rooms or residential occupancies having an occupant load of ten or less may be provided with a night latch, dead bolt, or security chain, provided such devices are openable from the inside without the use of a key or tool and mounted at a height not to exceed 48 inches above the finished floor.

3. In buildings protected throughout by approved supervised automatic smoke detection systems or approved supervised automatic sprinkler systems, and where permitted by the rules for specific occupancies, doors may be equipped with approved, listed locking devices which shall meet the following requirements:

- The device shall unlock upon activation of an approved supervised sprinkler system, or upon activation of any heat detector or any smoke detector of an approved supervised automatic fire detection system.

- The device shall unlock upon loss of power controlling the lock or locking mechanism.

- The device shall be capable of deactivation by a signal from a switch located in an approved location.

- The device shall initiate an irreversible process that releases the lock within 15 seconds whenever a force is continuously applied to the release device. The time to initiate the release process shall not exceed 3 seconds and the minimum force required shall not exceed 15 pounds. Once this unlocking process has been initiated, relocking shall be by manual means only. Operation of the release device shall activate an audible signal in the vicinity of the door to assure those attempting to exit that the release device is functional.

- The device shall unlatch in a single operation.

On each door adjacent to the release device shall be posted a sign that reads: "PUSH UNTIL ALARM SOUNDS. DOOR CAN BE OPENED IN 15 SECONDS." Lettering on each sign shall be at least one inch high and one-eighth inch wide.

Emergency lighting shall be provided at each door.

b. Manually operated edge or surface mounted flush bolts and surface bolts are prohibited. When exit doors are used in pairs and approved automatic flush bolts are used, the door leaf having the automatic flush bolts shall have no doorknob or surface mounted hardware. The unlatching of any leaf shall not require more than one operation.

EXCEPTION: Dwelling and lodging house occupancies.

ITEM 2. Amend rule 661—5.500(100) by adding the following introductory paragraph:

The following definitions apply to rules 661—5.500(100) to 661—5.549:

ITEM 3. Amend rule 661—5.550(100), introductory paragraph and subrule 5.550(1), as follows:

661—5.550(100) Definitions. The following definitions apply to rules 661—5.550(100) to 661—5.599:

5.550(1) ~~In these regulations "health~~ "Health care facility" or "facility" means any residential care facility ~~requiring licenses required to be licensed~~ by the Iowa department of ~~health inspections and appeals~~ in accord with Iowa Code chapter 135C.

ITEM 4. Amend rule 661—5.552(100) as follows:

Amend subrule 5.552(3) by adding the following exception to paragraph "e":

EXCEPTION: Special locking arrangements complying with Exception 3 to subrule 5.53(3) may be permitted provided not more than one such device is located in any egress path.

Door locking arrangements permitted under this Exception must be approved in writing by the state fire marshal. This approval may be revoked for cause at any time.

Rescind subrule 5.552(15), paragraph "b," and insert in lieu thereof the following:

b. Another business or activity shall not be carried out in a health care facility or in the same physical structure with a health care facility unless:

(1) The business is under the control of and is directly related to the operation of the health care facility, or

(2) The business is approved by the health facilities division of the Iowa department of inspections and appeals and the state fire marshal.

Approval by the state fire marshal for the operation of a business in a health care facility shall not be extended unless each part of the building housing a licensed health care facility comprising a distinct occupancy, as shown in

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Table 8-A*, is separated from the health care facility as specified in Table 8-C*. Any business within a physical structure housing a licensed health care facility with an occupancy separation of less than a two-hour fire resistance rating shall also meet the fire safety requirements which apply to the health care facility.

ITEM 5. Amend the caption preceding rule 661—5.600(100) as follows:

~~Existing and New Intermediate Care Facilities and Skilled Nursing Facilities~~

Amend rule 661—5.600(100) by adding the following introductory paragraph:

The following definitions apply to rules 661—5.600(100) to 661—5.649:

Amend subrule 5.600(1) as follows:

~~5.600(1) In these regulations "health care facility" or "facility" means any intermediate care facility or skilled nursing facility requiring license required to be licensed by the Iowa department of health inspections and appeals in accord with section 135C.6 of the Code Iowa Code chapter 135C.~~

Rescind and reserve subrule 5.600(2).

Rescind and reserve subrule 5.600(3).

Amend subrule 5.600(7) as follows:

~~5.600(7) "Patient" means an individual admitted to an intermediate care facility or skilled nursing facility in the manner described provided by Iowa Code section 135C.23 for care.~~

ITEM 6. Amend rule 661—5.601(100) as follows:

Amend the catchwords of rule 661—5.601(100) as follows:

~~661—5.601(100) Existing care facilities and skilled nursing facilities constructed prior to May 25, 1977.~~

Amend subrule 5.601(1), paragraph "a," as follows:

~~a. This subrule of the regulations rule shall apply to existing intermediate care facilities and skilled nursing facilities constructed prior to May 25, 1977, except for those undergoing structural alterations after that date, which must comply with the provisions of rule 661—5.602(100). They shall hereafter be referred to as health care facilities. This rule shall constitute the minimum requirements for existing facilities constructed prior to May 25, 1977, for approval by the state fire marshal's office. Further, and more stringent, requirements may be required imposed by other governmental divisions, agencies or political subdivisions, as a requirement for participation in various programs, or to comply with local codes and regulations.~~

Amend subrule 5.601(3), paragraph "e," by adding the following exceptions:

EXCEPTIONS:

1. Special locking arrangements complying with Exception 3 to subrule 5.53(3) may be permitted provided not more than one such device is located in any egress path.

2. In buildings protected throughout by approved supervised automatic smoke detection systems or approved supervised automatic sprinkler systems, alternate door locking arrangements may be permitted in special units for persons who suffer from chronic confusion or dementing illnesses, licensed under the authority of 1990 Iowa

Acts, chapter 1016, section 1, and 481 IAC 58.54(73GA,SF2221) or 481 IAC 59.58(73GA,SF2221), if the clinical needs of residents of the facility require specialized security measures to ensure their safety. When doors are locked, provisions shall be made for the rapid removal of occupants by reliable means such as remote control of locks or by keying all locks to keys readily available to staff in continuous attendance. Electromagnetic door locks may be permitted provided that doors unlock in each of the following circumstances:

- Loss of power to the electromagnet.
- Activation of the fire detection system.
- Activation of a release switch which must be located at the nurses' station serving the locked area.
- Activation of a release switch which must be located at each door.

Door locking arrangements permitted under Exception 1 or Exception 2 must be approved in writing by the state fire marshal. This approval may be revoked for cause at any time.

Rescind subrule 5.601(15), paragraph "b," and insert in lieu thereof the following:

b. Another business or activity shall not be carried out in a health care facility or in the same physical structure with a health care facility unless:

(1) The business is under the control of and is directly related to the operation of the health care facility, or

(2) The business is approved by the health facilities division of the Iowa department of inspections and appeals and the state fire marshal.

Approval by the state fire marshal for the operation of a business in a health care facility shall not be extended unless each part of the building housing a licensed health care facility comprising a distinct occupancy, as shown in Table 8-A, is separated from the health care facility as specified in Table 8-C. Any business within a physical structure housing a licensed health care facility with an occupancy separation of less than a two-hour fire resistance rating shall also meet the fire safety requirements which apply to the health care facility.

ITEM 7. Amend rule 661—5.602(100) as follows:

Amend the catchwords to rule 661—5.602(100) as follows:

~~661—5.602(100) New intermediate care facilities and skilled nursing facilities constructed on or after May 25, 1977.~~

Rescind subrule 5.602(1), paragraph "a," and insert in lieu thereof the following:

a. This rule shall apply to nursing facilities constructed on or after May 25, 1977, and to facilities constructed prior to May 25, 1977, which undergo structural alteration on or after May 25, 1977. It also applies to additions to facilities, when the additions are constructed on or after May 25, 1977. Alterations to facilities which are solely intended to meet the requirements of rule 661—5.601(100) are not covered by this rule. Further and more stringent requirements may be imposed by other government agencies and political subdivisions, as requirements for participation in various programs, or to comply with local codes and regulations.

Rescind and reserve subrule 5.602(1), paragraph "b."

Rescind and reserve subrule 5.602(1), paragraph "d."

Rescind the Exception to subrule 5.602(3), paragraph "e."

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Rescind the Exception to subrule 5.602(4), paragraph "e," and insert in lieu thereof the following two exceptions:

EXCEPTIONS:

1. Special locking arrangements complying with Exception 3 to subrule 5.53(3) may be permitted provided not more than one such device is located in any egress path.

2. In buildings protected throughout by approved supervised automatic smoke detection systems or approved supervised automatic sprinkler systems, alternate door locking arrangements may be permitted in units for persons who suffer from chronic confusion or dementing illnesses, licensed under the authority of 1990 Iowa Acts, chapter 1016, section 1, and 481 IAC 58.54(73GA,SF2221) or 481 IAC 59.58(73GA,SF2221), if the clinical needs of residents of the facility require specialized security measures to ensure their safety. When doors are locked, provisions shall be made for the rapid removal of occupants by reliable means such as remote control of locks or by keying all locks to keys readily available to staff in continuous attendance. Electromagnetic door locks may be permitted provided that doors unlock in each of the following circumstances:

- Loss of power to the electromagnet.
- Activation of the fire detection system.
- Activation of a release switch which must be located at the nurses' station serving the locked area.
- Activation of a release switch which must be located at each door.

Door locking arrangements permitted under Exception 1 or Exception 2 must be approved in writing by the state fire marshal. This approval may be revoked for cause at any time.

Amend subrule 5.602(17) as follows:

5.602(17) Occupancy restrictions.

a. A patient bedroom shall not be located in a room where the finish floor is more than 30 inches below the finish grade at the building.

b. Another business or activity shall not be carried out in a health care facility or in the same physical structure with a health care facility unless:

(1) The business is under the control of and is directly related to the operation of the health care facility, or

(2) The business is approved by the health facilities division of the Iowa department of inspections and appeals and the state fire marshal.

Approval by the state fire marshal for the operation of a business in a health care facility shall not be extended unless each part of the building housing a licensed health care facility comprising a distinct occupancy, as shown in Table 8-A, is separated from the health care facility as specified in Table 8-C. Any business within a physical structure housing a licensed health care facility with an occupancy separation of less than a two-hour fire-resistance rating shall also meet the fire safety requirements which apply to the health care facility.

ITEM 8. Rescind the existing Table 8-C following rule 661—5.809(100) and insert in lieu thereof the following:

TABLE 8-C—REQUIRED SEPARATION
IN BUILDINGS OF MIXED OCCUPANCY
(In Hours)

	A-1	A-2	A-2.1	A-3	A-4	B-1	B-2	B-3	B-4	E	H-1	H-2	H-3	H-4,5	I	M ²	R-1	R-3
I	3	3	3	3	3	4	2	4	4	1	NP ³	4	4	4	-	1	1	1
R-1	1	1	1	1	1	3 ¹	1	1	1	1	4	3	3	3	1	1	-	N
R-3	1	1	1	1	1	1	N	N	N	1	4	3	3	3	1	1	N	-

¹ The three-hour separation may be reduced to one hour where the Group B, Division 1 Occupancy, is limited to the storage of passenger motor vehicles having a capacity of not more than nine persons per vehicle and provided no repair or fueling is done and the area does not exceed 3,000 square feet in a building.

² In the one-hour occupancy separation between a Group R, Division 3 and M Occupancy, the separation may be limited to the installation of materials approved for one-hour fire-resistive construction on the garage side and a self-closing, tight fitting solid wood door in lieu of a one-hour fire assembly. Fire dampers shall not be required in ducts piercing this separation for ducts constructed of not less than No. 26 gauge galvanized steel.

³ Not permitted.

[Filed 4/24/92, effective 7/1/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2995A

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 17A.7, 476.1, and 476.2, the Utilities Board (Board) gives notice that on April 20, 1992, the Board issued an order in Docket No. RMU-91-16, In Re: Promotional Practices and Energy Efficiency Programs, "Order Adopting Rule Making."

On January 2, 1992, the Board issued an order commencing a rule making for the purpose of amending 199 IAC 16.2(7)"56," 16.2(8), 16.3(7)"56," 16.3(8), and 16.7(476). The proposed rule making was published in the Iowa Administrative Bulletin, Vol. XIV, No. 15 (1/22/92) p. 1276, as ARC 2708A.

The rule making was commenced in response to a petition filed by Iowa-Illinois Gas and Electric Company (Iowa-Illinois) on December 2, 1991. In its petition for rule making, Iowa-Illinois stated the promotion of energy efficiency programs should be excluded from the requirements of the promotional practices and advertising rules because the requirements could delay the implementation of energy efficiency programs. In addition, Iowa-Illinois contends energy efficiency advertising is already subject to review and oversight as part of the energy efficiency filings.

Seven commenters submitted written comments and two commenters appeared at the oral presentation held on March 26, 1992. All of the commenters supported the proposed amendments. Commenters included the Consumer Advocate Division of the Department of Justice, Iowa-Illinois Gas and Electric Company, Peoples Natural Gas Company, Iowa Southern Utilities Company, Waverly Light and Power Company, Iowa Public Service Company, Iowa Power Inc., and Iowa Electric Light and Power Company.

At the oral presentation, there was discussion of the possibility that a utility could abuse the exemption by including a small energy efficiency element in a large promotional practice and, according to the proposed amendments, the entire program would be exempt from the promotional practices filing rules. Iowa-Illinois commented at the oral presentation that this would not be a problem for programs proposed pursuant to 199 IAC 35 because the Board would have the opportunity to review the promotional practices. Therefore, the Board will modify the proposed amendments slightly by limiting the exemption to energy efficiency programs designed pursuant to 199 IAC 35. In all other respects, the amendments are identical to those published under the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 17A.4, 17A.7, 476.1, 476.2, and 476.17.

The amendments shall become effective June 17, 1992.

The following amendments are adopted.

ITEM 1. Amend paragraph 16.2(7)"56" by adding a new subparagraph (l) as follows:

(l) Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199 IAC 35.

ITEM 2. Amend subrule 16.2(8) as follows:

16.2(8) The uniform systems of accounts for electric utilities are modified to include the following:

424 Promotional Practices

This account shall include the cost of labor, materials used and expenses or losses incurred by the utility or an affiliate (where such costs are charged back to the company) on promotional practices, ~~including the following:~~ *Promotional practices, or programs which include promotional practices, and the labor, materials, and expenses related to promotional practices, which are exempted by subrule 16.7(2) need not be included in this account. The account shall include, but not be limited to, the following items:*

ITEM 3. Amend subrule 16.2(8) as follows:

426.7 Promotional Advertising Expenses

A. This account shall include the cost of labor, materials used, and expenses incurred in advertising designed to promote or retain the use of utility service, except (1) advertising the sale of merchandise, (2) or load factor advertising ~~by the utility, or (3) advertising which is part of a promotional practice, or a program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199 IAC 35.~~

ITEM 4. Amend paragraph 16.3(7)"56" by adding a new subparagraph (l) as follows:

(l) Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency.

ITEM 5. Amend subrule 16.3(8) as follows:

16.3(8) The uniform systems of accounts for gas utilities are modified to include the following:

424 Promotional Practices

This account shall include the cost of labor, materials used and expenses or losses incurred by the utility or an affiliate (where such costs are charged back to the company) on promotional practices, ~~including the following:~~ *Promotional practices, or programs which include promotional practices, and the labor, materials, and expenses related to promotional practices, which are exempted by subrule 16.7(2) need not be included in this account. The account shall include, but not be limited to, the following items:*

ITEM 6. Amend subrule 16.3(8) as follows:

426.7 Promotional Advertising Expenses

A. This account shall include the cost of labor, materials used, and expenses incurred in advertising designed to promote or retain the use of utility service, except (1) advertising the sale of merchandise, (2) or load factor advertising ~~by the utility, or (3) advertising which is part of a promotional practice, or a program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199 IAC 35.~~

ITEM 7. Amend rule 16.7(476) by adding a new subrule as follows:

16.7(2) Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and

UTILITIES DIVISION[199](cont'd)

are part of the utility's energy efficiency plan developed pursuant to 199 IAC 35 shall be deemed not to be a promotional practice for purposes of this rule and shall be exempt from the requirements of this rule.

[Filed 4/23/92, effective 6/17/92]
[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2996A**UTILITIES DIVISION[199]****Adopted and Filed**

The Utilities Board (Board) hereby gives notice that on April 20, 1992, the Board issued an order in Docket No. RMU-91-12, In Re: Flexible Transportation Rates and Flexible Charges, "Order Adopting Rules," pursuant to Iowa Code sections 476.1, 476.2, 476.8, and 17A.4 (1991), to consider amendments to 199 IAC 19.12(1), 19.12(3), 19.12(4), and 19.12(5).

The proposed rule making was published in the Iowa Administrative Bulletin, Vol. XIV, No. 9 (10/30/91) p. 785, as **ARC 2468A**. Written statements of position were filed on or before November 19, 1991, by Iowa-Illinois Gas and Electric Company (Iowa-Illinois), the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Iowa Electric Light and Power Company (Iowa Electric), Northern Natural Gas Company (NNG), Midwest Gas, a division of Iowa Public Service Company, Peoples Natural Gas Company, Division of UtiliCorp United Inc. (Peoples), and Iowa Southern Utilities Company (Iowa Southern). An oral presentation was held on January 14, 1992.

The Board proposed to amend the above subrules to clarify that the flexible rate rules also permit flexible rates for transportation customers. The Board also sought comments on whether the concept of flexible rates should be expanded to include take-or-pay charges and customer charges.

All commenters supported the amendments which clarify that rates for transportation customers are included in the flexible rate rules. The Board will, therefore, adopt those amendments which clarify that transportation customer rates can be discounted. With the exception of Consumer Advocate, all commenters also supported the amendment which would expand the permissible discounting of rates to include customer charges. Consumer Advocate opposed this amendment because it believes that customer charges are imposed to recover specific, identifiable costs which the utility incurs to serve a customer. According to the Consumer Advocate, these costs exist whether or not the customer buys any gas. If the customer charge is discounted, the utility is not foregoing some margin, it is failing to recover some of the costs it incurs to serve the customer. The Board will adopt the amendment to 199 IAC 19.12(3)"f," identified as Option Two, which permits a utility to discount customer charges. The concerns expressed by Consumer Advocate are valid concerns. However, as with discounted sales or discounted transportation services, the effects of the discount will be eliminated in a rate case by adjusting test

year revenues to remove the effects of the customer charge discount. It will be assumed for rate case purposes that customer charges were provided at the full tariffed rate. While the proposed rules did not specifically include this provision, the treatment accorded discounts to customer charges is consistent with the Board's treatment of other similar discounts.

The written comments filed in this docket regarding discounting of take-or-pay charges revealed a number of concerns with the proposed amendment. While Iowa-Illinois indicated its general support for the concept of flexible pricing for direct billed take-or-pay charges, it believes the same result could be accomplished through individual filings and waiver requests. It expressed concern with the possible effect of extending a discount to competing customers even though individual customer requirements are different since the impact could run counter to the general philosophy of spreading take-or-pay responsibility as broadly as possible. Iowa Southern generally supported the proposed amendment but questioned how discounts would be handled in the annual reconciliation. According to Consumer Advocate, it is unclear how the proposed rule would affect the purchased gas adjustment (PGA) rules regarding take-or-pay charges. Consumer Advocate cannot determine whether the failure to recover some take-or-pay charges due to discounting under the proposed flexible rate rules would be considered an underrecovery when the PGAs are reconciled and thus recoverable from other customers. There were several comments which indicated that the discount would likely be limited to incremental sales only. However, incremental sales were not defined in the proposed rules. The Board has considered all the comments, both written and oral, and will not adopt the proposed rule permitting discounting of take-or-pay charges. Rather, the Board finds that Iowa-Illinois' suggestion that the issue of discounts be addressed on a case-by-case basis is reasonable and preferable to a generic rule. It appears that the decision to offer a discount on take-or-pay charges is very fact specific, varying from utility to utility as well as from customer to customer which makes a generic application difficult. The Board, however, invites the utilities to make specific applications to offer take-or-pay discounts if it believes appropriate circumstances exist to justify the discount.

The Board does not believe additional public comment is necessary on the clarification regarding the treatment of discounts to customer charges in rate cases. The clarification is a necessary and logical outgrowth from the noticed rule.

These rules are intended to implement Iowa Code section 476.1 and 476.2 and will become effective on June 17, 1992, pursuant to Iowa Code section 17A.5.

The Board, having given due consideration to each of the comments received, adopts the following rules.

ITEM 1. Amend subrule 19.12(1) as follows:

19.12(1) Purpose. This subrule is intended to allow gas utility companies to offer, at their option, incentive or discount rates to their *sales and transportation* customers.

ITEM 2. Amend subrule 19.12(3), paragraph "c," as follows:

c. The floor for the discount *sales* rates shall be equal to the cost of gas. Therefore, the maximum discount allowed under the *sales or transportation* tariffs is equal to the nongas costs of serving the customer.

UTILITIES DIVISION[199](cont'd)

ITEM 3. Amend subrule 19.12(3) by adding a new paragraph "f" as follows:

f. Customer charges may be discounted.

ITEM 4. Amend subrule 19.12(4) as follows:

19.12(4) Reporting requirements. Each natural gas utility electing to offer flexible rates shall file semiannual reports with the ~~commission board~~ within 30 days of the end of each six months. Reports shall include the following information:

a. Section 1 of the report will concern discounts initiated in the last six months. For all discounts initiated in the last six months, the report shall include:

(1) The identity of the new customers (by account number, if necessary);

(2) The value of the discount offered;

(3) The cost-benefit analysis results;

(4) The cost of alternate fuels available to the customer, if relevant;

(5) The volume of gas sold to or transported for the customer in the preceding six months; and

(6) A copy of all new or revised flexible rate contracts executed between the utility and its customers.

b. Section 2 of the report relates to overall program evaluation. For all discounts currently being offered, the report shall include:

(1) The identity of each customer (by account number, if necessary);

(2) The total volume of gas sold or transported in the last six months to each customer at discounted rates, by month;

(3) The volume of gas sold or transported to each customer in the same six months of the preceding year, by month;

(4) The dollar value of the discount in the last six months to each customer, by month; and

(5) The dollar value of sales volumes sold or transported to each customer for each of the previous 12 months; and

(6) If customer charges are discounted, the dollar value of the discount shall be separately reported.

c. Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last six months, the report shall include:

(1) Customer identification (by account number, if necessary);

(2) The volume of gas sold or transported in the last six months to each customer, by month;

(3) The volume of gas sold or transported to each customer in the same six months of the preceding year, by month; and

(4) The dollar value of sales volumes sold or transported to each customer for each of the past 12 months.

d. No monthly report is required if the utility had no customers receiving a discount during the relevant period and had no customers which were evaluated for the discount and rejected during the relevant period.

ITEM 5. Amend subrule 19.12(5) as follows:

19.12(5) Rate case treatment. In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due

to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales or transportation services or customer charges were provided made at full tariffed rate for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

[Filed 4/23/92, effective 6/17/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.

ARC 2997A

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 17A.7, 476.1, 476.2, and 476.65, the Utilities Board (Board) gives notice that on April 17, 1992, the Board issued an order in Docket No. RMU-91-17, In Re: Rescission of I-SAVE Rules, "Order Adopting Rules."

On January 2, 1992, the Board issued an order in this docket commencing a rule making to consider the rescission of 199 IAC 27. The proposed rule making was published in the Iowa Administrative Bulletin, Vol. XIV, No. 15 (1/22/92) p. 1278, as ARC 2711A. The rule making was commenced in response to a petition filed by Iowa-Illinois Gas and Electric Company (Iowa-Illinois) on December 2, 1991. In general, the chapter requires the utilities to offer energy audit programs to each of its customers. The program is known as the "I-SAVE" program. According to Iowa-Illinois, the "I-SAVE" program has been superseded by the energy efficiency plan requirements of 199 IAC 35.

Six commenters filed written comments and two commenters appeared at an oral presentation held on March 24, 1992. All of the commenters support the rescission of 199 IAC 27. Commenters included the Consumer Advocate Division of the Department of Justice, Iowa-Illinois Gas and Electric Company, Iowa Power Inc., Iowa Public Service Company, Iowa Southern Utilities Company, Peoples Natural Gas Company, and Iowa Electric Light and Power Company.

The rescission of the chapter shall become effective June 17, 1992.

This rescission is intended to implement Iowa Code sections 17A.4, 17A.7, 476.1, 476.2, and 476.65.

The following amendment is adopted.

Rescind and reserve 199—Chapter 27.

[Filed 4/23/92, effective 6/17/92]

[Published 5/13/92]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/13/92.



SENATE JOINT RESOLUTION 2006

A JOINT RESOLUTION

TO NULLIFY ADMINISTRATIVE RULES RELATING TO NAIL TECHNOLOGY
ADOPTED BY THE BOARD OF COSMETOLOGY EXAMINERS AND PROVIDING
AN EFFECTIVE DATE.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

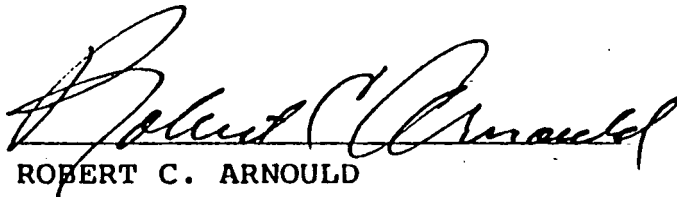
Section 1. Iowa administrative bulletin (IAB) Vol. XIV,
No. 15 (January 22, 1992), pp. 1280-1281, ARC 2712A, is
nullified and the administrative code editor shall remove it
from the Iowa administrative code.

Senate Joint Resolution 2006, p. 2

Sec. 2. This Joint Resolution, being deemed of immediate importance, takes effect upon enactment.

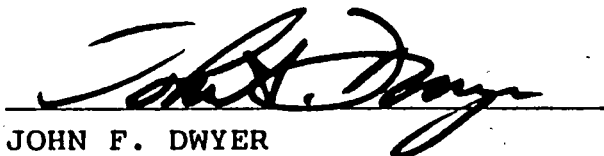


MICHAEL E. GRONSTAL
President of the Senate



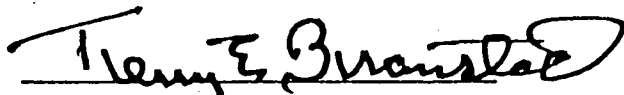
ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate Joint Resolution 2006, Seventy-fourth General Assembly.



JOHN F. DWYER
Secretary of the Senate

Approved April 13, 1992



TERRY E. BRANSTAD
Governor

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