



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

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 [12C.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.

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 Iowa Administrative Bulletin.

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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:

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Des Moines, IA 50319
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FILING DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 4 '92	Dec. 23 '92	Jan. 12	Jan. 27	Feb. 17	Mar. 24	June 21
Dec. 18 '92	Jan. 6	Jan. 26	Feb. 10	Mar. 3	Apr. 7	July 5
Jan. 1	Jan. 20	Feb. 9	Feb. 24	Mar. 17	Apr. 21	July 19
Jan. 15	Feb. 3	Feb. 23	Mar. 10	Mar. 31	May 5	Aug. 2
Jan. 29	Feb. 17	Mar. 9	Mar. 24	Apr. 14	May 19	Aug. 16
Feb. 12	Mar. 3	Mar. 23	Apr. 7	Apr. 28	June 2	Aug. 30
Feb. 26	Mar. 17	Apr. 6	Apr. 21	May 12	June 16	Sept. 13
Mar. 12	Mar. 31	Apr. 20	May 5	May 26	June 30	Sept. 27
Mar. 26	Apr. 14	May 4	May 19	June 9	July 14	Oct. 11
Apr. 9	Apr. 28	May 18	June 2	June 23	July 28	Oct. 25
Apr. 23	May 12	June 1	June 16	July 7	Aug. 11	Nov. 8
May 7	May 26	June 15	June 30	July 21	Aug. 25	Nov. 22
May 21	June 9	June 29	July 14	Aug. 4	Sept. 8	Dec. 6
June 4	June 23	July 13	July 28	Aug. 18	Sept. 22	Dec. 20
June 18	July 7	July 27	Aug. 11	Sept. 1	Oct. 6	Jan. 3 '94
July 2	July 21	Aug. 10	Aug. 25	Sept. 15	Oct. 20	Jan. 17 '94
July 16	Aug. 4	Aug. 24	Sept. 8	Sept. 29	Nov. 3	Jan. 31 '94
July 30	Aug. 18	Sept. 7	Sept. 22	Oct. 13	Nov. 17	Feb. 14 '94
Aug. 13	Sept. 1	Sept. 21	Oct. 6	Oct. 27	Dec. 1	Feb. 28 '94
Aug. 27	Sept. 15	Oct. 5	Oct. 20	Nov. 10	Dec. 15	Mar. 14 '94
Sept. 10	Sept. 29	Oct. 19	Nov. 3	Nov. 24	Dec. 29	Mar. 28 '94
Sept. 24	Oct. 13	Nov. 2	Nov. 17	Dec. 8	Jan. 12 '94	Apr. 11 '94
Oct. 8	Oct. 27	Nov. 16	Dec. 1	Dec. 22	Jan. 26 '94	Apr. 25 '94
Oct. 22	Nov. 10	Nov. 30	Dec. 15	Jan. 5 '94	Feb. 9 '94	May 9 '94
Nov. 5	Nov. 24	Dec. 14	Dec. 29	Jan. 19 '94	Feb. 23 '94	May 23 '94
Nov. 19	Dec. 8	Dec. 28	Jan. 12 '94	Feb. 2 '94	Mar. 9 '94	June 6 '94
Dec. 3	Dec. 22	Jan. 11 '94	Jan. 26 '94	Feb. 16 '94	Mar. 23 '94	June 20 '94
Dec. 17	Jan. 5 '94	Jan. 25 '94	Feb. 9 '94	Mar. 2 '94	Apr. 6 '94	July 4 '94
Dec. 31	Jan. 19 '94	Feb. 8 '94	Feb. 23 '94	Mar. 16 '94	Apr. 20 '94	July 18 '94

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
26	Friday, June 4, 1993	June 23, 1993
1	Friday, June 18, 1993	July 7, 1993
2	Friday, July 2, 1993	July 21, 1993

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.

A T T E N T I O N

TO: Administrative Rules Coordinators and Text Processors of State Agencies
 FROM: Phyllis Barry, Iowa Administrative Code Editor
 SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Iowa Administrative Code Division is using a PC system to assist in the printing of the Iowa Administrative Bulletin. In order to most effectively transfer rules from the various agencies sending their rules on a diskette, please note the following:

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Your cooperation helps us to print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

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

Administrative Code Division
 Lucas State Office Building, 4th Floor

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Administrative Rules Coordinator
 Capitol, Ground Floor, Room 11

The Administrative Rules Review Committee will hold its regular, statutory meeting Tuesday, June 8, 1993, 10 a.m. and Wednesday, June 9, 1993, 9 a.m. in Senate Committee Room 22, State Capitol. The following rules will be reviewed:

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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]	
Waiver of negative testing requirements for goats from class "free" states (brucellosis and tuberculosis) for exhibition and extension of eligibility for exhibition on negative test from 75 to 90 days, 64.34(3), <u>Filed ARC 4000A</u>	5/26/93
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 Nursery stock sale to public — prices, 71.3, Filed **ARC 3991A** 5/26/93
 Ginseng harvesting and sale, ch 78, Filed **ARC 4003A** 5/26/93
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 Wild turkey fall hunting, 99.1, 99.4, Filed **ARC 3990A** 5/26/93
 Crow season, 100.1, Filed **ARC 3995A** 5/26/93
 Deer hunting, ch 106, Filed **ARC 3996A** 5/26/93
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PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Mortuary science examiners — educational requirements, 101.1(3), 101.2(5) to 101.2(8), 101.2(11), 101.98(1) and (2), 101.102(4), 101.205, <u>Notice ARC 3978A</u>	5/26/93
Optometry examiners — conduct for licensure examination, method for reexamination, passing scores, statements made in advertising, 180.4, 180.5(3)"c" and "e" to "g," 180.115(6), <u>Filed ARC 4004A</u>	5/26/93
Optometry — prescription, 180.9, <u>Notice ARC 3360A Terminated ARC 3989A</u>	5/26/93
Podiatry examiners — U.C.C.R. fees, yearly report, 220.5(3)"a" and "c," <u>Filed ARC 3965A</u>	5/12/93

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Commission approval of contracts and business arrangements, change of custody when drug testing a licensee, greyhound and thoroughbred racing, 4.1, 4.27(2), 4.28, 4.29, 5.8, 7.1, 7.5(9), 7.6(18), 7.7(6), 7.9(4)"e" and "f," 7.10(3), 10.4(1), 10.4(1)"d," 10.4(16)"a"(8), 10.4(16)"a"(12) to (15), 10.4(16)"c"(7), 10.4(16)"d"(1) and (6), 10.4(17)"b"(6) to (11), 10.5(1)"g," 10.5(2)"h" and "k," 10.5(6)"b," 10.5(16)"f," 10.5(17)"a"(1)"2," 10.5(17)"f," 24.14(7), <u>Filed ARC 3955A</u>	5/12/93
Steward control over patrons violating commission rules, first-aid room during simulcasting, 4.3"1," 7.8(4)"e," 10.2(6)"a"(1), 10.2(6)"b"(4), 10.6(1)"g," 10.6(2)"i," 12.12, <u>Notice ARC 3953A</u> , also <u>Filed Emergency ARC 3954A</u>	5/12/93

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Prelicensure education and continuing education requirements, 3.2, 3.2(1), 3.2(2), 3.2(4), 3.2(5), 3.3(5), 3.3(9), 3.3(9)"a," 3.4(1)"e," <u>Notice ARC 3982A</u>	5/26/93
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REVENUE AND FINANCE DEPARTMENT[701]

Iowa sales tax exemption for purchases from certain organizations that are instrumentalities of the federal government, 17.5, 17.7, <u>Notice ARC 3987A</u>	5/26/93
Assessments qualifying for abatement, voluntary withholding of state income tax from payments of deferred compensation, pensions, and annuities to nonresidents, 43.5(1), 46.4(7), <u>Notice ARC 3986A</u>	5/26/93

SUBSTANCE ABUSE COMMISSION[643]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Criteria for awards or grants, ch 2, <u>Filed ARC 3971A</u>	5/26/93
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TRANSPORTATION DEPARTMENT[761]

Route of travel for overweight axles to or from a construction project, 128.1, <u>Filed ARC 3960A</u>	5/12/93
Motor vehicles, motor carriers, amendments to chs 410, 500, 505, 511, 523, 525, 528, <u>Delayed 70 days at the May ARRC meeting</u>	4/28/93

TREASURER OF STATE[781]

Deposit and security of public funds in credit unions, ch 14, <u>Notice ARC 3773A Terminated ARC 3951A</u>	5/12/93
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UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Filing of revised revenue requirement in proposed settlements, 7.2(11)"a," <u>Amended Notice ARC 4013A</u>	5/26/93
Interest on customer deposits, 19.4(3), 20.4(4), 21.4(2)"e," 22.4(2)"b," <u>Notice ARC 3964A</u>	5/12/93

VETERANS AFFAIRS COMMISSION[801]

Contested cases, ch 8, <u>Notice ARC 3806A Terminated ARC 3945A</u>	5/12/93
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NOTE: See p. 2365 herein for a listing of Administrative Rules Review Committee members.

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
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]		
Pseudorabies — program areas, monitored feeder pig herd, 64.153(1), 64.156(2) IAB 5/26/93 ARC 3999A	Conference Room Second Floor North Wallace State Office Bldg. Des Moines, Iowa	June 15, 1993 10 a.m. to 12 noon
EDUCATION DEPARTMENT[281]		
School fees, ch 18 IAB 5/26/93 ARC 4005A	State Board Room — 2nd Floor Grimes State Office Bldg. Des Moines, Iowa	June 15, 1993 1 p.m.
EMERGENCY MANAGEMENT DIVISION[605]		
Criteria for awards or grants, ch 8 IAB 5/26/93 ARC 3977A (See also ARC 3976A herein)	Emergency Management Division Hoover State Office Bldg. Des Moines, Iowa	June 15, 1993 9:30 a.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Agency consent for the sale of goods and services, 1.11 IAB 5/12/93 ARC 3969A	Conference Room Fifth Floor East Wallace State Office Bldg. Des Moines, Iowa	June 1, 1993 9 a.m.
Unregulated contaminant definition; inorganic, volatile organic and synthetic organic chemicals; water supply laboratory certification; new source water monitoring, 40.2, 41.2 to 41.6, 41.10, 41.11, 42.4, 43.3, 43.7 IAB 5/12/93 ARC 3970A	Conference Room Fifth Floor East Wallace State Office Bldg. Des Moines, Iowa	June 1, 1993 10 a.m.
Water supplies — technical corrections, amendments to ch 41 IAB 5/12/93 ARC 3967A	Conference Room Fifth Floor East Wallace State Office Bldg. Des Moines, Iowa	June 1, 1993 10 a.m.
HUMAN SERVICES DEPARTMENT[441]		
Eligibility for SSI-related Medicaid, 75.13(2), 76.2(3) IAB 5/12/93 ARC 3946A	Conference Room — 6th Floor 221 4th Ave. S.E. Cedar Rapids, Iowa	June 2, 1993 10 a.m.
	Lower Level 417 E. Kanesville Blvd. Council Bluffs, Iowa	June 2, 1993 10 a.m.
	Conference Room 3 Bicentennial Building — 5th Floor 428 Western Davenport, Iowa	June 7, 1993 10 a.m.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

June 3, 1993
10:30 a.m.

Mohawk Square
22 N. Georgia Ave.
Mason City, Iowa

June 3, 1993
10 a.m.

Conference Room
120 East Main
Ottumwa, Iowa

June 4, 1993
10 a.m.

Suite 624
507 7th St.
Sioux City, Iowa

June 3, 1993
1 p.m.

Conference Rooms 420/422
Pinecrest Office Bldg.
1407 Independence Ave.
Waterloo, Iowa

June 2, 1993
10 a.m.

JOB SERVICE DIVISION[345]

Claims and benefits, benefit payment control,
4.2, 4.6, 4.24(12), 4.25, 4.26, 5.7(6)
IAB 5/12/93 ARC 3962A

Division of Job Service
1000 E. Grand Ave.
Des Moines, Iowa

June 2, 1993
9:30 a.m.

LABOR SERVICES DIVISION[347]

General industry safety and health —
cadmium, 10.20
IAB 5/26/93 ARC 4014A

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

June 17, 1993
9 a.m.
(If requested)

Construction safety and health —
cadmium, 26.1
IAB 5/26/93 ARC 4015A

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

June 17, 1993
9 a.m.
(If requested)

Occupational safety and health for
agriculture — cadmium, 28.1
IAB 5/26/93 ARC 3985A

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

June 17, 1993
9 a.m.
(If requested)

LIVESTOCK HEALTH ADVISORY COUNCIL[521]

Recommendations — appropriation for
research into livestock diseases, ch 1
IAB 4/14/93 ARC 3908A

Conference Room
Iowa Pork Producers Assn.
West Des Moines, Iowa

June 15, 1993
10 a.m.

NATURAL RESOURCE COMMISSION[571]

Hunting license — general,
15.6
IAB 5/26/93 ARC 4002A

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

June 16, 1993
9 a.m.

Boating speed on Crystal Lake,
Hancock County, 40.37
IAB 5/26/93 ARC 3994A

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

June 16, 1993
10 a.m.

RACING AND GAMING COMMISSION[491]

Stewards control over patrons and first-aid room during simulcasting, 4.3, 7.8(4), 10.2(6), 10.6, 12.12
 IAB 5/12/93 ARC 3953A
 (See also ARC 3954A)

Commission Office
 Second Floor
 Lucas State Office Bldg.
 Des Moines, Iowa

June 1, 1993
 9 a.m.

UTILITIES DIVISION[199]

Filing of revised revenue requirement in proposed settlements, 7.2(11)"a"
 IAB 5/26/93 ARC 4013A

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

June 21, 1993
 10 a.m.

Interest rate paid on customer deposits, 19.4(3), 20.4(4), 21.4(2)"e," 22.4(2)"b"
 IAB 5/12/93 ARC 3964A

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

June 24, 1993
 10 a.m.

North American numbering plan change — toll dialing, 22.21
 IAB 4/28/93 ARC 3943A

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

June 1, 1993
 10 a.m.

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:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

- Agricultural Development Authority[25]
- Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CAMPAIGN FINANCE DISCLOSURE COMMISSION[121]

CITIZENS' AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

- Alcoholic Beverages Division[185]
- Banking Division[187]
- Credit Union Division[189]
- Insurance Division[191]
- Professional Licensing and Regulation Division[193]
 - Accountancy Examining Board[193A]
 - Architectural Examining Board[193B]
 - Engineering and Land Surveying Examining Board[193C]
 - Landscape Architectural Examining Board[193D]
 - Real Estate Commission[193E]
 - Real Estate Appraiser Examining Board[193F]
- Savings and Loan Division[197]
- Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

- Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

- Arts Division[222]
- Historical Division[223]
- Library Division[224]
- Public Broadcasting Division[225]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

- City Development Board[263]
- Iowa Finance Authority[265]
- High Technology Council[267]

EDUCATION DEPARTMENT[281]

- Educational Examiners Board[282]
- College Student Aid Commission[283]
- Higher Education Loan Authority[284]
- Iowa Advance Funding Authority[285]
- School Budget Review Committee[289]

EGG COUNCIL[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPLOYMENT SERVICES DEPARTMENT[341]

- Industrial Services Division[343]
- Job Service Division[345]
- Labor Services Division[347]

EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 GENERAL SERVICES DEPARTMENT[401]
 HEALTH DATA COMMISSION[411]
 HUMAN RIGHTS DEPARTMENT[421]
 Children, Youth, and Families Division[425]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services, Division of [429]
 Persons With Disabilities Division[431]
 Spanish-Speaking People Division[433]
 Status of Blacks Division[434]
 Status of Women Division[435]
 HUMAN SERVICES DEPARTMENT[441]
 INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
 INTERNATIONAL NETWORK ON TRADE(INTERNET)[497]
 LAW ENFORCEMENT ACADEMY[501]
 LIVESTOCK HEALTH ADVISORY COUNCIL[521]
 MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
 NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
 NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board[575]
 PERSONNEL DEPARTMENT[581]
 PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
 PREVENTION OF DISABILITIES POLICY COUNCIL[597]
 PUBLIC DEFENSE DEPARTMENT[601]
 Emergency Management Division[605]
 Disaster Services Division[607]
 Military Division[611]
 PUBLIC EMPLOYMENT RELATIONS BOARD[621]
 PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners[650]
 Medical Examiners[653]
 Nursing Board[655]
 Pharmacy Examiners[657]
 PUBLIC SAFETY DEPARTMENT[661]
 RECORDS COMMISSION[671]
 REGENTS BOARD[681]
 Archaeologist[685]
 REVENUE AND FINANCE DEPARTMENT[701]
 Lottery Division[705]
 SECRETARY OF STATE[721]
 SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
 TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority, Iowa[765]
 TREASURER OF STATE[781]
 UNIFORM STATE LAWS COMMISSION[791]
 VETERANS AFFAIRS COMMISSION[801]
 VETERINARY MEDICINE BOARD[811]
 VOTER REGISTRATION COMMISSION[821]
 WALLACE TECHNOLOGY TRANSFER FOUNDATION[851]

REORGANIZATION—NOT IMPLEMENTED

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

Citizens' Aide[210]

Iowa Advance Funding Authority[515]

Product Development Corporation[636]

Records Commission[710]

ARC 3999A

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

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

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

Pursuant to the authority of the Iowa Code sections 159.5(11), 159.6(2), 163.1(1), 166D.1, and 166D.16, the Iowa Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 64, "Infectious and Contagious Diseases," Pseudorabies Disease Segment, Iowa Administrative Code.

The amendments add program areas (counties) and remove some test schedules for establishing and maintaining an Iowa monitored feeder pig herd.

Any interested person may make written comments on these proposed amendments on or before June 15, 1993. Written comments should be addressed to Walter D. Felker, D.V.M., State Veterinarian, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

A public hearing will be held on June 15, 1993, from 10 a.m. to 12 noon in the Second Floor North Conference Room, Wallace State Office Building, Des Moines.

These amendments are intended to implement Iowa Code sections 166D.5 and 166D.7.

The following amendments are proposed.

ITEM 1. Amend subrule 64.153(1) as follows:

64.153(1) Pseudorabies disease program areas as declared by the Iowa department of agriculture and land stewardship: counties of *Allamakee*, Audubon, Benton, Black Hawk, Bremer, Buchanan, Buena Vista, Butler, Calhoun, *Carroll*, Cass, Cedar, *Cerro Gordo*, Cherokee, *Chickasaw*, Clay, Clayton, Clinton, *Crawford*, *Dallas*, *Delaware*, Des Moines, Dickinson, *Dubuque*, Fayette, *Floyd*, Franklin, *Greene*, Grundy, Guthrie, Hamilton, Hardin, *Harrison*, Henry, *Howard*, Humboldt, Ida, *Iowa*, *Jackson*, Jasper, Jefferson, *Johnson*, *Jones*, Keokuk, Lee, Linn, Louisa, Lyon, Mahaska, Marshall, *Mitchell*, *Muscatine*, O'Brien, Osceola, *Palo Alto*, Plymouth, Pocahontas, Pottawattamie, Poweshiek, Sac, Scott, Shelby, Sioux, Story, Tama, *Wapello*, Washington, Webster, Winneshiiek, *Woodbury*, *Worth*, and Wright. The department may designate additional counties as provided for in Iowa Code section 166D.4.

ITEM 2. Rescind subrule 64.156(2) and insert the following new language:

64.156(2) Iowa monitored feeder pig herd.

a. Test requirements for a monitored feeder pig herd status include a negative herd test every 12 months of randomly selected breeding animals according to the following schedule:

1-10 head	Test all
11-35 head	Test 10
36 or more	Test 30 percent or 30, whichever is less

b. A monitored identification card will be sent by first-class mail to the herd owner shown on the test chart if test results qualify the herd as monitored. An expiration date which is 12 months from the date that the certifying tests were drawn will be printed on the card.

It is the owner's responsibility to retest the herd annually. The monitored status is voided on the date of expiration. A monitored herd status is revoked if:

1. A positive test is recognized and interpreted by a pseudorabies epidemiologist and interpreted as infected.
2. Pseudorabies infection is diagnosed.
3. Recertification test is not done on time.
4. Not enough tests, according to herd size and vaccination status, are submitted.

c. Additions of swine to a monitored herd shall be from noninfected herds, according to Iowa Code section 166D.7.

NOTICE—AGRICULTURAL CREDIT CORPORATION MAXIMUM LOAN RATE

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

August 1, 1990 – August 31, 1990	9.80%
September 1, 1990 – September 30, 1990	9.55%
October 1, 1990 – October 31, 1990	9.55%
November 1, 1990 – November 30, 1990	9.50%
December 1, 1990 – December 31, 1990	9.05%
January 1, 1991 – January 31, 1991	9.15%
February 1, 1991 – February 28, 1991	8.70%
March 1, 1991 – March 31, 1991	8.20%
April 1, 1991 – April 30, 1991	8.25%
May 1, 1991 – May 31, 1991	8.00%
June 1, 1991 – June 30, 1991	7.75%
July 1, 1991 – July 31, 1991	7.75%
August 1, 1991 – August 31, 1991	7.60%
September 1, 1991 – September 30, 1991	7.70%
October 1, 1991 – October 31, 1991	7.55%
November 1, 1991 – November 30, 1991	7.25%
December 1, 1991 – December 31, 1991	6.95%
January 1, 1992 – January 31, 1992	6.65%
February 1, 1992 – February 29, 1992	6.05%
March 1, 1992 – March 31, 1992	6.00%
April 1, 1992 – April 30, 1992	6.10%
May 1, 1992 – May 31, 1992	6.20%
June 1, 1992 – June 30, 1992	5.85%
July 1, 1992 – July 31, 1992	5.70%
August 1, 1992 – August 31, 1992	5.35%
September 1, 1992 – September 30, 1992	5.10%
October 1, 1992 – October 31, 1992	4.90%
November 1, 1992 – November 30, 1992	4.75%
December 1, 1992 – December 31, 1992	5.00%
January 1, 1993 – January 31, 1993	5.15%
February 1, 1993 – February 28, 1993	5.00%
March 1, 1993 – March 31, 1993	4.85%
April 1, 1993 – April 30, 1993	4.85%
May 1, 1993 – May 31, 1993	4.75%

ARC 4005A**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7, the Iowa State Board of Education hereby gives Notice of Intended Action to adopt Chapter 18, "School Fees," Iowa Administrative Code.

The proposed new chapter consolidates and reiterates the provisions of Iowa law authorizing the charging of student fees by public school districts, requires the boards of public school districts to adopt a policy on the charging of fees, provides that the policy so adopted must include a provision for waiving student fees for qualifying low-income families, and authorizing the reduction of fees for other low-income families. The chapter also requires that schools provide a written notice of fees charged to each student enrolled upon registration or enrollment and that the notice include an application for reduction or waiver of fees. In addition, the chapter establishes that each school district designate one or more individuals to make determinations as to an applicant's eligibility for reduction or waiver of student fees and that such determinations be made in writing and include a reason and a reference to a confidential appeal process within the district for review of denials of waivers. Appeals from local school district denials may be made to the Director of Education within 30 days of the receipt of a denial of a request for a fee waiver.

Any interested person may submit written or oral comments on the proposed chapter by addressing those comments to Kathy L. Collins, Legal Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146, (515)281-5295, by June 18, 1993.

A public hearing on the proposed chapter will be held on June 15, 1993, at 1 p.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa.

This chapter is intended to implement Iowa Code sections 280.10, 280.11, 282.6, and 301.1.

The following chapter is proposed:

**CHAPTER 18
SCHOOL FEES**

281—18.1(256) Policy. It is the policy of the department of education that no Iowa student enrolled in a public school is excluded from participation in or denied the benefits of any school-sponsored program or activity due to the student's or the student's parent's or guardian's financial inability to pay a fee associated with the class, program, or activity.

281—18.2(256) Permissible fees. Under the statutes of Iowa, schools may legally charge students a fee for textbooks and school supplies (Iowa Code §301.1), eye and ear protective devices (Iowa Code §280.10, §280.11), and

an instructional fee for driver education (Iowa Code §282.6). The board of directors of a public school shall adopt a policy regarding the charging of fees for materials and activities related to the educational program. No school employee may charge a fee to a student for school materials or activities unless that fee has been approved by the board of directors pursuant to its policy.

281—18.3(256) Waiver or reduction of student fees. The policy required by rule 18.2(256) shall include provisions for granting a waiver of student fees if the student or the student's family meets income eligibility guidelines adopted by the board. The policy may include provisions for reducing student fees charged on a straight percentage of the income eligibility guidelines or on a sliding scale related to an ability to pay. The eligibility criteria for waiver and reduction of fees shall be based upon eligibility for free and reduced price meals at school, Aid to Families with Dependent Children (AFDC), or Supplemental Security Income (SSI) guidelines, or if the student is in foster care any fees shall also be waived. The policy shall also include provisions for waiver or reduction of fees in the event of a temporary financial difficulty in the student's immediate family, such as layoffs, major illness, or other substantial loss of income.

18.3(1) Applications. The policy shall include a description of the confidential application process and shall provide that a written decision be issued to the applicant within a reasonable time. If the application is denied, the decision shall include the reason for the denial.

18.3(2) Appeals. The policy shall include a provision for a confidential review of any denial by a person or persons designated by the board of directors upon request and the manner in which an appeal may be taken. If the decision on review is again to deny the application, the decision maker shall notify the applicant in writing that the applicant may appeal the denial to the director of education by filing a notarized statement within 30 days of the applicant's receipt of the final decision of the district.

18.3(3) Distribution of policy and applications. The school district policy on charging fees, the waiver and reduction policy including income guidelines, and the application for waiver shall be distributed to all registrants for school at the time of registration or enrollment. For students or families whose primary language is other than English, the school shall provide a copy of the materials in the student's native language or arrange for a prompt translation of the materials.

281—18.4(256) Fees covered. The policy established by the board of directors shall apply to any fees charged for materials, books including workbooks, supplies, locks or lockers, or equipment purchase or rental related to any required or elective course. The term "fee" does not include a charge related to the purchase of class rings, yearbooks, school pictures, letter jackets, and similar items. Fines assessed for damage or loss to school property are not fees and need not be waived.

Nothing in this chapter shall be construed to authorize the charging of a fee for which there is no authority in law.

281—18.5(256) Effective date. These rules are effective for the 1994-95 school year and thereafter.

These rules are intended to implement Iowa Code sections 280.10, 280.11, 282.6, and 301.1.

ARC 3977A**EMERGENCY MANAGEMENT
DIVISION[605]****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 29C.9, the Emergency Management Division gives Notice of Intended Action to create a new Chapter 8, "Criteria for Awards or Grants," Iowa Administrative Code.

The proposed rules set forth the mechanism to administer federal grants soon to be awarded under the Hazardous Material Transportation Uniform Safety Act. The grant moneys will be utilized to fulfill emergency planning and training requirements.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on June 15, 1993. Interested persons may submit written comments to the Iowa Emergency Management Division, Hoover State Office Building, Des Moines, Iowa 50319.

A public hearing will be held on June 15, 1993, at 9:30 a.m. in the Office of Emergency Management Division, Hoover State Office Building, Des Moines, Iowa. Individuals interested in providing comments at the hearing should contact Frances Hill at (515)281-3231 by 4 p.m. on June 14, 1993, to be placed on the hearing agenda.

These rules are intended to implement Iowa Code section 29C.13.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 3976A**. The content of that filing is incorporated by reference.

ARC 3981A**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 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 1, "Administration," Iowa Administrative Code.

The proposed rules rescind current rules for declaratory rulings and rule making. In lieu of the current rules, the Board proposes the more detailed uniform rules for these subjects.

Any interested person may make written or oral suggestions or comments on these proposed rules on or before June 15, 1993, by contacting Patricia Peters, 1918 S.E. Hulsizer, Ankeny, Iowa 50021; telephone (515)281-5602.

These rules are intended to implement Iowa Code section 17A.3.

ITEM 1. Rescind 193C—1.2(114) in its entirety and insert in lieu thereof the following **new** rule:

193C—1.2(17A) Petition for declaratory ruling. Any person or board may file a petition with the board for a declaratory ruling concerning the applicability of any statute, rule, policy, decision, or order administered by the board. A petition is deemed filed when it is received by the board office. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board with an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

**IOWA ENGINEERING AND LAND SURVEYING
EXAMINING BOARD**

Petition by (Name of Petitioner)) PETITION FOR
for a Declaratory Ruling on) DECLARATORY
(Cite Provisions of Law Involved.)) RULING

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the ruling is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders whose applicability is questioned, and any other relevant law.
3. The questions the petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory ruling and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been directed by, are pending determination by, or are under investigation by any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions in the petition.
8. Any request by petitioner for a meeting as provided for by subrule 1.2(3).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

1.2(1) Briefs. The petitioner may attach a brief to the petition in support of the position urged in the petition. The board may request a brief from the petitioner or from any other person concerning the questions raised in the petition.

1.2(2) Inquiries. Inquiries concerning the status of a petition for a declaratory ruling may be made to the Executive Secretary at 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

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

1.2(3) Board consideration. Upon request by petitioner in the petition, the board must schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of the staff of the board, to discuss the petition. The board may request the petitioner to submit additional information or argument concerning the petition. The board may solicit comments from any person on the questions presented in the petition. Also, comments on those questions may be submitted to the board by any person.

Within thirty days after the filing of the petition, or within any longer period agreed to by the petitioner, the board must, in writing, issue a ruling on the petition or refuse to do so. The board is deemed to have issued a ruling or to have refused to do so on the date the ruling or refusal is mailed or delivered to petitioner.

1.2(4) Refusal to issue ruling. The board may refuse to issue a declaratory ruling for good cause. Good cause includes, but is not limited to, the following reasons:

1. The petition does not substantially comply with the required form.

2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board to issue a ruling.

3. The board does not have jurisdiction over the questions presented in the petition.

4. The questions presented by the petition are also presented in current rule making, contested case, or other board or judicial proceeding, that may definitively resolve them.

5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.

7. There is no need to issue a ruling because the questions raised in the petition have been settled due to a change in circumstances.

8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a board decision already made.

9. The petition requests a declaratory ruling that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.

10. The petitioner requests the board to determine whether a statute is unconstitutional on its face.

A refusal to issue a declaratory ruling must indicate the specific grounds for the refusal and constitutes final board action on the petition.

Refusal to issue a declaratory ruling pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the board's refusal to issue a ruling.

1.2(5) Contents of declaratory ruling—effective date. In addition to the ruling itself, a declaratory ruling must contain the date of its issuance, the name of petitioner, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory ruling is effective on the date of issuance.

1.2(6) Effect of a declaratory ruling. A declaratory ruling is binding on the board and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those contained in the petition. As to all other persons, a declaratory ruling serves only as precedent and is not binding on the board. The issuance of a declaratory ruling constitutes final board action on the petition.

ITEM 2. Rescind 193C—1.3(114) in its entirety and insert the following new rule in lieu thereof:

193C—1.3(17A) Petition for rule making. Any person or board may file a petition for rule making with the board at 1918 S.E. Hulsizer, Ankeny, Iowa 50021. A petition is deemed filed when it is received by that office. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board with an extra copy for this purpose. The petition must be typewritten, or legibly handwritten in ink, and must substantially conform to the following form:

**IOWA ENGINEERING AND LAND SURVEYING
EXAMINING BOARD**

Petition by (Name of Petitioner))	
for the (adoption, amendment, or)	PETITION FOR
repeal) of rules relating to)	RULE MAKING
(state subject matter).)	

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.

2. A citation to any law deemed relevant to the board's authority to take the action urged or to the desirability of that action.

3. A brief summary of petitioner's arguments in support of the action urged in the petition.

4. A brief summary of any data supporting the action urged in the petition.

5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.

6. Any request by petitioner for a meeting as provided for by subrule 1.3(3).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

The board may deny a petition because it does not substantially conform to the required form.

1.3(1) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The board may request a brief from the petitioner or from any other person concerning the substance of the petition.

1.3(2) Inquiries. Inquiries concerning the status of a petition for rule making may be made to Executive Secretary, 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

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

1.3(3) Board consideration. Upon request by petitioner in the petition, the board must schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of the staff of the board, to discuss the petition. The board may request the petitioner to submit additional information or argument concerning the petition. The board may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the board by any person.

Within sixty days after the filing of the petition, or within any longer period agreed to by the petitioner, the board must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the board mails or delivers the required notification to petitioner.

Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the board's rejection of the petition.

ARC 3984A**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes to amend Chapter 54, "Facility Participation," appearing in the Iowa Administrative Code.

These amendments correct procedures for payments to new residential care facilities and new owners of residential care facilities which inadvertently were not changed to correspond to changes previously adopted removing the requirement that residential care facilities submit six-month cost reports (see **ARC 3517A** in the November 11, 1992, Iowa Administrative Bulletin). In addition, Iowa Administrative Code references are corrected.

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 16, 1993.

These amendments are intended to implement Iowa Code section 249.12.

The following amendments are proposed.

ITEM 1. Amend rule 441—54.3(249) as follows:

Amend subrule **54.3(11)**, paragraph "e," subparagraph (3), as follows:

(3) Each facility which supplies transportation services as defined in Iowa Code section 601J.1, subsection 1, shall provide current documentation of compliance with or exemption from public transit coordination requirements as found in Iowa Code chapter 601J and ~~820—[09,A] chapter—2 761—Chapter 910~~ of the department of transportation rules at the time of annual contract renewal. Failure to cooperate in obtaining or in providing the required documentation of compliance or exemption after receipt from the Iowa department of transportation, public transit division, shall result in disallowance of vehicle costs and other costs associated with transporting residents.

Further amend subrule **54.3(11)**, paragraph "n," as follows:

n. Depreciation, interest and other capital costs attributable to construction of new facilities, expanding existing facilities, or the purchase of an existing facility, are allowable expenses only if prior approval has been gained through the health planning process specified in rules of the public health department, ~~470—chapter—201 641—Chapter 201.~~

Amend subrule 54.3(13) as follows:

54.3(13) Payment to new home. A new home for which cost has not been established shall receive the prevailing maximum allowable cost ceiling. At the end of three months' operation a financial and statistical report shall be submitted. ~~and the cost established subject to provisions set forth in 53.1(3)"g."~~ Subsequent reports shall be submitted from the beginning day of operation to the end of the fiscal year or six months interim period, whichever comes first, and each six months thereafter first day to the last day of the fiscal year.

Amend subrule 54.3(14) as follows:

54.3(14) Payment to the 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. The facility ~~may~~ shall 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 period of six months ending on the last day of the fiscal year. The facility shall notify the department of human services of the date its fiscal year will end and of the reporting option selected.~~

ITEM 2. Amend rule 441—54.4(249), introductory paragraph, as follows:

441—54.4(249) Goods and services provided. All facilities participating in the program shall provide residents those goods and services required by the terms of the license issued by the department of inspections and appeals in accordance with Iowa Code chapter 135C and rules promulgated thereto set forth in ~~470—chapter—57 481—Chapter 57~~ and requirements of the department of human services set forth in these rules.

ARC 3974A

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 82, "Intermediate Care Facilities for the Mentally Retarded," appearing in the Iowa Administrative Code.

These amendments clarify per diem determination rate methodologies for Intermediate Care Facilities for the Mentally Retarded that were implemented effective July 1, 1992.

The methodologies that were implemented July 1, 1992, were not clear as to how the per diem rates were to be calculated. Also, the methodologies, including the reporting periods and use of the incentive factor, were not consistently described throughout the rules.

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 16, 1993.

These amendments are intended to implement Iowa Code sections 249A.12 and 249A.16.

The following amendments are proposed.

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

Amend subrules 82.5(3), 82.5(5), 82.5(14), and 82.5(15) as follows:

~~82.5(3) Submission of reports. The report shall be submitted to the department no later than three months after the close of the facility's established fiscal year. The facility's cost report shall be submitted to the department no later than September 30 each year except as described in subrule 82.5(14). Failure to submit the report within this time shall reduce payment to 75 percent of the current rate. The reduced rate shall be paid for no longer than three months, after which time no further payments will be made.~~

~~82.5(5) Accrual basis. Facilities not using the accrual basis of accounting shall adjust recorded amounts to the accrual basis. Expenses which pertain to an entire year shall be included in each six month report in equal amounts properly amortized by month in order to be properly recorded for the annual fiscal year report. Records of cash receipts and disbursements shall be adjusted to reflect accruals of income and expense.~~

~~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. *The rate 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 eightieth percentile maximum rate shall be adjusted July 1 of each year.* 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 eightieth 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 *plus the annual percentage increase of the Consumer Price Index for all urban consumers, U.S. city average.* Business start-up and organization costs shall be ~~amortized over a five-year period as per accounted for in the manner prescribed by the Medicare and Medicaid standards.~~

Any costs that are properly identifiable as start-up costs, organization costs or capitalizable as construction costs must be appropriately classified as such.

(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~~ related 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

HUMAN SERVICES DEPARTMENT[441](cont'd)

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. *Standardization of cost reporting period for new facilities.*

(1) *Facilities receiving initial certification between July 1 and December 31 (inclusive) shall submit three successive six-month cost reports covering their first 18 months of operation. The fourth six-month cost report shall cover the January 1 to June 30 period. Thereafter, the facility shall submit a cost report on an annual basis of July 1 to June 30.*

(2) *Facilities receiving initial certification between January 1 and June 30 (inclusive) shall submit two successive six-month cost reports covering the first 12 months of operation. The third six-month cost report shall cover the January 1 to June 30 period. Thereafter, the facility shall submit a cost report on an annual basis of July 1 to June 30.*

(3) *All facilities shall comply with the requirements of subrule 82.5(3) when submitting reports.*

e d. *Completion of 12 months of operation. Following the first 12 months of operation as a Medicaid-certified ICF/MR as described in subrule 82.5(14), 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~~ This rate 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.~~ A new maximum allowable base cost will be calculated each year by increasing the prior year's maximum allowable base by the annual percentage increase of the Consumer Price Index for all urban consumers, U.S. city average (hereafter referred to as the Consumer Price Index). Each year's maximum allowable base cost represents the maximum amount that could be reimbursed.*

e. *Incentive factor. New facilities which complete the second annual period of operation that have an annual per unit cost percentage increase of less than the percentage increase of the Consumer Price Index, as described in 82.5(14)"d," shall be given their actual percentage increase plus one-half the difference of their actual percentage increase compared to the allowable maximum percentage increase. This percentage difference times the actual per diem cost for the annual period just completed is the incentive factor. The incentive factor will be added to the new reimbursement base rate to be used as the per diem rate for the next annual period of operation.*

Facilities whose annual per unit cost decreased from the prior year shall be given their actual per unit cost plus one and one-half the percentage increase in the Consumer Price Index as an incentive for cost containment.

f. *Reimbursement for first annual period. The reimbursement for the first annual period will be determined by taking the per diem rate calculated for the base period and then multiplying it by the Consumer Price Index and adding it to the base rate. The projected reimbursement for each period thereafter (until rebasing) will be calculated by taking the lower of the prior year's actual or the projected reimbursement per diem times the Consumer*

Price Index and adding it to the lower of the two. If a facility experiences an increase in actual costs that exceeds both the actual reimbursement and the maximum allowable base cost as determined for that annual period, it shall receive in the following period the maximum allowable base as calculated as reimbursement.

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 of July 1 to June 30 or may submit two cost reports within the fiscal year provided the second report covers a period of at least 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.*

Amend subrule 82.5(16), paragraph "c," as follows:

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 an amount not to exceed the annual percentage increase of the Consumer Price Index for all urban consumers, U.S. City average, as described in 82.5(14)"d."*

Further amend subrule 82.5(16) by rescinding paragraph "e," renumbering paragraph "d" to paragraph "e," and adding the following new paragraphs "d" and "i":

d. *Facilities which have an annual per unit cost percentage increase of less than the percentage increase of the Consumer Price Index shall be given their actual percentage increase plus one-half the difference of their actual percentage increase compared to the allowable maximum percentage increase. This percentage difference times the actual per diem costs for the annual period just completed is the incentive factor. The incentive factor will be added to the new reimbursement base rate to be used as the per diem rate for the following annual period.*

Facilities whose annual per unit cost decreased from the prior year shall be given their actual per unit cost plus one and one-half the percentage increase in the Consumer Price Index as an incentive for cost containment.

i. *The projected reimbursement for the first annual period will be determined by taking the per diem rate calculated for the base period and then multiplying it by the Consumer Price Index and adding it to the base rate. The projected reimbursement for each period thereafter (until rebasing) will be calculated by taking the lower of the prior year's actual or the projected reimbursement per diem times the Consumer Price Index and adding it to the lower of the two. If a facility experiences an increase in actual costs that exceeds both the actual reimbursement and the maximum allowable base cost as determined for that annual period, it shall receive in the following period the maximum allowable base as calculated as reimbursement.*

Amend the implementation clause following rule 441-82.5(249A) as follows:

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 subrule 82.17(1), paragraphs "a" and "b," as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

b. When a facility continues to include as an item of cost an item or items which had in a prior audit been removed by an adjustment in the total audited costs, the auditor shall recommend to the department that the per diem be reduced to 75 percent of the current payment rate for the ensuing ~~six-month~~ fiscal period. The department may, after considering the seriousness of the exception, make the reduction.

ARC 3983A

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 225C.6, the Department of Human Services proposes to amend Chapter 153, "Social Services Block Grant and Funding for Local Services," appearing in the Iowa Administrative Code.

These amendments revise policy governing the state payment program for adults as follows:

1. The date of application is changed from the date the client signs the application form to the date the application form is received by the county office.

2. The effective date of eligibility is changed from the date the person's application is approved by central office to the date of application.

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 16, 1993.

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Amend rule 441—153.53(234) by adding the following new subrule 153.53(4):

153.53(4) Application date. The date of application is the date that Form SS-1106-0, State Payment Program Eligibility Determination, is received in the county office.

ITEM 2. Amend rule 153.56(234) as follows:

Amend subrule 153.56(1), paragraph "c," as follows:

c. The applicant's eligibility for the state payment program shall be certified to the county office on Form SS-1106-0 within 30 days from the date Form SS-1106-0 ~~is submitted to~~ and all verifications specified in subrule 153.53(3) are received in central office.

Amend subrule 153.56(3) as follows:

153.56(3) Effective date. An applicant's eligibility for the state payment program shall be effective from the date of ~~the approval of that person's application by central of-~~ fee application.

ARC 3975A

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 234.6, the Department of Human Services proposes to amend Chapter 175, "Abuse of Children," appearing in the Iowa Administrative Code.

These amendments add two new disciplines to the list of those which may serve on the multidisciplinary teams and correct organizational references. 1992 Iowa Acts, chapter 1143, section 2, added nursing and substance abuse professionals to the disciplines which may serve on the multidisciplinary teams created to assist the Department in the investigation, diagnosis, assessment, and disposition of child abuse cases.

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 16, 1993.

These amendments are intended to implement Iowa Code section 235A.15.

The following amendments are proposed.

ITEM 1. Amend rule 441—175.1(235A), definition of "Multidisciplinary team," as follows:

"Multidisciplinary team" shall mean a group of individuals who possess knowledge and skills related to the investigation, diagnosis, assessment and disposition of child abuse cases and who are professionals practicing in the disciplines of medicine, *nursing*, public health, *substance abuse*, mental health, social work, child development, education, law, juvenile probation or law enforcement.

ITEM 2. Amend subrule 175.13(1) and subrule 175.13(2), introductory paragraph, as follows:

175.13(1) Purpose of multidisciplinary teams. Any ~~local county or district~~ regional office of the department

HUMAN SERVICES DEPARTMENT[441](cont'd)

may create a multidisciplinary team whose composition meets the requirements of subrule 175.1(13) for the purpose of assisting the department in assessing, diagnosing and making disposition of reported child abuse cases. Assisting the department in making disposition of cases may include the provision of treatment recommendations and services.

175.13(2) Execution of team agreement. When the team is created, the ~~district~~ regional administrator or designee of the ~~district~~ regional administrator and all team members shall execute an agreement which specifies:

This amendment is intended to implement Iowa Code section 88.5.

The following amendment is proposed.

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

58 Fed. Reg. 21778 (April 23, 1993)

ARC 4015A

LABOR SERVICES DIVISION[347]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

The amendment relates to occupational exposure to cadmium, correction.

If requested by June 15, 1993, a public hearing will be held on June 17, 1993, 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 in adoption may be submitted by interested persons no later than June 17, 1993, 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. This amendment will not necessitate additional annual expenditures exceeding \$100,000 by any political subdivision or agency or any contractor providing services to political subdivisions or agencies.

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 16, 1993, 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 88.5.

The following amendment is proposed.

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

58 Fed. Reg. 21778 (April 23, 1993)

ARC 4014A

LABOR SERVICES DIVISION[347]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 10, "General Industry Safety and Health Rules," Iowa Administrative Code.

The amendment relates to occupational exposure to cadmium, correction.

If requested by June 15, 1993, a public hearing will be held on June 17, 1993, 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 in adoption may be submitted by interested persons no later than June 17, 1993, 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. This amendment will not necessitate additional annual expenditures exceeding \$100,000 by any political subdivision or agency or any contractor providing services to political subdivisions or agencies.

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 16, 1993, 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.

ARC 3985A

ARC 4002A

LABOR SERVICES DIVISION[347]

NATURAL RESOURCE
COMMISSION[571]

Notice of Intended Action

Notice of Intended Action

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

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

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

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

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 28, "Occupational Safety and Health Standards for Agriculture," Iowa Administrative Code.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 15, "General License Regulations," Iowa Administrative Code.

The amendment relates to occupational exposure to cadmium, correction.

These amendments include updating references to reflect renumbering of the 1993 Iowa Code; striking the word "habitual" and inserting the word "multiple"; amending the existing violation categories; and other wording changes.

If requested by June 15, 1993, a public hearing will be held on June 17, 1993, 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 in adoption may be submitted by interested persons no later than June 17, 1993, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209.

Any interested person may make written suggestions or comments on the proposed amendments prior to June 16, 1993. Such written materials should be directed to the Law Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; FAX (515)281-6794. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at telephone (515)281-4515 or at the enforcement offices on the fourth floor of the Wallace State Office Building.

The Division has determined that this Notice of Intended Action may have an impact on small business. This amendment will not necessitate additional annual expenditures exceeding \$100,000 by any political subdivision or agency or any contractor providing services to political subdivisions or agencies.

There will be a public hearing on June 16, 1993, at 9 a.m. in the Fourth Floor West Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the amendments.

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 16, 1993, to the Deputy Labor Commissioner, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under the Act, or an organization of small businesses representing at least 25 persons which is registered with the Division of Labor Services under the Act.

These amendments are intended to implement Iowa Code section 481A.134.

This amendment is intended to implement Iowa Code section 88.5.

The following amendments are proposed:

The following amendment is proposed.

Amend rule 347—28.1(88) by inserting at the end thereof:

58 Fed. Reg. 21778 (April 23, 1993)

ITEM 1. Amend 571—Chapter 15 by striking all references to "109, 109A, 109B, 110, 110B and 1992 Iowa Acts, Senate File 2257" and inserting "481A, 481B, 482, 483A, 484A and 484B," respectively, to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend 571—15.6(481A) by striking all references to the word "habitual" and inserting "multiple" where it appears twice in 571—15.6(481A), catchwords; once in the definition of "Habitual offender"; and twice in subrule 15.6(3), introductory paragraph.

ITEM 3. Amend 571—15.6(481A) as follows:

Amend 15.6(1), definitions of "License" and "Suspension," as follows:

"License" means a *any paid or free* license, permit, or certificate to hunt, fish, or trap listed in Iowa Code chapters 481A, 481B, 482, 483A, 484A, or 484B, including the authorization to hunt, fish or trap pursuant to any reciprocity agreements with neighboring states.

"Suspension" means to bar or exclude one from applying for or acquiring licenses for future seasons.

NATURAL RESOURCE COMMISSION[571](cont'd)

Amend 15.6(2), paragraph "a," as follows:

a. License suspensions. In the event of a license suspension pursuant to Iowa Code section 481A.133, the clerk of court shall immediately notify the department.

Amend 15.6(3), paragraph "a," subparagraph (7), as follows:

(7) Any license violations of Iowa Code chapter 482 except sections 482.6 and 482.14.

Further amend 15.6(3), paragraph "a," by adding the following new subparagraphs (18) to (21):

(18) Applying for or acquiring a license while under suspension or revocation.

(19) For a repeat offense of acquiring a hunting license without hunter safety certification.

(20) Taking game from the wild—see Iowa Code section 481A.61.

(21) Violation of Iowa Code section 483A.27(7).

Amend 15.6(3), paragraph "b," subparagraph (4), as follows:

(4) Trapping within ~~100~~ 200 yards of an occupied building or private drive.

Further amend 15.6(3), paragraph "b," by adding the following new subparagraphs (20) to (24):

(20) Any violation of Iowa Code section 482.14 pertaining to commercial fishing.

(21) Failure to tag deer or turkey.

(22) Applying for or obtaining more than the legal number of licenses allowed for deer or turkey.

(23) Illegal transportation of game, fish or furbearers.

(24) Violation of Iowa Code section 483A.27, except subsection (7).

Amend 15.6(5) as follows:

15.6(5) If a person pleads guilty or is found guilty of an offense for which points have been established by this rule but is given a suspended sentence or deferred sentence by the court as defined in Iowa Code section 907.1, the assigned points will become part of that person's violation record and apply toward a department suspension or revocation.

Amend 15.6(7) as follows:

15.6(7) Dates of suspension or revocation. The suspension or revocation shall be effective upon failure of the person to request a hearing within 30 days of the notice described in 15.6(5 6) or upon issuance of an order ~~suspending or revoking~~ affirming the department's intent to suspend or revoke the license after the hearing. The person shall immediately surrender all licenses and shall be ~~barred from obtaining~~ not apply for or obtain new licenses for the full term of the suspension or revocation.

ARC 3994A

NATURAL RESOURCE
COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

This amendment creates a zoned speed restriction area of approximately 25 surface acres on Crystal Lake in Hancock County for the purpose of constructing and placing fish habitat structures. The zone designation is needed from a safety standpoint due to the fact that this is a very shallow lake.

Any interested person may make written suggestions or comments on the proposed amendment prior to June 16, 1993. Such written materials should be directed to the Law Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; FAX (515)281-6794. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at telephone (515)281-4515 or at the enforcement offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on June 16, 1993, at 10 a.m. in the Fourth Floor West Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

This amendment is intended to implement Iowa Code section 462A.26.

The following amendment is proposed.

Amend 571—Chapter 40 by adding a new rule as follows:

571—40.37(462A) Zoning of Crystal Lake. No motorboat shall be operated at a speed which will create a wake within the 25-acre zoned area designated by regulatory buoys on Crystal Lake in Hancock County.

ARC 4006A**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 124.301, 147.76, 155A.31, and 155A.35, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 6, "General Pharmacy Licenses," Iowa Administrative Code.

The amendments were approved at the April 8, 1993, regular meeting of the Iowa Board of Pharmacy Examiners.

The amendments provide for a third publication option to fulfill a reference library requirement and identify the physical location wherein pharmacy records shall be maintained.

Any interested person may submit data, views, and arguments, orally or in writing, on or before July 1, 1993, to Lloyd K. Jessen, Executive Secretary/Director, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

These amendments are intended to implement Iowa Code sections 124.306, 155A.31, 155A.32, and 155A.35.

The following amendments are proposed.

ITEM 1. Amend 657—6.3(155A), numbered paragraph "5," as follows:

5. The latest edition and supplements to Approved Drug Products With Therapeutic Equivalence Evaluations; ABC — *Approved Bioequivalency Codes*; or USP DI, Volume III.

ITEM 2. Amend 657—6.8(155A), introductory paragraph, as follows:

657—6.8(155A) Records. Every inventory or other record required to be kept under Iowa Code chapters 204, 124 and 155A or 657—Chapter 6 shall be kept by *at the licensed location of* the pharmacy and be available for inspection and copying by the board or its representative for at least two years from the date of the inventory or record. Controlled substance records shall be maintained in a readily retrievable manner in accordance with federal requirements. Those requirements, in summary, are as follows:

ARC 4007A**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 155A.31, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 7, "Hospital Pharmacy Licenses," Iowa Administrative Code.

The amendment was approved at the April 8, 1993, regular meeting of the Iowa Board of Pharmacy Examiners.

The amendment provides for a third publication option to fulfill a reference library requirement.

Any interested person may submit data, views, and arguments, orally or in writing, on or before July 1, 1993, to Lloyd K. Jessen, Executive Secretary/Director, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

This amendment is intended to implement Iowa Code sections 155A.31 and 155A.32.

The following amendment is proposed.

Amend 657—7.3(155A), numbered paragraph "5," as follows:

5. The latest edition and supplements to Approved Drug Products With Therapeutic Equivalence Evaluations; ABC — *Approved Bioequivalency Codes*; or USP DI, Volume III.

ARC 4008A**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76, 155A.11, 272C.2, and 272C.3, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 8, "Minimum Standards for the Practice of Pharmacy," Iowa Administrative Code.

The amendment was approved at the April 8, 1993, regular meeting of the Iowa Board of Pharmacy Examiners.

PHARMACY EXAMINERS BOARD[657](cont'd)

The amendment provides a method for reinstatement of a delinquent Iowa pharmacist license when the pharmacist has been licensed and practicing pharmacy for the past five years in another state which requires continuing education for pharmacist license renewal.

Any interested person may submit data, views, and arguments, orally or in writing, on or before July 1, 1993, to Lloyd K. Jessen, Executive Secretary/Director, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

This amendment is intended to implement Iowa Code sections 155A.11, 272C.2, and 272C.3.

The following amendment is proposed.

Amend subrule 8.7(7), paragraph "b," by adding new subparagraph (4) as follows:

(4) An inactive pharmacist who wishes to become active and who has been actively practicing pharmacy during the last five years in any state or states which required continuing education during the last five years shall submit proof of continued licensure in good standing in the state or states of such practice.

ARC 4009A

PHARMACY EXAMINERS
BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.76, 272C.3, and 272C.4, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 9, "Discipline," Iowa Administrative Code.

The amendment was approved at the April 8, 1993, regular meeting of the Iowa Board of Pharmacy Examiners.

The amendment provides that any pharmacist attempting to circumvent patient counseling requirements, or discouraging patients from receiving patient counseling, may be subject to disciplinary sanctions against the pharmacist's license to practice pharmacy.

Any interested person may submit data, views, and arguments, orally or in writing, on or before July 1, 1993, to Lloyd K. Jessen, Executive Secretary/Director, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

This amendment is intended to implement Iowa Code sections 155A.12, 272C.3, and 272C.10.

The following amendment is proposed.

Amend subrule 9.1(4) by adding new paragraph "w" as follows:

w. Attempting to circumvent the patient counseling requirements, or discouraging patients from receiving patient counseling concerning their prescription drug orders.

ARC 4010A

PHARMACY EXAMINERS
BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 124.201 and 124.301, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendments were approved at the April 8, 1993, regular meeting of the Iowa Board of Pharmacy Examiners.

The amendments provide procedures to be followed for the disposal of controlled substances, provide for the temporary designation of aminorex as a controlled substance to bring Iowa law into conformance with federal law, and exempt certain anabolic steroid compounds, mixtures, and preparations from regulatory provisions of Iowa Code chapter 124, the Uniform Controlled Substances Act, as it pertains to Schedule III controlled substances. The Board agrees with the federal Drug Enforcement Administration's determination that these products have no significant potential for abuse.

Any interested person may submit data, views, and arguments, orally or in writing, on or before July 1, 1993, to Lloyd K. Jessen, Executive Secretary/Director, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

These amendments are intended to implement Iowa Code sections 124.201, 124.204, 124.208, 124.306, 124.501, and 124.506.

The following amendments are proposed.

ITEM 1. Amend 657—Chapter 10 by striking all references to "204" and inserting "124" to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend rule 657—10.10(124) by adding the following new subrule:

10.10(7) Disposal of controlled substances. Any persons legally authorized to possess controlled substances in the course of their professional practice or the conduct of their business shall dispose of such drugs by the following procedures:

a. The responsible individual shall send to the board a list which includes the names and quantities of the controlled substances to be disposed.

b. The board shall authorize and instruct the registrant to dispose of the controlled substances in one of the following manners:

(1) By delivery to an agent of the board or to the board office;

(2) By destruction of the drugs in the presence of a board officer, agent, inspector, or other authorized individual; or

PHARMACY EXAMINERS BOARD[657](cont'd)

(3) By such other means as the board may determine to ensure that the drugs do not become available to unauthorized persons.

ITEM 3. Amend rule 657—10.20(124) as follows:

657—10.20(124) Temporary designation of controlled substances.

10.20(1) Amend Iowa Code subsection ~~204.204(6)~~ 124.204(6) by adding the following new paragraph "c" to the list of *controlled* substances included in Schedule I, stimulants:

c. Methcathinone. Some other names: Ephedrone; 2-Methylamino-1-Phenylpropan-1-one; Monomethylpropion; UR 1431.

10.20(2) ~~Reserved.~~ Amend Iowa Code subsection 124.204(9) by adding the following new paragraph "d" to the list of substances included in Schedule I, other materials:

d. Aminorex. Some other names: aminoxaphen, 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical isomers, and salts of optical isomers.

This rule is intended to implement Iowa Code sections ~~204.201~~ 124.201 and 124.204.

ITEM 4. Amend 657—Chapter 10 by adopting the following new rule 657—10.23(124):

657—10.23(124) Exempt anabolic steroid products.

The Iowa board of pharmacy examiners hereby adopts the table of "Exempt Anabolic Steroid Products" contained in title 21 CFR, part 1308, section 34, as published in the Federal Register dated November 24, 1992, vol. 57, no. 227, page 55091. Copies of the table may be obtained by written request to the board office at 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

ARC 4011A

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 124.301, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to rescind Chapter 11, "Drugs in Emergency Medical Vehicles," and to adopt new Chapter 11, "Drugs in Emergency Medical Service Programs," Iowa Administrative Code.

The rules were approved at the April 8, 1993, regular meeting of the Iowa Board of Pharmacy Examiners.

The rules provide for ownership, procurement and storage, administration, security and control, disposal, records, and inspections of controlled substances in emergency medical service programs.

Any interested person may submit data, views, and arguments, orally or in writing, on or before July 1, 1993, to Lloyd K. Jessen, Executive Secretary/Director, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code chapter 147A.

The following rules are proposed.

Rescind 657—Chapter 11, "Drugs in Emergency Medical Vehicles," and adopt new 657—Chapter 11, "Drugs in Emergency Medical Service Programs," as follows:

CHAPTER 11

DRUGS IN EMERGENCY MEDICAL SERVICE PROGRAMS

657—11.1(124,147A,155A) Definitions. For the purpose of this chapter, the following definitions shall apply:

"Ambulance service" means any privately or publicly owned service program which utilizes ambulances in order to provide patient transportation and emergency medical care at the scene of an emergency or while en route to a hospital. An ambulance service may use first response or nontransport rescue vehicles to supplement ambulance vehicles.

"Board" means the Iowa board of pharmacy examiners.

"Department" means the Iowa department of public health.

"Drug" means a substance as defined in Iowa Code section 155A.3(13).

"EMS" means emergency medical services.

"EMT-Intermediate" or "EMT-I" means an individual who is currently certified under Iowa Code chapter 147A by the Iowa board of medical examiners and who is authorized by the service program medical director to administer intravenous infusion products.

"EMT-Paramedic" or "EMT-P" means an individual who is currently certified under Iowa Code chapter 147A by the Iowa board of medical examiners and who is authorized by the service program medical director to administer drugs and intravenous infusion products.

"Medical director" means any physician licensed under Iowa Code chapter 148, 150, or 150A who shall be responsible for overall medical direction of the service program and who is currently certified in advanced cardiac life support (ACLS).

"Physician" means any individual licensed under Iowa Code chapter 148, 150, or 150A.

"Physician designee" means any registered nurse licensed under Iowa Code chapter 152, or any physician assistant licensed under Iowa Code chapter 148C and approved by the Iowa board of physician assistant examiners, who holds a current course completion card in advanced cardiac life support (ACLS). The physician designee may act as an intermediary for a supervising physician in directing the actions of advanced emergency medical care personnel in accordance with written policies and protocols.

"Rescue service" means any privately or publicly owned service program which does not provide patient transportation and utilizes only rescue or first response vehicles to provide emergency medical care at the scene of an emergency.

"Responsible individual" means, in a medical director-based service, the medical director for the service; in a

PHARMACY EXAMINERS BOARD[657](cont'd)

pharmacy-based service, the pharmacist in charge of the base pharmacy.

"Service" or "service program" means any 24-hour advanced emergency medical care ambulance service, rescue, or first response service that has received authorization by the department.

"Supervising physician" means any physician licensed under Iowa Code chapter 148, 150, or 150A who holds a current course completion card in advanced cardiac life support (ACLS). The supervising physician is responsible for medical direction of advanced emergency medical care personnel when such personnel are providing advanced emergency medical care.

657—11.2(124,147A,155A) Ownership of drugs—options. Ownership of any and all drugs used by an emergency medical service shall be maintained under one of the following options:

11.2(1) Pharmacy-based services. Any and all drugs shall be provided by a licensed pharmacy; pursuant to DEA regulations, only a hospital pharmacy may provide controlled substances. Under this arrangement, all drugs shall remain the property of the pharmacy. For purposes of this chapter and unless otherwise noted, the pharmacist in charge of the base pharmacy shall be the responsible individual for the service program.

a. A formal written agreement shall be made between the base pharmacy and the service establishing that the EMS is operating as an extension of the base pharmacy with respect to the drugs.

b. Pharmacies shall provide drugs limited to the drugs listed in the service program's written protocols.

11.2(2) Medical director-based services. Any and all drugs shall be provided by the medical director. Under this arrangement, all drugs shall remain the property of the medical director. For purposes of this chapter and unless otherwise noted, the medical director shall be the responsible individual for the service program.

Whenever necessary and appropriate, the medical director may consult with a pharmacist in regard to all matters relating to the proper use, storage, and handling of drugs and intravenous infusion products which may be administered to patients of the service program.

657—11.3(124,147A,155A) General requirements.

11.3(1) Exchange program. Any pharmacy may replace drugs, including controlled substances, which have been administered to patients upon receipt of an order issued by a physician or physician designee so authorized.

11.3(2) Controlled substance prescribing. Controlled substances shall be prescribed only by a person who is so authorized by state law.

11.3(3) Controlled substance disposal or destruction. The disposal or destruction of the unused portion of a controlled substance shall be documented in writing and signed by two emergency service program personnel. Outdated or unwanted controlled substances shall be returned to the service base for proper disposal or destruction.

11.3(4) Administration of drugs and intravenous infusion products. An EMT-I or EMT-P shall not administer a drug or intravenous infusion product without the verbal or written order of a physician, physician designee, or by written protocol. The service program's responsible individual shall be responsible for ensuring proper documentation of orders given and drugs administered.

11.3(5) Drug control policies and procedures. The service program's responsible individual shall be responsible for developing and implementing a written drug and intravenous infusion product safeguard and control policy for the service. The policy shall include, but not be limited to, procedures regarding the following:

- a. Controlled substances;
- b. Medication orders;
- c. Physician orders;
- d. Adverse drug and intravenous infusion product reaction reports;
- e. Drug and intravenous infusion product administration;
- f. Drug and intravenous infusion product defect reports;
- g. Drug and intravenous infusion product recalls;
- h. Outdated or unused drugs and intravenous infusion products;
- i. Verbal orders;
- j. Inventory control;
- k. Drug and intravenous infusion product security;
- l. Records;
- m. Drug and intravenous infusion product procurement, storage, and ownership;
- n. Inspections;
- o. Drug exchange programs.

657—11.4(124,147A,155A) Procurement and storage. The responsible individual for the service shall be responsible for the procurement and storage of drugs and intravenous infusion products for the service program.

11.4(1) All drugs and intravenous infusion products shall be stored at the proper temperatures as defined by the USP/NF.

11.4(2) Any drug or intravenous infusion product bearing an expiration date may not be administered after the expiration date.

11.4(3) Outdated drugs and intravenous infusion products shall be quarantined together until such time as the items can be lawfully disposed.

657—11.5(124,147A,155A) Records. Every inventory or other record required to be kept under Iowa Code chapter 124 or 155A and board rules shall be kept by the responsible individual for the service program and be available for inspection and copying by the board or its representative for at least two years from the date of such inventory or record.

657—11.6(124,147A,155A) Inspections.

11.6(1) The responsible individual for the service program shall ensure proper inspection of the drugs and intravenous infusion products used by the service on a periodic basis. Proof of periodic inspection shall be in writing and made available upon request of the board or department.

11.6(2) Drugs and intravenous infusion products used by the service program, as well as records maintained by the responsible individual or service program, shall be subject to inspection and audit by the board. They shall also be subject to inspection by the federal Drug Enforcement Administration.

657—11.7(124,147A,155A) Security and control. The responsible individual for the service program shall be responsible for developing and implementing policies and procedures for the security and control of the service pro-

PHARMACY EXAMINERS BOARD[657](cont'd)

gram's drug and intravenous infusion products, including provisions for adequate safeguards against theft or diversion of dangerous drugs, controlled substances, and records for such drugs. The following conditions must be met to ensure appropriate control over drugs and intravenous infusion products.

11.7(1) Policies and procedures shall identify who will have access to the drugs and intravenous infusion products.

11.7(2) Drugs and intravenous products shall be secured at all times in a manner that limits access to authorized personnel only.

These rules are intended to implement Iowa Code chapter 147A.

2. The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription;

3. The lawful distribution of drug samples by manufacturers' representatives or wholesale salespersons; or

4. The sale, purchase, or trade of blood and blood components intended for transfusion; or

5. *Intracompany sales.*

ARC 3978A

PROFESSIONAL LICENSURE
DIVISION[645]

BOARD OF MORTUARY SCIENCE 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 Mortuary Science Examiners hereby amends Chapter 101, "Board of Mortuary Science Examiners," Iowa Administrative Code.

The proposed amendments clarify educational requirements, add acceptance of national examination passing scores for the embalming and funeral directing examination as allowed at Iowa Code section 156.13, clarify passing score for the practical examination, clarify application fee, continuing education requirements and add intern registration to license denial.

Any interested person may make written comments on the proposed amendments not later than June 15, 1993, addressed to Carol Barnhill, Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The proposed amendments are intended to implement Iowa Code chapters 147, 256 and 272C.

The following amendments are proposed:

ITEM 1. Amend 645—Chapter 101 by striking all references to "258A" and inserting "272C" to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend subrule 101.1(3), introductory paragraph, as follows:

101.1(3) College educational requirements. An applicant shall have completed two academic years of 36 weeks each or a minimum of 64 semester hours in a regionally accredited college or university. *These 64 semester hours shall not include any technical or vocational courses.* College credits required are as follows:

ITEM 3. Amend subrule 101.2(5) as follows:

Amend 101.2(5), introductory paragraph, as follows:

101.2(5) The embalming *and funeral directing* examination shall consist of three sections.

ARC 4012A

PHARMACY EXAMINERS
BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 124.301 and 155A.17, the Iowa Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 17, "Wholesale Drug Licenses," Iowa Administrative Code.

The amendment was approved at the April 8, 1993, regular meeting of the Iowa Board of Pharmacy Examiners.

The amendment exempts intracompany sales of prescription drugs from the definition of wholesale distribution.

Any interested person may submit data, views, and arguments, orally or in writing, on or before July 1, 1993, to Lloyd K. Jessen, Executive Secretary/Director, Iowa Board of Pharmacy Examiners, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa 50319.

This amendment is intended to implement Iowa Code section 155A.17.

The following amendment is proposed.

Amend rule 657—17.1(155A), definition of "Wholesale distribution," as follows:

"Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

1. The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons; for purposes of this section chapter, "emergency medical reasons" includes transfers of prescription drugs by a pharmacy to another pharmacy to alleviate a temporary shortage;

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Rescind 101.2(5), paragraphs "a" and "b," and insert the following new paragraphs:

a. The board of mortuary science examiners shall accept a certificate of examination issued by the National Conference of Funeral Service Examining Boards indicating a passing score for the written and oral sections of the examination as prescribed at Iowa Code sections 156.4(4) and 156.13.

b. Applicants will be required to pass an examination covering the mortuary science board rules and state laws prior to being licensed in Iowa. A 75 percent score shall be required for passing of this examination.

Amend paragraph 101.2(5)"c" as follows:

c. Practical examination, which shall consist of demonstration ~~and operative of embalming~~ technique, as directed. ~~Restoration~~ restoration, cosmetic effect, lighting, casketing, and such other procedures as members of the board of mortuary science examiners may feel necessary. A 75 percent score will be required for passing of the practical examination.

ITEM 4. Rescind subrules 101.2(6), 101.2(7), 101.2(8) and 101.2(11).

ITEM 5. Rescind subrules 101.98(1) and 101.98(2) and insert the following new language:

101.98(1) The application fee for a license to practice mortuary science issued upon the basis of examination or endorsement is \$50.

ITEM 6. Amend subrule 101.102(4) as follows:

101.102(4) Except as may be allowed pursuant to rule 645—101.107(272C) no licensee shall receive credit exceeding 10 percent of the ~~annual~~ total *biennium* required *continuing education* hours ~~for~~ in the form of self-study, including television viewing, video or sound-recorded programs, or correspondence work, or by other similar means as authorized by the board.

ITEM 7. Amend rule 645—101.205(272C) as follows:

645—101.205(272C) *License and intern registration denial*. Any request for a hearing before the board concerning the denial of a license *or intern registration* shall be submitted by the applicant in writing to the board at the address in rule 101.201(272C) by certified mail, return receipt requested, within 30 days of the mailing of a notice of denial of license *or intern registration*.

ARC 3989A

PROFESSIONAL LICENSURE
DIVISION[645]

BOARD OF OPTOMETRY EXAMINERS

Notice of Termination

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry Examiners hereby terminates further rule-making proceedings under the provisions of Iowa Code section 17A.4(1)"b" for proposed rule making relating to Chapter 180, "Board of Optometry Examiners," Iowa Administrative Code. Notice of Intended Ac-

tion was published in the Iowa Administrative Bulletin on September 16, 1992, as ARC 3360A.

The Notice proposed to add a new rule, 645—180.9(154), which defined an ophthalmic or contact lens prescription. A 70-day delay was placed on this rule with the remainder of ARC 3360A being adopted by the Board on December 9, 1992, and becoming effective February 10, 1993.

The Board is terminating the rule making commenced in ARC 3360A on 645—180.9(154) and will renounce the rule to incorporate further changes and clarifications.

ARC 3982A

REAL ESTATE COMMISSION[193E]

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 543B.9, the Real Estate Commission gives Notice of Intended Action to amend Chapter 3, "Prelicense Education and Continuing Education," Iowa Administrative Code.

Amendments to Chapter 3 increase the salesperson prelicense course from 30 to 60 hours and specify the content of continuing education hours taken during the first renewal term.

A further amendment limits the number of continuing education hours that accrue while a license is on inactive status benefiting the licensee for reentry into the profession.

Consideration will be given to all written comments received by Roger L. Hansen, Executive Secretary, Iowa Real Estate Commission, 1918 S.E. Hulsizer, Ankeny, Iowa 50021, by June 15, 1993.

These amendments are intended to implement Iowa Code sections 543B.15 and 543B.54.

The following amendments are proposed.

ITEM 1. Amend 193E—Chapter 3 by striking all references to "117" and inserting "543B" to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend 193E—3.2(543B), catchwords, as follows:

193E—3.2(543B) *Prelicense and postlicense education requirements*.

ITEM 3. Rescind subrule 3.2(1) and insert in lieu thereof the following new subrule:

3.2(1) Beginning June 1, 1994, the required course of study for the salesperson licensing examination shall consist of at least 60 classroom hours of real estate principles and practices to comply with the requirements of Iowa Code section 543B.15. The curriculum shall include, but not be limited to, the following subjects:

REAL ESTATE COMMISSION[193E](cont'd)

Introduction to Real Estate and Iowa License Law 12 hours
 Ownership, Encumbrances, Legal Descriptions, Transfer of Title and Closing 12 hours
 Contracts, Agency and Antitrust 12 hours
 Valuation, Finance and Real Estate Math 12 hours
 Property Management/Leasing, Fair Housing, Environmental Risks and Health Issues 12 hours

Transition period. In accordance with Iowa Code section 543B.15, 30-hour prelicense course certificates issued for courses completed prior to June 1, 1994, shall expire one year from date of completion of the prelicense course but in no event later than June 1, 1995.

ITEM 4. Rescind subrule 3.2(2) and insert in lieu thereof the following **new** subrule:

3.2(2) Salespersons licensed on June 1, 1994, and thereafter must complete 36 hours of commission-approved classroom education to renew to active status by December 31 of the third year of licensure. The following courses satisfy the first license renewal continuing education requirement:

- Developing Professionalism and Ethical Practices 12 hours
- Buying Practices 12 hours
- Listing Practices 12 hours

ITEM 5. Amend subrule 3.2(4) as follows:

3.2(4) Completion of prelicense education. Successful completion of prelicense education includes full-time classroom attendance throughout the course, and passage of an ~~examination~~ *examination(s)* designed by the approved provider which is sufficiently comprehensive to measure the student's knowledge of all aspects of the ~~course~~ *course(s)*. *Times allotted for supervised examinations may be regarded as hours of instruction.*

ITEM 6. Amend subrule 3.2(5) as follows:

3.2(5) Substitution of courses. Written requests for substitution of the prelicense *and continuing education* courses specified in subrule 3.2(1), 3.2(2) or 3.2(3) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in 3.2(1), 3.2(2) or 3.2(3).

ITEM 7. Amend subrule 3.3(5) as follows:

3.3(5) A license may be renewed without the required continuing education, but it can only be renewed to an inactive status. Prior to reactivating a license which has been issued inactive due to failure to submit evidence of continuing education, the licensee must submit evidence that all deficient continuing education hours have been completed. ~~No credit for courses taken to make up a deficiency of continuing education in a previous license term may be applied to the current license term.~~ *The maximum continuing education hours shall not exceed the prescribed number of hours of one license renewal period and must be completed during the three calendar years preceding activation of the license.*

ITEM 8. Amend subrule 3.3(9), introductory paragraph, as follows:

3.3(9) Prelicense *and postlicense* courses as continuing education.

ITEM 9. Rescind paragraph 3.3(9)"a" and insert in lieu thereof the following **new** paragraph:

a. Up to 24 hours of the salesperson prelicense and postlicense courses specified in 3.2(1) and 3.2(2) may be taken by salespersons and brokers as continuing education. However, a newly licensed salesperson cannot use credits from the salesperson prelicense course(s) to meet the continuing education requirement of the first renewal term.

ITEM 10. Amend paragraph 3.4(1)"e," introductory paragraph, as follows:

e. It is conducted by individuals who have shown proof of attendance at an instructor development workshop *within 12 months preceding approval by the commission* and met the instructor qualification criteria. Guest speakers and individuals currently certified by a nationally recognized organization that requires similar instructor standards are exempt, with prior approval of the commission, from the following standards and the instructor development workshop requirement. An applicant may be approved as an instructor when it is determined that the applicant evidences (1) the ability to teach and communicate and (2) in-depth knowledge of the subject matter proposing to teach.

ARC 3987A

REVENUE AND FINANCE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 17, "Exempt Sales," Iowa Administrative Code.

Two Department rules set out the names of certain organizations the purchases of which are exempt from Iowa sales and use tax by virtue of the fact that those organizations are instrumentalities of the federal government. Over the years, for a variety of reasons, the lists of organizations contained in those rules have become obsolete. In some cases the name of an exempt organization has changed; in others the exempt organization has gone out of existence. Also, since the two rules have been written, the Department has determined that several organizations not now mentioned in the rules are instrumentalities of the federal government. Finally, the federal government has created, over the years, certain instrumentalities similar to those now mentioned in the rules. Because of this, these new instrumentalities are added to the rules and the names of others deleted. A list of instrumentalities is revised by alphabetizing it for easy reference.

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

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than June 15, 1993, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 25, 1993. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by June 18, 1993.

These amendments are intended to implement Iowa Code subsections 422.45(1) and 422.45(5).

The following amendments are proposed.

ITEM 1. Amend rule 701—17.5(422,423) as follows:

701—17.5(422,423) Sales to the American Red Cross, the Coast Guard Auxiliary, Navy-Marine Corps Relief Society, and U.S.O. Receipts from the sale of tangible personal property or from rendering, furnishing, or providing taxable services to the American Red Cross, Coast Guard Auxiliary, Navy-Marine Corps Relief Society, and U.S.O. shall be exempt from sales tax.

Purchases made by the Red Cross, Coast Guard Auxiliary, Navy-Marine Corps Relief Society, or U.S.O. in interstate commerce outside of Iowa for use in Iowa shall be exempt from use tax.

Department of Employment v. United States, 1966, 385 U.S. 355, 87 S.Ct. 464, 17L.Ed.2d 414.

This rule is intended to implement Iowa Code sections 422.45(1), 422.45(5), and 423.4(4).

ITEM 2. Amend rule 701—17.7 (422,423) as follows:

701—17.7(422,423) Sales to certain federal corporations. The department holds that the following are some of the federal corporations immune from the imposition of sales and use tax in connection with their purchases:

1. ~~Federal Land Bank~~
2. ~~Federal Deposit Insurance Corporation~~
3. ~~Commodity Credit Corporation~~
4. ~~Federal Home Loan Bank~~
5. ~~Federal National Mortgage Association~~
6. ~~Farm Security Administration~~

7. ~~Federal Credit Union~~
8. ~~Federal Crop Insurance Corporation~~
9. ~~Federal Intermediate Credit Bank~~
10. ~~Federal Reserve Bank~~
11. ~~Federal Savings & Loan Insurance Corporation~~
12. ~~United States Housing Authority~~
13. ~~United States Maritime Commission~~
14. ~~Federal Farm Mortgage Corporation~~
15. ~~Reconstruction Finance Corporation~~
16. ~~Central Bank for Cooperatives and Banks for Cooperatives~~
17. ~~Farmers Home Corporation~~
18. ~~Production Credit Association~~
19. ~~Export-Import Bank~~
20. ~~Tennessee Valley Authority~~
21. ~~Farmers Home Administration~~
22. ~~Government National Mortgage Association~~

1. *Central Bank for Cooperatives and Banks for Cooperatives*

2. *Commodity Credit Corporation*
3. *Farm Credit Banks*
4. *Farmers Home Administration*
5. *Federal Credit Unions*
6. *Federal Crop Insurance Corporation*
7. *Federal Deposit Insurance Corporation*
8. *Federal Financing Bank*
9. *Federal Home Loan Banks*
10. *Federal Intermediate Credit Banks*
11. *Federal Land Banks and Federal Land Bank Associations*
12. *Federal National Mortgage Association*
13. *Federal Reserve Bank*
14. *Federal Savings & Loan Insurance Corporation*
15. *Production Credit Association*
16. *Student Loan Marketing Association*
17. *Tennessee Valley Authority*

The federal statutes creating the above corporations contain provisions substantially identical with section 26 of the Federal Farm Loan Act which has been construed as barring the imposition of state and local sales taxes.

This rule is intended to implement Iowa Code sections 422.45(1), 422.45(5), and 423.4(4).

ARC 3986A

**REVENUE AND FINANCE
DEPARTMENT[701]**

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue and Fi-

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

nance hereby gives Notice of Intended Action to amend Chapter 43, "Assessments and Refunds," and Chapter 46, "Withholding," Iowa Administrative Code.

Subrule 43.5(1) is amended to provide that an abatement involving a change in filing status may be granted in cases where the assessment was the result of a jeopardy assessment or estimated assessment by personnel of the Department of Revenue and Finance. It is thought that the present rule which does not allow a change in filing status in an abatement is not fair to taxpayers with a jeopardy assessment or an estimated assessment, since the taxpayers did not choose the filing status used in the assessment.

Subrule 46.4(7) is amended to allow voluntary withholding of state income tax from payments of deferred compensation, pensions, and annuities to nonresidents of Iowa. It is thought that the current rule prohibiting state income tax withholding from payments of deferred compensation, pensions, and annuities was too restrictive. This rule change applies only to those payers of deferred compensation, pensions, and annuities that are willing to withhold Iowa income tax from the payments, when the recipients of the payments request that state income tax be withheld.

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than June 15, 1993, to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 25, 1993. Such written comments should be directed to the Policy Section, Technical Services Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by June 18, 1993.

These amendments are intended to implement Iowa Code sections 422.8, 422.16 and 422.28.

The following amendments are proposed.

ITEM 1. Amend subrule 43.5(1) to read as follows:

43.5(1) Assessments qualifying for abatement. To be subject to an abatement, an assessment must have been issued that exceeded the amount due as provided by the

Iowa Code and the *administrative* rules issued by the department interpreting the Iowa Code. If a taxpayer fails to appeal an assessment that is based on the Iowa Code or the department's *administrative* rules interpreting the Iowa Code within the statutory period, then the taxpayer cannot request an abatement of the assessment, or a portion thereof, beyond the statutory time for appeal.

a. Examples of assessments where abatements may be requested include but are not limited to the following:

- (1) Inclusion of income not required to be reported by the Iowa Code or *administrative* rule;
- (2) Estimated or jeopardy assessments;
- (3) Disallowance of a deduction;
- (4) Disallowance of an exemption;
- (5) Disallowance of a credit;
- (6) Interest erroneously assessed;

b. Examples of assessments where abatement may not be requested include but are not limited to the following:

(1) Change from one filing status to another filing status which creates a lesser tax liability such as joint to separate or separately on a combined return *except in the case of an estimated or jeopardy assessment where the filing status was selected by the department due to the taxpayer's failure to file the return.*

(2) Use of a method of accounting or method of reporting income not provided by the Iowa Code or ~~department~~ *administrative* rules.

(3) Change from standard deduction to itemizing deductions or from itemizing deductions to the standard deduction *except in the case of an estimated or jeopardy assessment where the deduction method was selected by the department due to the taxpayer's failure to file the return.*

(4) Any other elections which the individual made on the return as filed.

ITEM 2. Amend subrule 46.4(7) to read as follows:

46.4(7) Exemption from withholding of payments made to nonresidents for deferred compensation, pensions, and annuities. For tax years beginning on or after January 1, 1992, state income tax withholding is *not required* ~~prohibited~~ from payments of deferred compensation, pensions, and annuities made to nonresidents of Iowa which are attributable to personal services of the nonresidents in Iowa. However, the payments are subject to Iowa income tax except in situations where the deferred compensation, pension, or annuity was earned from personal services in Iowa by Illinois residents during the period where the Iowa-Illinois reciprocal agreement was applicable.

Effective for payments of deferred compensation, pensions and annuities made to nonresidents of Iowa on or after January 1, 1993, payers of these payments can elect to withhold Iowa income tax from the payments if the payers choose to withhold Iowa income tax and the recipients of the payments request that Iowa income tax be withheld.

NOTICE — USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

November 1, 1990 — November 30, 1990	11.00%
December 1, 1990 — December 31, 1990	10.75%
January 1, 1991 — January 31, 1991	10.50%
February 1, 1991 — February 28, 1991	10.00%
March 1, 1991 — March 31, 1991	10.00%
April 1, 1991 — April 30, 1991	9.75%
May 1, 1991 — May 31, 1991	10.00%
June 1, 1991 — June 30, 1991	10.00%
July 1, 1991 — July 31, 1991	10.00%
August 1, 1991 — August 31, 1991	10.25%
September 1, 1991 — September 30, 1991	10.25%
October 1, 1991 — October 31, 1991	10.00%
November 1, 1991 — November 30, 1991	9.75%
December 1, 1991 — December 31, 1991	9.50%
January 1, 1992 — January 31, 1992	9.50%
February 1, 1992 — February 29, 1992	9.00%
March 1, 1992 — March 31, 1992	9.00%
April 1, 1992 — April 30, 1992	9.25%
May 1, 1992 — May 31, 1992	9.50%
June 1, 1992 — June 30, 1992	9.50%
July 1, 1992 — July 31, 1992	9.50%
August 1, 1992 — August 31, 1992	9.25%
September 1, 1992 — September 30, 1992	8.75%
October 1, 1992 — October 31, 1992	8.50%
November 1, 1992 — November 30, 1992	8.50%
December 1, 1992 — December 31, 1992	8.50%
January 1, 1993 — January 31, 1993	8.75%
February 1, 1993 — February 28, 1993	8.75%
March 1, 1993 — March 31, 1993	8.50%
April 1, 1993 — April 30, 1993	8.25%
May 1, 1993 — May 31, 1993	8.00%
June 1, 1993 — June 30, 1993	8.00%

ARC 4013A

UTILITIES DIVISION[199]

Amended Notice of Intended Action

Pursuant to Iowa Code sections 17A.4(1) and 476.2, the Utilities Board (Board) gives notice that on April 28, 1993, the Board issued an order in Docket No. RMU-92-15, In Re: Filing of Revised Revenue Requirement in Proposed Settlements, "Order Renoticing Rule Making," to consider the amendment of 199 IAC 7.2(11)"a."

Notice of Intended Action was published in the January 6, 1993, Iowa Administrative Bulletin as **ARC 3678A**. After receiving oral and written comments from interested

parties, the Board has decided to alter the language of the paragraph as it was originally proposed. The Board will notice this proposed language in order to receive further comment. The changes were made in order to specify filing requirements for proposed settlements which produce an agreed upon revenue requirement without agreement on each revenue requirement issue. The Board does not intend to exclude those types of settlements.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before June 15, 1993, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All communications shall clearly indicate the author's name and address and should make specific references to this docket. All communications shall be directed to the Executive Secretary, Iowa Utilities Board, Lucas State Office Building, Des Moines, Iowa 50319.

An oral presentation is scheduled on June 21, 1993, at 10 a.m. in the First Floor Hearing Room, Lucas State Office Building, Des Moines, Iowa, for the purpose of receiving comments. Pursuant to 199 IAC 3.7(17A,474), all interested persons may participate in this proceeding. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

This amendment is intended to implement Iowa Code sections 17A.4, 17A.7, 17A.10, 476.1, 476.2, and 476.8. The following amendment is proposed.

Amend paragraph 7.2(11)"a" as follows:

a. Proposal of settlements. Two or more parties may by written motion propose settlements for adoption by the board. The motion shall contain a statement adequate to advise the board and parties not expressly joining the proposal of its scope and of the grounds on which adoption is urged. Parties may propose a settlement for adoption by the board (1) anytime after docketing and (2) within 30 days after the last day of hearing. *In proposed settlements which resolve all revenue requirement issues in a rate case proceeding, parties to the settlement shall jointly file the revenue requirement calculations reflecting the adjustments proposed to be settled. In proposed settlements which resolve some revenue requirement issues in a rate case proceeding and retain some issues for litigation, each party to the settlement who has previously filed a complete revenue requirement calculation shall file its revenue requirement calculation reflecting the adjustments proposed to be settled and any remaining issues to be litigated. In proposed settlements which produce an agreed upon revenue requirement as a mutually acceptable outcome to the proceeding without an agreement on each revenue requirement issue, parties to the settlement shall jointly file schedules reflecting the specific adjustments for which the parties reached agreement. For those issues included in the proposed settlement which were not specifically resolved, the schedules should identify the range between the positions of the parties.*

ARC 3976A

EMERGENCY MANAGEMENT
DIVISION[605]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 29C.9, the Emergency Management Division hereby creates a new Chapter 8, "Criteria for Awards or Grants," Iowa Administrative Code.

These rules set forth the mechanism to administer federal grants soon to be awarded to the Division. The grants will be utilized to fulfill emergency planning and training requirements.

In compliance with Iowa Code section 17A.4(2), the Division finds that notice and public participation are impracticable and contrary to public interest because the rules will allow the drawdown of training and planning funds in the most expedient manner possible.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the rules should be waived and the rules made effective May 7, 1993, after filing with the Administrative Rules Coordinator. The Division finds that the rules confer a benefit by allowing the use of federal money for emergency planning and training.

These rules are also published herein under Notice of Intended Action as ARC 3977A.

These rules became effective on May 7, 1993.

These rules are intended to implement Iowa Code section 29C.13.

The following new chapter is adopted:

CHAPTER 8
CRITERIA FOR AWARDS OR GRANTS

605—8.1(29C,17A) Purpose. The division provides funds to a variety of entities throughout the state for support of emergency management training and planning programs. The division considers that funds, unless prohibited by appropriation language, the Iowa Code, Iowa Administrative Code or federal regulations, are subject to competition. To ensure equal access and objective evaluation of applicants for these funds, grant application materials shall contain, at a minimum, specific content. Competitive grant application packets shall contain the review criteria to be used, including the number of points allocated per required component.

605—8.2(29C,17A) Definitions. For the purpose of these rules, the following definitions shall apply:

"Competitive grant" means the competitive grant application process to determine the grant award for a project period.

"Division" means the Iowa department of public defense, emergency management division.

"Project" means the activities or program(s) funded by the division.

"Project period" means the period of time which the division intends to support the project without requiring the recompetition for funds. The project period is specified within the grant application period.

"Service delivery area" means the defined geographic area for delivery of project services.

605—8.3(29C,17A) Exceptions. Exceptions to these rules are as follows:

1. New funds that become available for new services.
2. Federal or private funding agency specified a sole source.
3. An organization failed to meet conditions and performance standards specified in the contract awards.
4. Mutual agreement among division and contract organizations.

605—8.4(29C,17A) Requirements. The following shall be included in all grant application materials made available by the division:

1. Funding source.
2. Project period.
3. Services to be delivered.
4. Service delivery area.
5. Funding purpose.
6. Funding restrictions.
7. Funding formula (if any).
8. Matching requirements (if any).
9. Reporting requirements.
10. Performance criteria.
11. Description of eligible applicants.
12. Need for letters of support or other materials (if applicable).
13. Application due date.
14. Anticipated date of award.
15. Eligibility guidelines for those receiving the service or product and the source of those guidelines, including fees or sliding fee scales (if applicable).
16. Target population to be served (if applicable).
17. Appeal process in the event an application is denied.

605—8.5(29C,17A) Review process (competitive applications only). The review process to be followed in determining amount of funds to be approved for award of contract shall be described in the application. The review criteria and point allocation for each shall also be described in the grant application material.

The competitive grant application review committee shall be determined by the bureau chief, with oversight from the administrator. The review committee members shall allocate points per review criteria in conducting the review.

In the event competitive applications for a service delivery area receive an equal number of points, a second review shall be conducted by the administrator and the respective bureau chief administering the program.

605—8.6(29C,17A) Opportunity for review and comment. Program advisory committees or related task forces of the program may be provided with an opportunity to review and comment on the criteria and point allocation prior to implementation. Exceptions may occur when the funding source to the division has already included such criteria and point allocation within the award or the time frame allowed is insufficient for such review and comment.

605—8.7(29C,17A) Public notice of available grants. When making funds available through a competitive grant application process, the division shall, at least 60 days prior to the application due date, issue a public notice in the Iowa Administrative Bulletin that identifies the availability of funds and how to request the application packet. A written request for the packet shall serve as the letter of intent. Services, delivery areas and eligible applicants shall also be described in the public notice.

EMERGENCY MANAGEMENT DIVISION[605](cont'd)

Exceptions to the 60-day public notice prior to the application due date are:

1. The receipt of the official notice of award by the division precludes a full 60-day notice in the Iowa Administrative Bulletin. The division shall nonetheless issue the public notice in the Iowa Administrative Bulletin at the earliest publication schedule.

2. In the event the publication date would not allow at least 30 days for interested parties to request an application packet and apply for funds, the program shall then (at the earliest opportunity) directly notify current contractors and other interested parties of the availability of funds through press releases and other announcements.

These rules are intended to implement Iowa Code chapters 17A and 29C.13.

[Filed Emergency 5/4/93, effective 5/7/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3980A

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 542B.6, the Iowa Engineering and Land Surveying Examining Board hereby adopts a new Chapter 6, "Sales of Goods and Services," Iowa Administrative Code.

The new chapter implements provisions of Iowa Code section 68B.4 and establishes a procedure specifying the method by which officials may obtain agency consent for the sale of goods and services.

In compliance with Iowa Code section 17A.4(2), the Board finds that notice and public participation are impracticable because it causes an undue hardship on professional board members to pursue their livelihood in the same manner in which other engineers and land surveyors are allowed to practice their profession.

The Board finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the chapter should be waived and the new chapter made effective upon filing with the Administrative Rules Coordinator because it confers a benefit by allowing the Board to continue to serve the public.

This chapter is intended to implement Iowa Code section 68B.4.

This chapter became effective May 4, 1993.

The following new chapter is adopted:

CHAPTER 6 SALES OF GOODS AND SERVICES

193C—6.1(68B) Selling of goods or services by members of the engineering and land surveying examining board. The board members shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department of commerce except as authorized by this rule.

6.1(1) Conditions of consent for members. Consent shall be given by a majority of the members of the board. Consent shall not be given to an official to sell goods or services to an individual, association, or corporation regulated by the department of commerce unless all of the following conditions are met:

a. The official requesting consent does not have authority to determine whether consent should be given.

b. The official's duties or functions are not related to the department's regulatory authority over the individual, association or corporation to whom the goods and services are being sold, or the selling of the good or service does not affect the official's duties or functions.

c. The selling of the good or service does not include acting as an advocate on behalf of the individual, association, or corporation to the department of commerce.

d. The selling of the good or service does not result in the official selling a good or service to the department on behalf of the individual, association, or corporation.

6.1(2) Authorized sales.

a. A member of the engineering and land surveying examining board may sell goods or services to any individual, association, or corporation regulated by any division within the department of commerce, other than the board on which that official serves. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board.

b. A member of the engineering and land surveying examining board may sell goods or services to any individual, association, or corporation regulated by the licensing board of which that person is a member, if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board. In the event a complaint is filed with the licensing board concerning the services provided by the board member to a member of the public, that board member is otherwise prohibited by law from participating in any discussion or decision by the licensing board in that case.

c. Individual application and approval are not required for the sales authorized by this rule unless there are unique facts surrounding a particular sale which would cause the sale to affect the seller's duties or functions, would give the buyer an advantage in dealing with the board, or would otherwise present a conflict of interest.

6.1(3) Application for consent. Prior to selling a good or service to an individual, association, or corporation subject to the regulatory authority of the department of commerce, an official must obtain prior written consent unless the sale is specifically allowed in subrule 6.1(2). The request for consent must be in writing signed by the official requesting consent. The application must provide a clear statement of all relevant facts concerning the sale. The application should identify the parties to the sale and the amount of compensation. The application should also explain why the sale should be allowed.

6.1(4) Limitation of consent. Consent shall be in writing and shall be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the board. A consent provided under these rules does not constitute authorization for any activity which is a conflict of interest under

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

common law or which would violate any other statute or rule. It is the responsibility of the official requesting consent to ensure compliance with all other applicable laws and rules.

This rule is intended to implement Iowa Code section 68B.4.

[Filed Emergency 5/4/93, effective 5/4/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3972A**PERSONNEL DEPARTMENT[581]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 19A.9, the Iowa Department of Personnel hereby amends Chapter 11, "Separations, Disciplinary Actions and Reduction in Force," Iowa Administrative Code.

The purpose of this amendment is to modify language deemed ultra vires by the Iowa Attorney General. The amendment was to have become effective on May 19, 1993, but the Attorney General's opinion received on April 8, 1993, has prompted the Department to amend the language prior to the amendment's implementation.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because the amendment restores a benefit.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and this amendment should be made effective on April 30, 1993.

This amendment is intended to implement Iowa Code section 19A.9.

The following amendment is adopted.

Amend subrule 11.1(3), paragraph "h," as follows:

h. Employees who participate in this program are not eligible to accept any further employment with the state of Iowa, ~~either bona fide or as an independent contractor, professional corporation, or similar entity.~~ This prohibition does not apply to a program participant who is later elected to public office.

[Filed Emergency 4/30/93, effective 4/30/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 4000A

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code subsections 159.5(11), 159.6(2), and 163.1(1), the Iowa Department of Agriculture and Land Stewardship hereby amends the Disease Control at Fairs and Exhibits segment of Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

The purpose of the amendment is to waive the negative testing requirements for goats from class "free" states (brucellosis and tuberculosis) for exhibition, and to extend the time of eligibility for exhibition on a negative test from 75 days to 90 days.

The only change to the amendment published as Notice of Intended Action **ARC 3808A** in the Iowa Administrative Bulletin March 3, 1993, is to change the time from 75 to 90 days for a negative test recognition.

This change was requested by oral comment at the public hearing held March 23, 1993.

This amendment is intended to implement Iowa Code subsections 163.1(1) and 163.1(3).

This amendment will become effective June 30, 1993.

The following amendment is adopted.

Amend subrule 64.34(3) as follows:

64.34(3) Sheep and goats. All sheep must be individually identified and a record of the identification noted on the health certificate. Any evidence of footrot, sore mouth or any other contagious disease will eliminate the animal from the show.

Goats must be from a state certified brucellosis-free herd, *or from a class "free" state (brucellosis)*, or have a record of a negative brucellosis test performed within ~~seventy-five~~ 90 days of the exhibition. In addition, they must originate from a herd having a negative tuberculosis test within the last 12 months, *or from a class "free" state (TB)*; or have a record of a negative tuberculosis test performed within ~~75~~ 90 days of exhibition.

[Filed 5/7/93, effective 6/30/93]

[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3979A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 225C.6, the Department of Human Services hereby amends Chapter 39, "Mental Health, Mental Retardation and Developmental Disabilities Special Services Fund," appearing in the Iowa Administrative Code.

The Mental Health and Mental Retardation Commission adopted these amendments May 4, 1993. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on March 3, 1993, as **ARC 3804A**.

These amendments:

1. Update definitions and terminology to ensure consistency with program implementation and terminology used in the field.

2. Revise policy on waiting lists for supplemental per diems to provide that if persons who have been actively participating in the program must be moved to the waiting list due to insufficient funds, they shall be moved from the waiting list in the reverse chronological order of their approval and placement into the program. These persons shall enter at the top of the waiting list and will be considered to reenter the program before others on the waiting list who may be there due to outplacement or aversion.

3. Add weighting criteria for state grants.

4. Require endorsement of grant proposals from Planning Councils, which replaced Coordinating Boards.

5. Establish the process for determining the distribution of state funds to meet the matching fund requirements of the federal Stewart B. McKinney program and for determining state agency endorsement of applicants' proposed projects to develop living arrangements for homeless persons with mental illness.

6. Eliminate a sunset provision for the rules which was previously overlooked.

Changes from the Notice are as follows:

Rules 441—39.22(225C) and 441—39.29(225C) were revised to make these changes more consistent with new federal rules that were published in the Federal Register on March 15, 1993. The federal rule changes alter the previous role that states had to take in the application for and implementation of some McKinney Act funded programs. Until this year, a state agency was the only eligible applicant for certain programs funded by the McKinney Act. The 1993 federal changes now allow other entities, in addition to state agencies, to apply for federal funds. These changes are intended to make the Iowa program more flexible. No negative impact on local providers nor on persons who might be served by these programs is anticipated.

These amendments are intended to implement Iowa Code chapter 225C.

These amendments shall become effective July 1, 1993.

The following amendments are adopted.

ITEM 1. Amend rule **441—39.1(225C)**, definitions of "Contract," "Department," "Provider," and "Recipient of supplemental per diems," as follows:

"Contract" means the *two-party or three-party* binding agreement regarding the residential and other services to be provided to persons in order to access the supplemental per diems.

"Department" means the Iowa department of human services, which is a party to the *two-way or three-way* contractual agreement to provide community-based residential services to eligible persons.

"Provider" means a community-based residential care facility, as defined in *rules of the department of inspections and appeals rules 481—Chapter 63*, or other licensed, certified, or approved community living arrangement, which is a party to the *two-way or three-*

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way contractual agreement to provide community-based residential services to eligible persons.

"Recipient of supplemental per diems" means a county or a provider which will receive a supplemental per diem by contracting with the department. Supplemental per diems shall be requested on behalf of persons approved by the department.

ITEM 2. Amend rule 441—39.2(225C) as follows:

441—39.2(225C) Availability of funds. The department shall administer the funds for eligible recipients during any year in which funds are available for supplemental per diems. The amount allocated to each recipient shall be contingent upon the funds available. The department shall provide supplemental per diems for the maximum number of persons that may be served with the state fiscal year 1994 appropriation. However, the department reserves the right to provide less than the amount of the funds appropriated if there are an insufficient number of acceptable requests submitted to adequately achieve the purposes of the special services fund. Supplemental per diems shall only be available on behalf of eligible persons that are outplaced or averted from a state hospital-school placement after these rules take effect, August 8, 1990.

ITEM 3. Amend rule 39.3(225C) as follows:

Amend subrule 39.3(1), paragraph "c," as follows:

c. Geographic distribution using department districts regions as the geographic unit. Persons in districts regions with the highest level of need shall be considered before others.

Amend subrule 39.3(2) as follows:

39.3(2) Waiting list. If the number of persons identified for outplacement or aversion is greater than the number of persons that can be served within the limitations set forth by the appropriation, a waiting list shall be developed and maintained by the division. Persons to be averted shall not be removed from the waiting list until all persons identified for outplacement have been removed from the waiting list. *If persons who have been actively utilizing the program must be moved to the waiting list due to insufficient funds to complete a full fiscal year's contract, they shall be moved from the supplemental per diem program payment list in the reverse chronological order of their approval and placement into the supplemental per diem program (e.g., the last person on whose behalf a contract was approved shall be the first to be moved to the waiting list). These persons shall enter at the top of the waiting list and will be considered to reenter the supplemental per diem program before others on the waiting list who may be there due to outplacement or aversion.*

ITEM 4. Amend subrule 39.6(1) as follows:

39.6(1) Request to utilize a larger facility. Prior to developing the ~~three-way~~ appropriate contract, a written request to utilize a larger facility must be submitted to the administrator. This request must contain all the reasons that selection of a smaller facility is not possible.

ITEM 5. Amend rule 441—39.10(225C) as follows:

441—39.10(225C) Method of payment. The county, on a monthly basis, shall submit a claim voucher to the bureau of finance of the department to request payment of the supplemental per diem for residential services as set forth in the contractual agreement. The voucher shall cover the time period of the preceding month or fraction of the month in which the terms of the contract were met.

All original vouchers, invoices, or claims shall be submitted 30 days from the date of service. Valid claims submitted within the time limit specified but rejected due to an error shall be resubmitted. If final payment is not made within 60 days of the end of the state fiscal year 1994 during which services were provided, the claim shall be submitted to the state appeal board for payment.

ITEM 6. Amend rule 441—39.21(225C) by adding the following new introductory paragraph:

441—39.21(225C) Definitions. When funds appropriated for construction and start-up costs are used to match federal Stewart B. McKinney Homeless Assistance Act funds, federal definitions shall supersede definitions set forth in this rule.

Further amend rule 441—39.21(225C) by adding the following new definition in alphabetical order:

"Planning council" refers to the county or multicounty mental illness, mental retardation, developmental disabilities, and brain injury (MI/MR/DD/BI) planning council established by a county board or boards of supervisors to develop a plan for services for persons with MI/MR/DD/BI in the planning council area.

ITEM 7. Amend rule 441—39.22(225C) as follows:

441—39.22(225C) Distribution of funds. During any state fiscal year for which funds are appropriated, the department may use the funds to match federal Stewart B. McKinney Homeless Assistance Act funds. *This Act authorizes funds to develop housing and support services for homeless persons with mental illness. This program shall be administered in accordance with federal regulations at Title 24, Part 578, as amended to March 15, 1993. The process to determine the distribution of state funds to meet the matching fund requirements of the Stewart B. McKinney program is described in rule 441—39.29(225C).* If the appropriated state funds are not used to match these federal dollars, the commission shall award state grants from the special services fund for the purposes of construction and start-up of community living arrangements for adults who are homeless and have a mental illness. The department shall administer the funds to eligible recipients during any year in which funds are available for ~~construction and start-up~~ the purposes of this program. The amount allocated to each recipient shall be contingent upon the funds available. The department reserves the right to provide less than the amount of the funds appropriated if there ~~are~~ is an insufficient number of acceptable grant proposals submitted to adequately achieve the purposes of the special services fund.

ITEM 8. Amend rule 441—39.23(225C) as follows:

Amend the catchwords and add an introductory paragraph to the rule as follows:

441—39.23(225C) Grant State grant application process. *This rule describes the process to disburse dollars that are not used to match the federal Stewart B. McKinney Homeless Assistance Act funds.*

Amend subrule 39.23(4), catchwords, and paragraphs "b," "g," and "h," as follows:

39.23(4) Grant State grant proposal.

b. ~~Eight~~ *Nine* additional copies of the completed application.

g. A letter of endorsement from the *planning council of mental health, mental retardation, and developmental disabilities coordinating board* in the county or counties in

HUMAN SERVICES DEPARTMENT[441](cont'd)

which the project will occur. This letter shall nominate the project for construction and start-up funding. For a statewide project, a letter is required only from the *planning council of the county* of the applicant agency.

h. ~~Three~~ Six letters of support from agencies or individuals stating familiarity with the proposed project and substantiating the experience of the applicant to conduct the proposed project. *These letters should be authored by a diverse group including professional or service provider organizations, local government and housing officials, advocates for the population group, and service consumers and their family members. A minimum of one letter each must be from: individuals or organizations that represent Iowa consumers of mental health services and individuals or organizations that represent family members of persons with mental illness.*

Further amend subrule 39.23(4) by adding the following **new** paragraph "o":

o. A written letter of project support from the local homeless coordinating board if the geographical area in which the project will occur has one of these boards established.

Amend subrule 39.23(5), introductory paragraph, as follows:

39.23(5) Project review. All proposals meeting the minimum criteria above will be evaluated by members of the review committee established by the administrator. The review committee will comprise, in addition to the commission itself, staff of the division, and others from the public and private sectors. The review committee shall make recommendations of approval or disapproval to the ~~full~~ commission. The review criteria *and the weighted value of each section of the application* are contained in the application package, Form 470-2773, as indicated in subrule 39.23(4). The commission shall award all grants. The following ~~factors~~ *sections of the application and their weighted values* will be considered in selecting proposals for funding:

Further amend subrule 39.23(5) by rescinding paragraphs "a" to "i" and inserting the following **new** language in lieu thereof:

a. Introduction (6 points) – describing the experience, expertise, and community linkages of the applicant.

b. Problem statement (9 points) – describing the need for the project.

c. Project goals and objectives (9 points) – measurability and indicators of anticipated outcomes and their relationship to the identified needs.

d. Methods (24 points) – describing the project design and the ways in which the project will be implemented.

e. Evaluation (3 points) – the plan to determine the degree to which goals and objectives were achieved and project methods were followed to achieve them.

f. Budget (12 points).

ITEM 9. Rescind rule 441—39.29(225C) and insert the following **new** language in lieu thereof:

441—39.29(225C) Stewart B. McKinney application process. This rule describes the process to determine state endorsement of applications and the distribution of dollars which may be used to match the federal Stewart B. McKinney Homeless Assistance Act funds.

39.29(1) Applicants for the Stewart B. McKinney funds. The applicants for the Stewart B. McKinney Homeless Assistance Act funds include states, Indian

tribes, metropolitan cities, public housing agencies, counties, governmental agencies, private nonprofit organizations, or community mental health organizations that are public nonprofit organizations. The United States Department of Housing and Urban Development (HUD) defines the requirements of all applications. In order to ensure that applicants that wish to use state funds to meet application match requirements meet the HUD and state criteria, the division and the commission shall screen all applications before endorsing them. Federal regulations and other state criteria pertaining to Stewart B. McKinney programs shall be the bases for the state's screening process.

39.29(2) Public notice of funding. The publication of the HUD Notice of Funding Availability in the Federal Register shall constitute official public notice. The department shall develop the time frames for submitting proposed applications to the division to be screened using the time frames annually determined by HUD. Interested applicants shall contact the division to express their intentions to apply and use the state funds to meet match requirements.

39.29(3) Screening process. The department shall determine to what extent an applicant is able to meet the federal and state program requirements to help determine whether or not it will endorse an applicant and allow state funds to be used to meet match requirements. The department, through the division, will work with eligible applicants that have an interest in a federal program by providing technical assistance regarding the program guidelines, federal and state requirements, application procedures, and related matters. The general scope of the Stewart B. McKinney programs is to develop innovative approaches for providing supportive housing, especially to deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities. A central purpose of the program and the intended focus of the department is to provide supportive housing for deinstitutionalized homeless individuals and other homeless individuals with mental illness. Applicants shall submit their project information to the administrator of the division per established time frames in order to be screened and considered for support by the department. The division will consider applications only if it is determined that federal time frames and state funds availability are compatible and the time frames are conducive to allow ample review time by the division. Applications will be screened to determine if they meet HUD and department criteria and whether or not the department will endorse an application and allow state funds to be used as match funding.

39.29(4) Screening criteria based on federal regulations. The federal application and program requirements that are published annually in the Federal Register and other relevant documents shall be used to define these criteria. The weighting process used by the federal government shall be used by the department for screening purposes. These federal application and program requirements may include, but are not limited to:

- a. Applicant capacity to run a successful project.
- b. Innovative quality of project.
- c. Need for housing in the areas to be served.
- d. Coordination with other programs.
- e. Targeting to persons on streets or in shelters.
- f. Cost-effectiveness.

HUMAN SERVICES DEPARTMENT[441](cont'd)

g. Project design quality.

Consideration will only be given to applicants and projects that meet all of the HUD requirements. In addition to the federal requirements, state requirements as set forth in subrule 39.29(5) will be used to screen applications.

39.29(5) State requirements. All applicants must submit the following to be eligible. Failure to do so will eliminate an application from consideration.

a. A written letter of endorsement by the planning council of the county(ies) in which the proposed project will occur. This letter shall nominate the applicant and project for consideration by the department.

b. A written letter of support and endorsement by the applicant's governing body.

c. Written documentation that the project is designed for homeless persons with chronic mental illness per the definitions established by HUD and the state of Iowa as set forth in rule 441—39.21(225C).

d. A written letter of project support from the local homeless coordinating board if the geographical area in which the project will occur has one of these boards established.

e. A minimum of six letters of support from agencies or individuals stating familiarity with the proposed project and substantiating the experience of the applicant to conduct the proposed project. These letters should be authored by a diverse group including professional or service provider organizations, local government and housing officials, advocates for the population group, and service consumers and their family members. A minimum of one letter each must be from: individuals or organizations that represent Iowa consumers of mental health services and individuals or organizations that represent family members of persons with mental illness.

f. Written endorsement by the regional and local department offices. These endorsements shall substantiate the needs described in the project and support the applicant and project.

g. Written letters of commitment from all sources of matching funds, whether in-kind or cash.

h. Written letters of commitment from all sources of funds related to the project that will be used to provide ongoing supportive services' or operations' funding.

i. Certification of Applicant and Assurances, Form 470-3000.

39.29(6) Screening review committee. The department shall decide whether or not to endorse an application based on the recommendations of a review committee to be established by the administrator. The composition of this committee may include: the commission, housing and other state agencies, service providers, advocates for persons with mental illness or for persons who are homeless, and service consumers. The conflict of interest rules defined in rule 441—39.27(225C) shall apply to the review committee. The criteria noted in subrules 39.29(4) and 39.29(5) shall be used as the basis for the review committee's recommendations to the department. Review committee recommendations shall include the ranking of all eligible applications based on the amount of the points received for meeting the federal requirements and on the extent to which local projects satisfy the state requirements. This ranking will be used to determine which of the applications will be endorsed by the department and how the state-appropriated funds are distributed. The department may, at its discretion, accept or deny applications on the basis of the above guidelines and the review committee's recommendations.

39.29(7) Using state-appropriated funds to meet the federal matching fund requirements. Stewart B. McKinney and HUD programs require matching funds. Applicants endorsed by the department may use the state-appropriated funds to meet an eligible application's matching fund requirements per the following:

a. Applicants will provide from other eligible funding sources a minimum of 30 percent of a project's matching fund requirements. The state-appropriated funds may be used to meet the balance of a project's matching fund requirements.

b. No single project may utilize more than 50 percent of the amount appropriated in any state fiscal year.

c. If applicants' requests to use the state-appropriated matching funds exceed the amount appropriated, funds will be distributed based on the above percentages using the rankings described in 39.29(6) until all of the funds are obligated.

39.29(8) Allowed expenditures. Generally allowed expenditures of the federal funds (subject to change based on amendments to federal regulations) are as follows:

a. Acquisition of land or structure (subject to meeting matching fund requirements).

b. Rehabilitation of structures (subject to meeting matching fund requirements).

c. New construction if cost-effectiveness is demonstrated (subject to meeting matching fund requirements).

d. A portion of operating costs.

e. A portion of supportive services costs.

f. Rental assistance.

39.29(9) Notification. The department shall send notification of whether or not a project receives state endorsement and whether state-appropriated funds may be used by the applicant to meet matching fund requirements to each applicant within 20 working days of the deadline date for submission of proposed applications to the division administrator. The notification shall include the reason for the decision and applicant's appeal rights.

39.29(10) Appeals. Applicants dissatisfied with the department's decision may file an appeal with the director. A letter of appeal must be submitted within ten working days of the date of the notice of decision and must include a request for the director to review the decision and the reasons for dissatisfaction. Within ten working days of the receipt of the appeal the director will review both the appeal request and evidence provided by the administrator and will issue a final decision.

ITEM 10. Amend the implementation clause following rule 441—39.29(225C) as follows:

These rules are intended to implement Iowa Code chapter 225C and ~~1991 Iowa Acts, House File 479, section 125, subsections 2 and 3.~~

[Filed 5/6/93, effective 7/1/93]

[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3973A

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 502.607(1), the Iowa Division of Insurance amends Chapter 50, "Regulation of Securities Offerings and Those Who Engage in the Securities Business," Iowa Administrative Code.

The amendments relate to the books and records a broker-dealer is required to maintain relating to its business.

Notice of Intended Action was published in the March 17, 1993, Iowa Administrative Bulletin as **ARC 3834A**. No comments were received. No changes have been made to the proposed amendments.

Subrule 50.3(1) is amended to make it gender-neutral.

Subparagraph 50.3(1)"d"(7) is amended to require broker-dealers to maintain a ledger or other record reflecting all repurchase and reverse repurchase agreements. Paragraph 50.3(1)"e" is amended to require broker-dealers to maintain a record of the clearance date for each "long" or "short" position for all repurchase and reverse repurchase agreements. Paragraph 50.3(1)"h" is amended to require broker-dealers to maintain copies of all confirmations of purchases and sales of repurchase and reverse repurchase agreements. These three amendments relating to repurchase agreements adopt requirements already imposed on broker-dealers by the Securities and Exchange Commission (SEC).

Subparagraph 50.3(1)"i"(8) is amended to conform to Iowa Code section 502.304(1)"c" which relates to records a broker-dealer must maintain on the criminal convictions entered against any of its employees. Iowa Code section 502.304(1)"c" was recently amended and this amendment incorporates that change.

Subparagraph 50.3(1)"l"(9) is amended to simplify a record-keeping requirement relating to alias names used by a broker-dealer's registered representatives.

Subrule 50.3(1) is amended to incorporate SEC rules relating to record-keeping requirements for broker-dealers who transact business in penny stocks.

These amendments were adopted by the Commissioner of Insurance on April 21, 1993.

These amendments will become effective on June 30, 1993.

The amendments are intended to implement Iowa Code section 502.303.

The following amendments are adopted.

ITEM 1. Amend subrule 50.3(1), introductory paragraph, as follows:

50.3(1) Every broker-dealer who transacts business in this state shall make and keep current the following books and records relating to ~~his~~ *its* business:

ITEM 2. Amend subrule **50.3(1)**, paragraph "d," by adding a new subparagraph (7) as follows:

(7) Repurchase and reverse repurchase agreements;

ITEM 3. Amend subrule **50.3(1)**, paragraph "e," as follows:

e. A securities record or ledger reflecting separately for each security as of the clearance dates all "long" or "short" positions (including securities in safekeeping *and securities that are the subjects of repurchase or reverse*

repurchase agreements) carried by such broker-dealer for its account or for the account of its customers or partners and showing the location of all securities long and the offsetting position to all securities short, including long security count differences and short security count differences classified by the date of the physical count and verification in which they were discovered, and in all cases the name or designation of the account in which each position is carried;

ITEM 4. Amend subrule **50.3(1)**, paragraph "h," as follows:

h. Copies of confirmations of all purchases and sales of securities, *including all repurchase and reverse repurchase agreements*, and copies of notices of all other debits and credits for securities, cash and other items for the account of customers and partners of such broker-dealer;

ITEM 5. Amend subrule **50.3(1)**, paragraph "l," subparagraph (8), as follows:

(8) A record of any convictions for any ~~felony or any misdemeanor, except minor traffic offenses~~; *involving a security or any aspect of the securities business, or any felony*;

ITEM 6. Amend subrule **50.3(1)**, paragraph "l," subparagraph (9) as follows:

(9) A record of any other name or names by which such person has been known or has used; provided, however, that if such associated person has been registered as a registered representative of such broker-dealer with, or ~~his~~ *such person's* employment has been approved by, the National Association of Securities Dealers, Inc., or the American Stock Exchange, the Midwest Stock Exchange, the New York Stock Exchange, ~~or~~ *the Pacific Coast Stock Exchange, the Boston Stock Exchange, or the Philadelphia-Baltimore Stock Exchange*, then retention of a full, correct and complete copy of any and all applications for such registration or approval shall be deemed to satisfy the requirements of this subparagraph.

ITEM 7. Amend subrule **50.3(1)** by adding a new paragraph "n" as follows:

n. All records necessary to demonstrate compliance with the disclosure requirements of Securities and Exchange Commission (SEC) rules 15g-1 through 15g-6 adopted pursuant to the requirements of the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 (Penny Stock Act) and codified at 17 CFR 240.15g-1 through 17 CFR 240.15g-6. The definition of "Penny Stock" as contained in SEC rule 3a51-1 and codified at 17 CFR 240.3a51-1 is adopted by reference. A copy of these SEC rules is available to the public during regular business hours at the offices of the Securities Bureau in the Lucas State Office Building, Des Moines, Iowa.

[Filed 4/30/93, effective 6/30/93]

[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 4001A

LABOR SERVICES DIVISION[347]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 92.21 and 17A.3(1), the Labor Commissioner hereby amends Chapter 32, "Child Labor," Iowa Administrative Code.

These amendments relate modifications to the prohibited occupations for workers under the age of 18. The amendments make clarifications to the current rules and bring the Iowa interpretations in line with federal interpretations and reduce misunderstandings by employers. Persons under the age of 18 are no longer permitted to drive school buses. Certain recycling equipment for paper products which have been introduced present hazards for minors. Meat slicers in a variety of locations are prohibited for use by minors.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 3, 1993, as **ARC 3791A**.

A public hearing was scheduled for March 25, 1993. No comments were received. These amendments are identical to the Notice.

The Commissioner adopts these amendments to become effective on June 30, 1993.

These amendments are intended to implement Iowa Code section 92.8.

The following amendments are adopted.

ITEM 1. Amend subrule **32.8(1)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(1).

ITEM 2. Amend subrule **32.8(2)**, paragraph "a," as follows:

a. The following ~~are exceptions~~ *exemption is* for occupations of motor vehicle driver and helper:

(1) Incidental and occasional driving where the operation of automobiles or trucks does not exceed 6,000 pounds gross vehicle weight if the driving is restricted to daylight hours; the operation is only occasional and incidental to the child's employment; the child holds a state license valid for the type of driving involved in the job which is to be performed and has completed a state approved driver education course; the vehicle is equipped with a seat belt or similar device for the driver and for each helper; and the employer has instructed each child that the belts or other devices must be used. This exemption shall not be applicable to any occupation of a motor vehicle driver which involves the towing of vehicles.

~~(2) The driving of a school bus.~~

Further amend subrule **32.8(2)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(2).

ITEM 3. Amend subrule **32.8(3)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(3).

ITEM 4. Amend subrule **32.8(4)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(4).

ITEM 5. Amend subrule **32.8(5)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(5).

ITEM 6. Amend subrule **32.8(6)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(6).

ITEM 7. Amend subrule **32.8(7)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(7).

ITEM 8. Amend subrule **32.8(8)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(8).

ITEM 9. Amend subrule **32.8(9)**, paragraph "d," introductory paragraph, as follows:

d. All occupations involved in the operation or feeding of the following power-driven meat-processing machines, including the occupations of setting-up, adjusting, repairing, oiling, or cleaning the machines *regardless of the product being processed by these machines (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese, etc.)*:

Further amend subrule **32.8(9)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(9).

ITEM 10. Amend subrule **32.8(10)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(10).

ITEM 11. Amend subrule **32.8(11)**, definition of "Paper-products machine," as follows:

"Paper-products machine" means power-driven machines used in ~~the~~:

1. *The remanufacture or conversion of paper or pulp into a finished product, including the preparation of materials for recycling.*

2. *The preparation of materials for disposal.* The term ~~is understood to apply~~ *applies* to the machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishments.

ITEM 12. Amend subrule **32.8(12)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(12).

ITEM 13. Amend subrule **32.8(14)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(14).

ITEM 14. Amend subrule **32.8(15)** by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(15).

ITEM 15. Amend subrule **32.8(16)** by adding at the end thereof:

LABOR SERVICES DIVISION[347](cont'd)

This subrule is intended to implement Iowa Code section 92.8(16).

ITEM 16. Amend subrule 32.8(21) by adding at the end thereof:

This subrule is intended to implement Iowa Code section 92.8(21).

ITEM 17. Delete the implementation clause at the end of rule 347—32.8(92) and insert in lieu thereof the following:

This rule is intended to implement Iowa Code section 92.8.

[Filed 5/7/93, effective 6/30/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

- a. Public demand or need (2)
b. Project uniqueness (2)
c. Quality of site or project, or both (3)
d. Urgency of proposed action (2)
e. Multiple benefits to be provided (2)
(f. Relationship to Iowa open spaces plan or Iowa state-wide comprehensive outdoor recreation plan (3)
g. Conformance with local, regional and state plans (1)
h. Economic benefits to local, regional or state area (1)
i. Geographic distribution (1)

ITEM 2. Amend subrule 33.40(3) as follows:
33.40(3) Grant ceilings. Incorporated cities and towns are eligible to receive annual grants from the resource enhancement and protection fund in accordance with the following schedule:

Table with 2 columns: Population, Maximum. Rows show population ranges from 0-1,000 to over 75,000 with corresponding maximum grant amounts from \$50,000 to 300,000.

ARC 3998A

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 33, "Resource Enhancement and Protection Program: County, City and Private Open Spaces Grant Programs," Iowa Administrative Code.

Notice of Intended Action was published as ARC 3864A in the Iowa Administrative Bulletin on March 31, 1993.

A change to the Notice of Intended Action was made in response to public comments. The proposed new sentence was deleted that specified equal consideration be given under the county conservation grant program to grant requests for land acquisition and for development projects on land acquired with REAP moneys.

These amendments are intended to implement Iowa Code section 455A.19(1)"b"(3).

These amendments will become effective June 30, 1993.

The following amendments are adopted.

ITEM 1. Amend subrule 33.30(4) as follows:

33.30(4) Project selection criteria. Under the competitive grants program, a project planning and review committee shall establish criteria and scoring systems to be utilized in project evaluation.

The grant ceiling may be waived upon approval by the director if (1) the project is regional in nature or is projected to serve a minimum of 100,000 people; or (2) the project cannot be staged over a multiyear period so that a separate grant application might be submitted each year.

[Filed 5/7/93, effective 6/30/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3991A

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 71, "Nursery Stock Sale to the Public," Iowa Administrative Code.

These amendments alter the prices for nursery stock as directed by 1989 Iowa Acts, chapter 311, section 16, and update Iowa Code references to reflect renumbering of the 1993 Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 1993, as ARC 3863A. No comments were received and there are no changes from the Notice of Intended Action.

NATURAL RESOURCE COMMISSION[571](cont'd)

These amendments were adopted by the Natural Resource Commission on May 6, 1993, and will become effective on June 30, 1993.

These amendments are intended to implement 1989 Iowa Acts, chapter 311, section 16.

The following amendments are adopted:

ITEM 1. Amend 571—Chapter 71 by striking all references to "107" and "111" and inserting "456A" and "461A," respectively, to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend rule 571—71.3(456A,461A) as follows:

571—71.3(456A,461A) Nursery stock prices.

71.3(1) Prices for hardwoods and shrubs shall be \$20 \$22 per hundred plants.

71.3(2) Prices for conifers shall be \$13 \$14 per hundred plants.

71.3(3) Prices for wildlife packets shall be \$35 each.

71.3(4) Prices for songbird packets shall be \$15 each.

71.3(5) Prices for walnut seed shall be \$3 per pound.

[Filed 5/7/93, effective 6/30/93]

[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 4003A

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 456A.24 and 455A.5, the Natural Resource Commission rescinds Chapter 78, "Ginseng Harvesting and Sale," and adopts a new Chapter 78, "Ginseng Harvesting and Sale," Iowa Administrative Code.

Notice of Intended Action was published in the December 23, 1992, Iowa Administrative Bulletin as **ARC 3655A**. A public hearing was held on January 26, 1993.

Public comments generated several changes to the proposed rules as follows:

A definition for "woods-grown ginseng" was added to rule 78.1(456A) to clarify that it is cultivated ginseng.

Rule 78.2(456A) is added to reflect a statutory change in the ginseng harvesting season, and subsequent rules are renumbered accordingly.

Renumbered subrule 78.3(2) is revised to change the last day a harvester may sell ginseng from March 31 to March 15 of the year following harvest. This will allow the dealers two weeks longer than harvesters to sell the harvest of a particular year.

A new paragraph is added to renumbered subrule 78.3(2) in order to allow a person to retain ginseng beyond March 31 for personal use. The amount of ginseng must be declared and the department notified in writing by April 15 of the year following harvest.

Renumbered subrule 78.3(3) is revised to change the date by which a person must apply for a dealer's permit from 30 days to 15 days prior to the opening of the ginseng season. This will allow an additional 15 days for applications to be submitted.

Renumbered subrule 78.5(2) is revised to change the fee for shipping certificates for harvesters from \$10 each to \$5 each.

Subrules 78.6(3) and 78.6(4) are added to explain the ramifications of failing to maintain records and submit reports, and for violating Iowa Code section 456A.24 or these rules.

A new rule 78.7(456A) is added to require that harvesters of wild ginseng plant any seed from harvested plants within 100 feet of the parent plants.

These rules are intended to implement Iowa Code section 456A.24(11).

These rules will become effective July 1, 1993.

The following rules are adopted.

Rescind 571—Chapter 78 and insert in lieu thereof the following new chapter:

CHAPTER 78

GINSENG HARVESTING AND SALE

571—78.1(456A) Definitions. As used in this rule:

"Cultivated ginseng" means ginseng that is artificially propagated and maintained under controlled conditions, for example, in intensively or intermittently prepared or managed gardens or patches, under artificial or natural shade.

"Dealer" means anyone who purchases and sells wild or cultivated ginseng.

"Department" means the Iowa department of natural resources.

"Director" means the director of the Iowa department of natural resources or a designee.

"Ginseng" means dry root, live root, seeds, or other parts of American ginseng (*Panax quinquefolius*) that is cultivated or wild.

"Grower" means a person who grows cultivated ginseng and who sells cultivated ginseng to a dealer.

"Harvester" means any person who harvests wild ginseng and sells it, but does not purchase ginseng.

"Wild ginseng" means ginseng that is not grown or nurtured by a person beyond planting of local seed at the site of collection.

"Woods-grown ginseng" means ginseng that has been nurtured in any way by humans, including but not limited to watering, weeding, use of pesticides, soil tillage and fertilization; considered to be cultivated ginseng.

571—78.2(456A) Season for legal harvest. Persons may dig American ginseng, either wild or cultivated, for the purposes of marketing from September 1 through October 31 of each year.

571—78.3(456A) Ginseng permits. Ginseng growers' permits, wild ginseng harvesters' permits and ginseng dealers' permits shall be issued upon filing of an application provided by the department and accompanied by the appropriate permit fee.

78.3(1) Free grower permit. Growers of cultivated ginseng are required to obtain an annual permit, for which there is no charge, from the department. The permit will expire on March 31 of each year. Applications for permit renewal must be filed with the department within 60 days of expiration.

NATURAL RESOURCE COMMISSION[571](cont'd)

78.3(2) Wild ginseng harvester's permit.

a. Every harvester of wild ginseng must have in possession a valid permit to harvest wild ginseng for the current harvest season when harvesting, possessing or transporting wild ginseng. No person, while harvesting, shall carry or have in possession any wild ginseng harvester's permit issued to another person.

b. Wild ginseng harvesters' permits shall be issued upon filing of an application accompanied by a \$10 permit fee with the department of natural resources.

c. The wild ginseng harvester's permit shall be valid from September 1 through October 31, both dates inclusive.

d. Harvesters with valid Iowa ginseng harvesters' permits may sell wild ginseng from September 1 of the year harvested through March 15 of the year following harvest.

e. The wild ginseng harvester's permit shall include the applicant's signature, address, description and such other facts as may be required by the department.

f. Ginseng roots retained for personal use beyond March 31 of the year following harvest must be declared and the department notified in writing by April 15 of the year following harvest.

78.3(3) Ginseng dealer's permit and registration.

a. All persons who buy and sell wild or cultivated ginseng in Iowa shall have a valid dealer's ginseng permit in their own name, except for paid employees or family members of a licensed dealer who are working at that dealer's primary place of business as indicated on the dealer's permit. The dealer's permit is used to register the dealer with the department.

b. Ginseng dealers' permits shall be issued upon filing of an application accompanied by a \$100 permit fee with the department.

c. The ginseng dealer's permit shall expire March 31 of the year following harvest.

d. The ginseng dealer's permit application must be filed with the department at least 15 days prior to the beginning of the legal harvest season in Iowa.

571—78.4(456A) Dealer's records. Each permitted ginseng dealer shall keep an accurate and complete record in the English language of each cultivated or wild ginseng purchase or sale. Forms for these records shall be provided by the department. A copy of each record shall be kept for a period of three years after the expiration of the dealer's permit.

78.4(1) The dealer's record of each ginseng purchase shall include:

- a. Date of purchase;
- b. Name and address of seller;
- c. Harvester's permit number or dealer's permit number of seller;
- d. Dry weight of ginseng root purchased;
- e. Name of county where purchased ginseng was harvested if purchased from a harvester with a valid harvester's permit;
- f. Such additional information as may be requested by the department.

78.4(2) The dealer's record of each ginseng sale of cultivated or wild ginseng shall include:

- a. Date of sale;
- b. Name and address of buyer;
- c. Dry weight of ginseng root sold;
- d. Year in which the ginseng sold was harvested;
- e. Such additional information as may be requested by the department.

78.4(3) Each permitted dealer shall submit an annual report to the department on forms provided by the department for all purchases and sales of cultivated and wild ginseng. These reports shall be submitted to the department by April 15 following the end of the expiration of the dealer's permit. These reports shall cover all sales and purchases from September 1 of the year of the harvest through March 31 of the year following harvest.

78.4(4) Each dealer must submit a report to the department which inventories all cultivated and wild ginseng remaining in the dealer's possession after March 31. Any roots remaining with the dealer shall be weighed and certified by the dealer. The report shall be submitted to the department by April 15 of each year even if the dealer no longer has any ginseng roots in possession. The dealer shall keep a copy of the inventory report and record all future sales of the roots listed in the report. The dealer shall submit an amended annual report to the department within 30 days of the sale of all ginseng roots listed in the inventory report.

571—78.5(456A) Certification of shipments.

78.5(1) Shipments of cultivated and wild ginseng to points outside the state of Iowa by growers, harvesters and dealers shall be accompanied by a certificate of origin (shipping certificate). Shipping certificates are the certification of legal taking. Shipping certificates shall be based upon the permit holder's cultivation, harvest, purchase and sales records and made by the permit holders on forms provided by the department.

78.5(2) Shipping certificates shall be issued free to grower and dealer permit holders and for a fee of \$5 for each certificate to holders of harvester permits.

78.5(3) Shipping certificates are serially numbered and valid only for the period of time listed on the certificate.

78.5(4) Permit holders accepting shipping certificates from the department shall be required to account for the disposition of each form issued to them.

571—78.6(456A) Inspection.

78.6(1) Any permit issued under this chapter shall be shown to employees of the department upon request.

78.6(2) Any records required by this chapter to be maintained or submitted shall be produced for inspection upon request of employees of the department.

78.6(3) Failure to maintain records or to submit reports as required may result in the denial of the issuance of future permits.

78.6(4) Any violation of Iowa Code section 456A.24 or these rules is cause for revocation of any permit issued under authority of these rules.

571—78.7(456A) Restrictions. When harvesting wild ginseng, harvesters shall plant all seeds from harvested plants within 100 feet of the parent plants. Seed from wild ginseng may not be sold or transplanted away from the site of the parent plant.

These rules are intended to implement Iowa Code section 456A.24(11).

[Filed 5/7/93, effective 7/1/93]

[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3997A**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 456A.24, 481A.38 and 481A.39, the Natural Resource Commission adopts amendments to Chapter 97, "Common Snipe, Virginia Rail and Sora, Woodcock and Ruffed Grouse Hunting Seasons," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 1993, as **ARC 3868A**.

These amendments update the rules for hunting common snipe, Virginia rail and sora, woodcock and ruffed grouse, and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting. The amendments update Iowa Code references to reflect renumbering of the 1993 Iowa Code.

The Commission adopted these amendments May 6, 1993.

There are no changes from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

These amendments will become effective August 2, 1993.

The following amendments are adopted:

ITEM 1. Amend **571—Chapter 97** by striking all references to "109" and "110" and inserting "481A" and "483A," respectively, to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend rule **571—97.1(481A)** to read as follows:

571—97.1(481A) Common snipe season. Open season for hunting common snipe shall be from September ~~5~~ 4 through December ~~20~~ 19, ~~1992~~ 1993. Shooting hours shall be from sunrise to sunset each day. Daily bag limit 8 birds; possession limit 16 birds. Entire state open.

ITEM 3. Amend rule **571—97.2(481A)** to read as follows:

571—97.2(481A) Virginia rail and sora season. Open season for hunting Virginia rail and sora shall be from September ~~5~~ 4 through November ~~13~~ 12, ~~1992~~ 1993. Shooting hours shall be from sunrise to sunset each day. Daily bag limit 12 and possession limit 24 in aggregate of both species. Entire state open.

ITEM 4. Amend rule **571—97.3(481A)** to read as follows:

571—97.3(481A) Woodcock season. Open season for hunting woodcock shall be from September ~~12~~ 18 through November ~~15~~ 21, ~~1992~~ 1993. Shooting hours shall be from sunrise to sunset each day. Daily bag limit 5; possession limit 10. Entire state open.

ITEM 5. Amend rule **571—97.4(481A)**, introductory paragraph, to read as follows:

571—97.4(481A) Ruffed grouse season. Open season for hunting ruffed grouse shall be from October ~~10~~ 9, ~~1992~~ 1993, through January 31, ~~1993~~ 1994. Shooting

hours shall be from sunrise to sunset each day. Daily bag limit 3; possession limit 6.

[Filed 5/7/93, effective 8/2/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3990A**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission amends Chapter 99, "Wild Turkey Fall Hunting," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 1993, as **ARC 3869A**.

These amendments update the rules for hunting wild turkeys during the fall for resident and nonresident hunters and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take and transportation tag requirements. The amendments also update Iowa Code references to reflect renumbering of the 1993 Iowa Code.

There are no changes from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

These amendments shall become effective July 5, 1993.

The following amendments are adopted:

ITEM 1. Amend **571—Chapter 99** by striking all references to "109" and "110" and inserting "481A" and "483A," respectively, to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend **571—99.1(481A)**, introductory paragraph and subrules 99.1(1) and 99.1(2), as follows:

571—99.1(481A) General. Wild turkey may be taken during the ~~1992~~ 1993 fall season subject to the following:

99.1(1) License. All resident hunters must have in possession a valid ~~1992~~ 1993 resident fall wild turkey hunting license, and additionally a ~~1992~~ 1993 hunting license and ~~1992~~ 1993 habitat stamp if normally required to have them, when hunting wild turkey. No person while hunting wild turkey shall carry or have in possession any license or transportation tag issued to another person. Licenses will be issued by zone and period and will be valid in the designated zone and for the designated period only. Except as provided in 99.4(1), no resident shall obtain more than one fall wild turkey gun hunting license and one fall wild turkey bow hunting license.

99.1(2) Seasons. Wild turkey of any age or sex may be taken only by the use of shotguns, muzzleloading shotguns, and bow and arrow during specified periods as follows:

NATURAL RESOURCE COMMISSION[571](cont'd)

a. Combination shotgun-or-archery season. The open fall season for hunting wild turkey with shotguns, muzzle-loading shotguns and bow and arrow shall be October 17 through November 29 28, 1992 1993, for residents.

b. Archery only. The open fall season for hunting wild turkey with bow and arrow only shall be October 1 through December 4 3, 1992 1993, and December 21 20, 1992 1993, through January 10, 1993 1994, for residents only.

ITEM 3. Amend rule 571—99.4(481A) to read as follows:

571—99.4(481A) Application procedure. All applications for wild turkey hunting licenses for the 1992 1993 fall wild turkey hunting season must be made on forms provided by the department of natural resources and returned to the Department of Natural Resources, Des Moines, Iowa 50319, with the proper license fee. Individual applications only will be accepted.

99.4(1) Applications for combination shotgun-or-archery licenses. Applications for resident 1992 1993 fall wild turkey combination shotgun-or-archery hunting licenses shall be received and accepted from July 1 to July 24 23, 1992 1993, or if the application form bears a valid and legible U.S. Postal Service postmark during the same period. No person shall submit more than one application. At the end of the period, if applications have been received in excess of the license quota for any hunting zone and license type, the department of natural resources shall conduct a drawing to determine which applicants shall receive licenses. Incomplete or improperly completed applications, applications not meeting the above conditions, or applications received prior to or after the application period shall not be considered valid applications for the drawing. If the quota for any hunting period, zone or license type has not been filled by applications received during the application period, licenses shall then be issued in the order in which applications are received starting August 17 16 and shall continue to be issued until the quota has been met or until August 28 27, 1992 1993, whichever first occurs. Residents who have obtained one combination shotgun-or-archery license may obtain one additional combination shotgun-or-archery license between August 24 23, 1992 1993, and August 28 27, 1992 1993, if licenses are still available. Nonresidents may not apply for or obtain a 1992 1993 fall turkey license.

99.4(2) Applications for archery-only licenses. Residents may apply for 1992 1993 fall wild turkey archery-only hunting licenses at any time after July 1, 1992 1993. The number of archery-only licenses will not be restricted. Nonresidents may not apply for this type of license.

99.4(3) Special turkey hunting licenses. Applications for special wild turkey hunting licenses, as provided for in Iowa Code section 481A.38, subsection 3, shall be on forms furnished by the department and shall be received at the department offices from July 1 to August 28 27, 1992 1993.

99.4(4) Landowner-tenant licenses. The application period for free landowner-tenant licenses shall be July 1 to August 28 27, 1992 1993. Free landowner-tenant shotgun-or-archery licenses are valid only for that portion of the farm unit that lies within Zone 6. Free landowner-tenant archery licenses are valid on farm units statewide. No resident landowner or tenant may obtain both a free combination shotgun-or-archery license and a paid

shotgun-or-archery license except that persons obtaining a free landowner or tenant license may obtain a paid license in the same manner that a nonlandowner or tenant obtains a second paid license, as provided for in 99.4(1). Non-resident landowners are not eligible for free wild turkey hunting licenses.

[Filed 5/7/93, effective 7/5/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3995A

**NATURAL RESOURCE
COMMISSION[571]**

Adopted and Filed

Pursuant to the authority of Iowa Code sections 481A.38, 481A.39 and 481A.48, the Natural Resource Commission hereby adopts amendments to Chapter 100, "Crow and Pigeon Regulations," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 1993, as **ARC 3870A**.

These amendments update the rules for hunting crows and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting.

These amendments update Iowa Code references to reflect renumbering of the 1993 Iowa Code.

The only changes from the Notice are season date changes which were made in response to public input.

These amendments implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

These amendments will become effective on August 2, 1993.

The following amendments are adopted:

ITEM 1. Amend **571—Chapter 100** by striking all references to "109" and inserting "481A" to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend rule 571—100.1(481A) to read as follows:

571—100.1(481A) Crow season. Open season for hunting crows shall be from October 4 15 through November 30 and January 15 14 through March 18 31 of each year. No bag or possession limit. Entire state open.

[Filed 5/7/93, effective 8/2/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3996A

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 456A.24, 481A.38 and 481A.39, the Natural Resource Commission rescinds Chapter 106, "Deer Hunting Regulations," and adopts a new Chapter 106, "Deer Hunting," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 1993, as **ARC 3873A**.

These rules regulate hunting deer and include season dates, bag limits, possession limits, season limits, shooting hours, areas open to hunting, license quotas, licensing procedures, means and methods of take and transportation tag requirements.

Several comments were received on deer and, as a result, several changes from the Notice of Intended Action were made. The changes are as follows:

1. Licenses will be issued by area and will be valid for buck-only or any-sex depending on the area.
2. Muscatine County was changed to buck-only area for first gun season.
3. Mitchell County was changed to buck-only area and Crawford County was changed to any-sex for the second gun season.
4. Clarifying language was added to 571—106.11(481A) in response to public comments.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

These rules shall become effective July 6, 1993.

The following rules are adopted.

Rescind **571—Chapter 106** and insert in lieu thereof the following **new** chapter:

CHAPTER 106 DEER HUNTING

571—106.1(481A) Licenses. Every hunter must have in possession a valid deer license when hunting, possessing, or transporting deer. No person, while hunting deer, shall carry or have in possession any license or transportation tag issued to another person.

106.1(1) Bow season license. Bow and arrow deer licenses shall be valid only during the bow season. When two bow licenses are obtained, the individual is not eligible for any other deer license except for a deer population management area permit as provided for in 571—Chapter 105.

106.1(2) Regular gun season license. Regular gun season licenses will be valid for antlered deer, or any-sex deer or antlerless deer depending on the area or county hunted. Antlered deer are defined as those deer having at least one three-inch antler. Licenses will be valid only for the area designated on the license.

Paid regular gun season licenses and free landowner-tenant deer licenses will be issued by season and will be valid for the designated season only.

106.1(3) Special muzzleloader season. Special muzzleloader season licenses shall be valid during one of the special muzzleloader seasons for antlered deer, or any-sex deer, or antlerless deer depending on the area or county hunted. Licenses will be valid only for the area

designated on the license. Antlered deer are defined as those deer having at least one three-inch antler.

571—106.2(481A) Season dates. Deer may be taken only during the following seasons:

106.2(1) Bow season. Deer may be taken by bow and arrow only in accordance with the type of license issued from October 1 through December 3, 1993, and December 20, 1993, through January 10, 1994.

106.2(2) Regular gun seasons. Deer may be taken with gun only in accordance with the type, tenure and area from December 4 through December 8, or from December 11 through December 19, 1993.

106.2(3) Special muzzleloader seasons. Deer may be taken by muzzleloader only in accordance with area restrictions from October 9 through October 17, or from December 20, 1993, through January 10, 1994.

571—106.3(481A) Shooting hours. Legal shooting hours vary according to the type of season.

106.3(1) Bow season. Legal shooting hours for hunting deer with bow and arrow shall be one-half hour before sunrise to one-half hour after sunset each day.

106.3(2) Regular gun season. Legal shooting hours for hunting deer with a gun shall be sunrise to sunset each day.

106.3(3) Special muzzleloader season. Legal shooting hours for hunting deer during the special muzzleloader season shall be one-half hour before sunrise to one-half hour after sunset each day.

571—106.4(481A) Limits.

106.4(1) Bow season. Daily bag limit one deer per license; possession limit one deer per license. A person may only shoot and tag a deer by utilizing the license and tag issued in the person's name.

106.4(2) Muzzleloader season. Daily bag limit one deer per license; possession limit one deer per license. A person may only shoot and tag a deer by utilizing the license and tag issued in the person's name.

106.4(3) Regular gun seasons. Bag limit shall be one deer for each hunter in the party who has a valid deer transportation tag. Possession limit shall be one deer per license; "possession" shall mean that the deer is in possession of the person whose license number matches the number of the transportation tag on the carcass of the deer.

106.4(4) Maximum annual possession limit. The maximum annual possession limit varies with the type of weapon(s) used, but cannot exceed three deer. Three deer may be taken if:

a. One is taken with a bow and two are taken during the regular gun season; or

b. One is taken with a bow, one taken during the regular gun season, and one during the late muzzleloader season; or

c. One is taken with a bow and two are taken during the late muzzleloader season;

d. If two deer are taken with a bow, two is the maximum possession limit.

Notwithstanding the maximum limits above, an additional deer may be taken if hunting on a deer population management area as provided for in 571—Chapter 105.

571—106.5(481A) Areas open to hunting.

106.5(1) Paid deer licenses. Hunters shall be restricted to the type of deer they shoot based on the county or area where they hunt.

NATURAL RESOURCE COMMISSION[571](cont'd)

a. Bow season. Deer of either sex may be taken in all counties.

b. Early muzzleloader season and first regular gun season (December 4-8). Only antlered deer may be taken in the following counties (Area 1): Cherokee, Clay, Buena Vista, Pocahontas, Emmet, Palo Alto, Kossuth, Chickasaw, Cerro Gordo, Wright, Franklin, Butler, Hardin, Bremer, Lyon, Osceola, Dickinson, Sioux, O'Brien, Plymouth, Fayette, Clayton, Black Hawk, Buchanan, Delaware, Dubuque, Jones, Humboldt, Winnebago, Hancock, Worth, Mitchell, Floyd, Howard, Jackson, Clinton, Scott, Muscatine, Benton, Linn, Johnson, Cedar, Iowa, Monona, Crawford, Harrison, Poweshiek, Tama, Marshall, Grundy, Jasper, Polk, Story, Boone, Webster, Hamilton, Greene, Carroll, Calhoun, Sac, Ida, Woodbury, Shelby, Audubon, and Cass. Deer of either sex may be taken in all other counties (Area 2).

c. Late muzzleloader season and second regular gun season (December 11-19). Only antlered deer may be taken in the following counties (Area 1): Lyon, Osceola, Dickinson, Sioux, O'Brien, Emmet, Palo Alto, Kossuth, Humboldt, Winnebago, Hancock, Worth, Floyd, Mitchell, Bremer, Black Hawk, Buchanan, Grundy, Butler, Cerro Gordo, Franklin, Hardin, Wright, Hamilton, Webster, Greene, Carroll, Calhoun, Sac, Ida, Plymouth, Cherokee, Buena Vista, Pocahontas, and Clay. Deer of either sex may be taken in all other counties (Area 2).

106.5(2) Paid second deer licenses. Paid second deer licenses for the bow season, second regular gun season or the late muzzleloader season shall be valid only for antlerless deer and only in the following counties: Adams, Taylor, Union, Ringgold, Clarke, Decatur, Lucas, Wayne, Monroe, Appanoose, Wapello, Davis, Jefferson, and Van Buren.

106.5(3) Free landowner/tenant licenses. Free landowner/tenant licenses shall be valid for deer of either sex taken on the landowner/tenant's farm unit.

106.5(4) Landowner/tenant free license and one paid gun or bow license. Anyone receiving a free landowner/tenant license may only purchase one additional paid regular second season gun, bow or late muzzleloader license. The additional paid license will be valid only for antlerless deer and valid only for hunting in the following counties: Adams, Taylor, Union, Ringgold, Clarke, Decatur, Lucas, Wayne, Monroe, Appanoose, Wapello, Davis, Jefferson, and Van Buren. All free landowner/tenant licenses and second paid licenses must be purchased at the county recorder's office in the county of residence.

106.5(5) Closed areas. There shall be no open season for hunting deer on the county roads immediately adjacent to or through Union Slough National Wildlife Refuge, Kossuth County, where posted accordingly.

571—106.6(481A) License quotas. A limited number of deer licenses or a limited number of certain types of licenses will be issued as follows:

106.6(1) Bow season. An unlimited number of bow licenses will be issued from the county recorder's office. A second antlerless-only bow license may be purchased for \$25 from the county recorder's office. Second bow licenses will be valid only for antlerless deer for counties designated in 106.5(2).

106.6(2) Regular gun seasons. Unlimited licenses for both first and second season will be available for all counties. All persons receiving a license for the second season will be eligible to apply for a second antlerless permit for the second season that is valid for counties designated in

106.5(2). Persons purchasing only one regular gun season license may purchase an additional antlerless-only late muzzleloader license valid in counties designated in 106.5(2). No person purchasing two regular gun season licenses is eligible for a late muzzleloader license.

106.6(3) Special muzzleloader seasons.

a. Early muzzleloader season. No more than 7,500 licenses will be issued for the season October 9 through October 17, 1993. Any person purchasing a special early muzzleloader license is not eligible to purchase any other gun license.

b. Late muzzleloader season. An unlimited number of licenses will be issued for December 20, 1993, through January 10, 1994. Any person purchasing a late muzzleloader season license may purchase a second late antlerless-only muzzleloader license valid in counties designated in 106.5(2). Any person purchasing two late season muzzleloader licenses may not purchase any other gun license.

571—106.7(481A) Method of take. Permitted weapons and devices vary according to the type of season.

106.7(1) Bow season. Except as provided in 571—15.5(481A), only recurve, compound or longbows with broadhead arrows will be permitted in taking deer during the bow season. Arrows with chemical or explosive pods are not permitted.

106.7(2) Regular gun seasons. Only 10-, 12-, 16- and 20-gauge shotguns, shooting single slugs only, and flintlock or percussion cap lock muzzleloaded rifles or muskets of not less than .44 nor larger than .775 caliber, shooting single projectiles only, will be permitted in taking deer during the regular gun seasons.

106.7(3) Special muzzleloader season. Only flintlock or percussion cap lock muzzleloaded rifles or muskets of not less than .44 nor larger than .775 caliber, shooting single projectiles only, will be permitted in taking deer during the special muzzleloader seasons.

106.7(4) Prohibited weapons and devices. The use of dogs, domestic animals, salt or bait, rifles other than muzzleloaded, handguns, crossbows except as otherwise provided, automobiles, aircraft, or any mechanical conveyance or device, including electronic calls, is prohibited except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Paraplegic" means an individual with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord. It shall be unlawful for a person, while hunting deer, to have on their person a handgun or rifle, except those persons who possess a valid muzzleloader license and the muzzleloader meets the requirements of 106.7(3).

106.7(5) Discharge of firearms from roadway. No person shall discharge a shotgun or muzzleloader shooting slugs from a road right-of-way during the regular gun seasons in all counties and parts of counties north of Highway 30 and west of Highway 63.

571—106.8(481A) Application procedures.

106.8(1) Bow season licenses. All bow deer licenses will be issued by county recorders.

106.8(2) Landowner/tenant free or second paid deer licenses. All landowner/tenant free or second paid deer licenses will be issued by county recorders in county of residence through October 31.

106.8(3) Regular gun season licenses. All applications for regular gun season deer hunting licenses for the 1993

NATURAL RESOURCE COMMISSION[571](cont'd)

deer hunting season shall be made on forms provided by the department of natural resources and returned to the department of natural resources office in Des Moines, Iowa. No one shall submit more than one application. Applications for paid regular gun season deer hunting licenses must be accompanied by \$25 for each license. Only individual applications will be accepted. Applications will be received and accepted from July 19 through August 27, 1993, or if the application form bears a valid and legible U.S. Postal Service postmark prior to August 28, 1993. Any incomplete or improperly completed application, any application not meeting the above conditions, or any application received after the application period will not be considered a valid application.

The department may develop media/telecommunication options that would allow for additional methods of obtaining a deer license. Methods and deadlines may be determined by the department as a part of the alternative methods developed.

106.8(4) Special muzzleloader season licenses. All applications for special muzzleloader season deer hunting licenses for the 1993 season must be made on forms provided by the department of natural resources and returned to the department in Des Moines, Iowa. Applications must be accompanied by \$25 for each license. Only individual applications will be accepted. Applications will be received and accepted from July 19 through August 13, 1993. If valid applications exceed the quota, a drawing will be held. Any incomplete or improperly completed application, any application not meeting the above conditions, or any application received after the application period will not be considered as a valid application. If the quota for special muzzleloader season deer licenses has not been filled, licenses shall then be issued in the order in which applications are received and shall continue to be issued until quotas have been met or until August 27, 1993, whichever first occurs.

106.8(5) Restrictions. No person shall obtain more than two deer bow licenses or one bow license and two gun deer licenses.

A gun deer license is a license issued for the regular gun season or a license issued for a special muzzleloader season.

571—106.9(481A) Transportation tag. A transportation tag bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to the carcass of each deer, in such a manner that the tag cannot be removed without mutilating or destroying the tag, within 15 minutes of the time the deer is killed or before the carcass of the deer is moved in any manner, whichever first occurs. This tag shall be proof of possession and shall remain affixed to the carcass until such time as the animal is processed for consumption. The head, and antlers if any, shall remain attached to all deer while being transported by any means whatsoever from the place where taken to the processor or commercial preservation facility, or until the deer has been processed for consumption.

571—106.10(481A) Youth deer hunt.

106.10(1) Licenses. A special youth deer license will be issued to any Iowa resident that is 12 to 15 years of age by September 1 that possesses a valid hunter safety certificate. All persons participating must be accompanied by an adult possessing a regular hunting license and habitat stamp. Only one adult may participate for each

youth hunter. The accompanying adult must not possess a firearm and must be in direct company of the youth at all times. Persons may obtain only one youth deer license, but may also obtain one regular bow or firearm license.

106.10(2) Season dates. Any-sex deer may be taken in 1993 statewide on September 11, 12, 18, 19, 25 and 26.

106.10(3) Shooting hours. Legal shooting hours for hunting deer will be one-half hour before sunrise to one-half hour after sunset each day regardless of weapon used.

106.10(4) Limits and license quotas. Daily bag and possession limit is one deer per licensed youth. The licensee can shoot only one deer during this season. An unlimited number of licenses will be issued.

106.10(5) Method of take and other regulations. Deer may be taken with shotgun, bow or muzzleloaded rifles as permitted in 571—106.7(481A). All participants must meet the hunter orange requirement in Iowa Code section 481A.122. All other regulations for taking deer with a gun shall apply.

106.10(6) Application procedures. All applications for youth gun deer hunting licenses for the 1993 season shall be made on forms provided by the department of natural resources and returned to the department of natural resources office in Des Moines, Iowa. No one shall submit more than one application. Applications for youth gun deer hunting licenses must be accompanied by \$25 for each license. Applications will be received and accepted only from June 21 through July 23, 1993.

571—106.11(481A) Deer depredation permits. Upon recommendation from the department's Fish and Wildlife Division, the director may authorize certain landowners or their designee to shoot deer outside the established hunting seasons or issue additional permits during the established hunting seasons. Applications for depredation permits must be on forms provided by the department. Permits will only be valid for dates specified between September 1 and February 28.

106.11(1) Method of take and other regulations. Legal weapons and restrictions will be governed by 571—106.7(481A).

Deer may be taken from one-half hour before sunrise to one-half hour after sunset regardless of weapon used. The producer or designee must meet the deer hunters' orange apparel requirements in Iowa Code section 481A.122.

106.11(2) Eligibility. Permits shall be granted only to producers growing high-value horticultural crops (Christmas trees, fruit or vegetable crops, nurseries, and commercial nut growers) that are sustaining excessive damage. Permits shall specify the number of deer to be taken and shall be valid only on the producer's property and farmers' property immediately adjacent to the producer's property.

106.11(3) Disposal. It shall be the producer's responsibility to see that all deer are field dressed, tagged with a DNR salvage tag, and removed immediately from the field. Dead deer must be handled for consumption and the producer must coordinate disposal of deer offered to the public through the local conservation officer. Charitable organizations will have the first opportunity to take deer offered to the public. No producer can keep more than two deer taken under special depredation permits. By express permission from a DNR enforcement officer, the landowner may dispose of deer carcasses through a livestock sanitation facility.

NATURAL RESOURCE COMMISSION[571](cont'd)

These rules are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

[Filed 5/7/93, effective 7/6/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

limit shall be 6 squirrels per day; possession limit 12. Entire state open.

[Filed 5/7/93, effective 8/2/93]
[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3992A

NATURAL RESOURCE
COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 456A.24, 481A.38 and 481A.39, the Natural Resource Commission amends Chapter 107, "Rabbit and Squirrel Hunting," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 1993, as ARC 3874A.

These amendments update the rules for hunting rabbits and squirrels and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting.

There are no changes from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

These amendments shall become effective August 2, 1993.

The following amendments are adopted:

ITEM 1. Amend 571—Chapter 107 by striking all references to "109" and inserting "481A" to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend rule 571—107.1(481A) to read as follows:

571—107.1(481A) Cottontail rabbit season. Open season for hunting cottontail rabbits shall be from September 5 4, 1992 1993, through February 28, 1993 1994. Bag limit shall be 10 per day; possession limit 20. Legal hunting hours shall be from sunrise to sunset. Entire state open.

ITEM 3. Amend rule 571—107.2(481A) to read as follows:

571—107.2(481A) Jackrabbit season. Open season for hunting jackrabbits shall be from October 31 30, 1992 1993, through December 6 5, 1992 1993. Bag limit shall be 2 per day; possession limit 4. Legal hunting hours shall be from sunrise to sunset. Entire state open.

ITEM 4. Amend rule 571—107.3(481A) to read as follows:

571—107.3(481A) Squirrel season. Open season for hunting squirrels (fox and gray) shall be from September 5 4, 1992 1993, through January 31, 1993 1994. Bag

ARC 3988A

NATURAL RESOURCE
COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 456A.24, 481A.6, 481A.38 and 481A.39, the Natural Resource Commission amends Chapter 108, "Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, Otter and Spotted Skunk Seasons," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 1993, as ARC 3875A.

These amendments update the rules for taking furbearers (except groundhog) and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting.

There are no changes from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.6, 481A.38, 481A.39, 481A.87 and 481A.90.

These amendments shall become effective August 2, 1993.

The following amendments are adopted:

ITEM 1. Amend 571—Chapter 108 by striking all references to "109" and inserting "481A" to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend rule 571—108.1(481A), introductory paragraph and subrule 108.1(2), to read as follows:

571—108.1(481A) Mink, muskrat and weasel. Open season for the taking of mink, muskrat and weasel shall be from 8 a.m., November 7 6, 1992 1993, through January 31, 1993 1994. Entire state open. No bag or possession limit.

108.1(2) Game management areas. Open season for taking muskrats on certain state game management areas, certain federal national wildlife refuges, and certain county conservation board areas, only where approved by the natural resource commission and posted accordingly, shall be from 8 a.m., February 27 26 through April 4 3, 1993 1994. The use of leghold traps during this season is prohibited unless each trap is placed completely inside a muskrat house. No bag or possession limit.

ITEM 3. Amend rule 571—108.2(481A) to read as follows:

NATURAL RESOURCE COMMISSION[571](cont'd)

571—108.2(481A) Raccoon, badger, opossum and striped skunk. Open season for the taking of raccoon, badger, opossum, and striped skunk shall be from 8 a.m., November 7 6, 1992 1993, through January 31, 1993 1994. Entire state open. No bag or possession limit.

ITEM 4. Amend rule 571—108.3(481A) to read as follows:

571—108.3(481A) Red and gray fox. Open season for the taking of red and gray fox shall be from 8 a.m., November 7 6, 1992 1993, through January 31, 1993 1994. Entire state open. No bag or possession limit.

ITEM 5. Amend rule 571—108.4(481A) to read as follows:

571—108.4(481A) Beaver. Open season for the taking of beaver shall be from 8 a.m., November 7 6, 1992 1993, through April 15, 1993 1994. No bag or possession limit.

ITEM 6. Amend subrule 108.5(2) to read as follows:

108.5(2) Trapping. Open season for trapping coyote shall be 8 a.m., November 7 6, 1992 1993, through January 31, 1993 1994. Entire state open. No bag or possession limit. Any conservation officer or wildlife biologist may authorize a landowner, tenant or designee to trap coyotes causing damage outside the established trapping season dates.

[Filed 5/7/93, effective 8/2/93]

[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3993A**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 110, "Trapping Limitations," Iowa Administrative Code.

These amendments provide for wording consistency with regard to the "200 yard" trapping requirement set in Iowa Code section 481A.92. The amendments also update Iowa Code references to comply with renumbering of the 1993 Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 1993, as **ARC 3876A**. No comments were received during the comment period and no comments were received at the public hearing held April 21, 1993.

These amendments were adopted by the Natural Resource Commission on May 6, 1993, and will become effective June 30, 1993.

These amendments are intended to implement Iowa Code section 481A.92.

The following amendments are adopted:

ITEM 1. Amend **571—Chapter 110** by striking all references to "109" and inserting "481A" to reflect renumbering of the 1993 Iowa Code.

ITEM 2. Amend rule 571—110.1(481A) as follows:

571—110.1(481A) Public roadside limitations—snares, body-gripping, and conibear type traps. No person shall set or maintain any snare, body-gripping, or conibear type trap within any public road right-of-way within ~~one hundred~~ 200 yards of buildings inhabited by human beings unless a resident of the dwelling adjacent to the public road right-of-way has given permission or unless the body-gripping or conibear type trap is completely under water or at least one-half of the loop of a snare is under water. Nothing in this rule shall be construed as limiting the use of foothold traps or box-type live traps in public road rights-of-way.

[Filed 5/7/93, effective 6/30/93]

[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 4004A**PROFESSIONAL LICENSURE
DIVISION[645]****BOARD OF OPTOMETRY EXAMINERS****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Optometry Examiners hereby adopts amendments to Chapter 180, "Board of Optometry Examiners," Iowa Administrative Code.

The amendments add new language for conduct at licensure examinations, state the method to be used for re-examination and delete set scores for passing the examinations. Applicants that fail the examinations are required to retake only the section failed. Additional language is added concerning untruthful or improbable statements in advertising.

Notice of Intended Action was published as **ARC 3810A** in the Iowa Administrative Bulletin on March 3, 1993.

No comments were received on the Notice of Intended Action. Only editorial changes were made.

These amendments were adopted by the Board of Optometry Examiners on April 26, 1993.

These amendments will become effective June 30, 1993.

These amendments are intended to implement Iowa Code sections 147.34, 147.36, 147.37, and 154.3, paragraphs "1," "6," and "8."

The following amendments are adopted.

ITEM 1. Amend **645—Chapter 180** by inserting the following new rule:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

645—180.4(154) Conduct for licensure examination. The following subrules shall govern the conduct of examination and shall be strictly adhered to throughout the entire examination. Examinees who violate any of the rules or instructions applicable to them may be declared by the board to have failed the examination.

180.4(1) Unless otherwise notified in writing, applicants must appear at the appointed hour on the first day of examination at the designated site as fixed by the board, at which time the board shall assign each applicant a number for identification purposes during such examination.

180.4(2) The ability of an examinee to read and interpret instructions shall be evaluated and considered by the board as part of the examination.

180.4(3) Any examinee who gives or receives unauthorized assistance in any portion of the examination may be dismissed and deemed to have failed the entire examination. Possession of unauthorized materials or equipment during the examination is not allowed.

ITEM 2. Amend paragraph **180.5(3)"c"** and insert new paragraphs "e," "f" and "g" as follows:

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

e. *If the examinee fails the examination and desires to take a subsequent examination, the examinee shall:*

(1) *Complete an application at least 30 days prior to the first day of the next examination;*

(2) *Certify that the material statements contained in the original application are current, true and correct;*

(3) *Supplement the application information as necessary; and*

(4) *Pay the requisite fee.*

f. *On subsequent examinations, applicant shall be required to take only those sections (written or practical) of the examinations which the applicant did not pass.*

g. *Prior to the third or any subsequent examination attempt, the applicant must submit proof of additional formal education or clinical experience to be approved in advance by the board.*

ITEM 3. Amend subrule 180.115(6), introductory paragraph, as follows:

180.115(6) Use of untruthful or improbable statements in advertisements. This includes, but is not limited to, an action by an optometrist, *or on behalf of an optometrist*, in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

[Filed 5/7/93, effective 6/30/93]

[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

ARC 3971A

SUBSTANCE ABUSE
COMMISSION[643]

Adopted and Filed

Pursuant to the authority of Iowa Code section 125.7(4), the Substance Abuse Commission hereby rescinds Chapter 2, "Funding," and adopts a new Chapter 2, "Criteria for Awards or Grants," Iowa Administrative Code.

To comply with an informal policy of the Administrative Rules Review Committee set out in the Iowa Administrative Code, first Volume, General Information, "Committee Rules of Procedure," subrule 1.3(3), "Criteria for awards or grants," the Commission is rewriting 643—Chapter 2 to be consistent with all programs in the Iowa Department of Public Health.

These rules require that all Commission programs include certain content, at a minimum, within grant application materials. Programs which award competitive contracts shall also include the review criteria within the grant application materials to ensure an objective review and selection process for all applicants. The rules also provide for inclusion in the Iowa Administrative Bulletin of a section for public notice of available grants. This allows for all notices to appear in one consistent place and eliminates the cost associated with the purchase of public notices in newspapers. The Commission will continue to provide direct notice to current contractors and interested organizations and associations.

Because the Commission is adopting these rules by reference, the full text is not repeated. Instead, 643—Chapter 2 will simply refer the reader to 641—Chapter 176.

The full text of 641—Chapter 176 was published under Notice of Intended Action in the September 30, 1992, Iowa Administrative Bulletin as **ARC 3402A**, and was Adopted and Filed in the November 25, 1992, Iowa Administrative Bulletin as **ARC 3559A**.

To provide an opportunity for review and comment upon the full text of the rules, the Division of Substance Abuse and Health Promotion sent a memorandum dated September 23, 1992, and a copy of **ARC 3402A** to all substance abuse program directors.

Interested persons and agencies were invited to submit written comments to Janet K. Zwick, Division of Substance Abuse and Health Promotion, or Carolyn Adams, Division of Planning and Administration, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, on or before October 20, 1992. They were also invited to attend the public hearing held on October 20, 1992, at 2 p.m. in the Third Floor Conference Room (Side 1), Lucas State Office Building, Des Moines, Iowa. No written comments were received and no one appeared at the public hearing. As a consequence, the rules Adopted and Filed in the November 25, 1992, Iowa Administrative Bulletin as **ARC 3559A** were identical to those published under Notice of Intended Ac-

SUBSTANCE ABUSE COMMISSION[643](*cont'd*)

tion in the September 30, 1992, Iowa Administrative Bulletin as **ARC 3402A**.

As a consequence of the events described above, these rules are identical to those published under Notice of Intended Action in the January 20, 1993, Iowa Administrative Bulletin as **ARC 3704A**.

These rules were adopted by the Substance Abuse Commission on April 27, 1993, and will become effective on June 30, 1993.

The following rules are adopted.

Rescind 643—Chapter 2 and insert the following in lieu thereof:

CHAPTER 2
CRITERIA FOR AWARDS OR GRANTS

643—2.1(125) Adoption by reference. The substance abuse commission adopts by reference 641—Chapter 176, "Criteria for Awards or Grants."

These rules are intended to implement Iowa Code chapter 125.

[Filed 4/28/93, effective 6/30/93]

[Published 5/26/93]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/93.

AGENCY	RULE	DELAY
Civil Rights Commission[161]	1.1(1)"b," 1.5(7), 1.5(8); 2.1(4) to 2.1(11); 3.2(4), 3.2(5), 3.3(3), 3.4(216), 3.5(216), 3.7(3), 3.8(216), 3.10(216), 3.12(216), 3.13(8) to 3.13(10), 3.14(216), 3.16(216); 11.17(2), 11.17(4), 11.17(5) [IAB 2/17/93, ARC 3760A]	Effective date delayed until adjournment of the 1994 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held May 11, 1993. [Pursuant to §17A.8(9)]
Education Department[281]	Chapter 91 [IAB 3/17/93, ARC 3826A]	Effective date of April 21, 1993, delayed 70 days by the Administrative Rules Review Committee at its meeting held March 8, 1993; delay lifted by the Committee May 12, 1993, effective May 13, 1993. [Pursuant to §17A.4(5)]
Law Enforcement Academy[501]	3.3(80B), rescission of 3.4(80B) and 3.6(80B) [IAB 4/14/93, ARC 3886A]	Effective date delayed until adjournment of the 1994 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held May 12, 1993. [Pursuant to §17A.8(9)]
*Transportation Department[761]	410.3(2), 500.1, definition of "Power unit," 500.2, 500.3(1), 500.3(3)"a" and "c," 500.3(4)"a" and "c," 500.3(5)"a"(2), "b"(2), 500.3(6), 500.6 to 500.9, 500.11, introductory paragraph and 500.11(1), 500.11(2), 500.12, 500.14, 500.17, 500.20, 505.2, 505.3(2)"a," 505.3(4)"b," 505.3(5)"b," 505.3(6)"c," 505.3(7)"a," "c," 505.4(12)"b," 505.6(2)"b," 511.2(1), 511.4(1)"a," 511.4(2)"a" and "b," 511.5(1), 511.5(6)"b"(3), 511.8 to 511.9(1), 511.9(3) to 511.9(5), 511.14(2)"g" and "i," 511.14(3)"e," 523.1(4)"a," 523.3(1), 523.5(2), 523.7, 523.8(3), 523.8(4), 523.8(13) "c" and "d," 525.1(7), 525.3(4), 525.4(1), 525.5(1), 525.5(4), 525.7, 525.12, introductory paragraph, 525.14(3), 525.14(4), 525.14(12) "c" and "d," 525.15(2), 525.15(3), 528.1(1), 528.2(1), 528.3(1), 528.4(1), 528.4(6), 528.7, 528.11(3), 528.11(4), 528.11(11)"c" and "d," 528.13(2), 528.13(3) [IAB 4/28/93, ARC 3927A]	Effective date of June 2, 1993, delayed 70 days by the Administrative Rules Review Committee at its meeting held May 12, 1993. [Pursuant to §17A.4(5)]

*NOTE: This delay will be reflected in the Iowa Administrative Code Supplement dated June 23, 1993.

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regulatory statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 1995.

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*SUMMARY OF THE OPINIONS OF THE ATTORNEY GENERAL

BONNIE J. CAMPBELL

March and April, 1993

CONFLICT OF INTEREST; INCOMPATIBILITY OF OFFICES

Business between City Officer and City; County Supervisor and Mayor; County Supervisor and Veteran's Affairs Commission. Iowa Code §§ 35B.4, 35B.6(1)(a), 35B.7, 35B.10, 35B.14, 362.5(4), (5), (7), (9), (10), 441.2, 441.6, 441.9, 441.16, 441.31 (1993). It is permitted for a city officer to do business with that city if an enumerated exception in section 362.5 is satisfied. The offices of county supervisor and mayor are incompatible. A position on the Veteran's Affairs Commission is not an office, and is therefore not incompatible with the office of county supervisor. (Condo to Ferguson, Black Hawk County Attorney, 4-28-93) #93-4-8(L)

COUNTIES

Toll Roads. Iowa Const. art. III, § 39A; Iowa Code § 331.301(7) (1993). Construction and maintenance of a toll road by a county for the purpose of raising revenue would amount to the imposition of a tax. There is no statutory authority, either express or implied, to impose such a tax, and therefore, such a tax may not be levied. (Hindt to Jensen, 4-26-93) #93-4-7

COUNTY OFFICERS

Resignation effective date; filling vacancy. Iowa Code §§ 69.2, 69.14A (1993). A county officer's resignation becomes effective creating a vacancy upon the effective date specified in the resignation or upon submission when no future effective date is specified. Iowa Code section 69.14A.(1)(a) allows the committee designated to fill a vacancy in county office to give notice of its intent to fill the vacancy by appointment prior to existence of the vacancy if a resignation is to take effect at a future date. The committee must, however, wait until the vacancy occurs to issue a call for special election to fill the vacancy. (Scase to Halvorson, State Representative, 4-2-93) #93-4-3(L)

HOSPITALS

Municipal Hospitals; Regulation of Parking Lot Use; Publication of Minutes. Iowa Code §§ 21.3, 347.28, 392.6 (1993). A municipal hospital may deny use of hospital parking lot to patrons of adjacent private clinic. A municipal hospital board of trustees is not required to publish minutes of its meetings in a newspaper. (Ewald to Black, State Representative, 3-5-93) #93-3-1(L)

SCHOOL BOARDS

School Board Elections; School District Reorganization. Iowa Code §§ 275.25, 275.41, 275.41(2), 275.41(4-7), 275.41(8) (1993). School board members for a newly-organized school district appointed to the new board pursuant Iowa Code section 275.41 who are subsequently defeated for reelection to the board of the old districts remain members of the board of directors of the newly-organized district. (Valde to Peterson, State Representative, 4-20-93) #93-4-6(L)

SCHOOLS

School Districts; Dues Payments to School Associations; Lobbyists. Iowa Code ch. 68B, §§ 279.38, 280.14 (1993). Under section 279.38 a school district is not authorized to pay dues to any equivalent organization other than the Iowa Association of School Boards. A school district, however, does have implied authority under section 280.14 to hire a lobbyist to act on its behalf. (Weeg to Hansen, State Representative, 3-31-93) #93-3-4(L)

STATE OFFICERS AND DEPARTMENTS; GENERAL ASSEMBLY

Smoking in Capitol. Iowa Const. art. III, § 9; Iowa Code §§ 2.43, 18.8, 142B.1(2), (3). The Capitol rotunda is a "public place" subject to Iowa Code chapter 142B, the smoking law. In the absence of contrary legislative rules, application of chapter 142B to the Capitol rotunda and the legislative dining room would not unconstitutionally infringe upon the power of each house to control its own procedures and discipline its members as these areas are not used for legislative meetings or deliberations. (Osenbaugh to Halvorson, State Representative, 3-26-93) #93-3-3(L)

STATUTES; PUBLIC EMPLOYEES

Early Retirement. Iowa Code § 97B.41(3)(b)(4) (1993), 1992 Iowa Acts, chapter 1220, section 2. Section 2 of the 1992 Iowa Acts, chapter 1220, does not prevent a former employee who is receiving early retirement benefits pursuant to this Act from performing services for the State or a political subdivision of the State as an independent contractor. The definition of the word "employee" in Iowa Code section 97B.41(3)(b)(4) (1993) is not applicable to 1992 Iowa Acts, chapter 1120, section 2. (Barnett to Priebe, Chair, Administrative Rules Review Committee, 4-2-93) #93-4-2(L)

TAXATION

Tax Sale; Initial Tax Sale And Tax Sale For Subsequent Year's Taxes. Iowa Code § 447.9 (1993). The sale of a parcel at tax sale does not, of itself, preclude another tax sale of the parcel for failure to pay subsequent year's taxes. If such multiple tax sale of the same parcel occurs, the initial tax sale certificate holder will be entitled to a tax deed, upon expiration of the right of redemption, even if the initial holder has not paid the subsequent year's taxes. The subsequent year tax sale certificate holder must serve a notice of expiration of right of redemption on the initial tax sale certificate holder. A redemption from only one of several tax sales of the same property for different tax periods will not prevent a tax deed from being issued to the holder of the unredeemed tax sale certificate. (Griger to Mullin, Woodbury County Attorney, 3-18-93) #93-3-2(L)

Tax Sales; Application of Law in Effect on Date of Tax Sale. Iowa Code §§ 446.37 and 447.9 (1993). The law in effect on the date of the tax sale will control as to the minimum time that must elapse from the date of the tax sale before the notice of expiration of right of redemption can be served. Section 446.37, in effect on the date of the tax sale, will determine the time within which a tax deed must be obtained to avoid cancellation of the tax sale. (Griger to Hansen, State Representative, 4-20-93) #93-4-5(L)

TAXATION; REAL PROPERTY

Statutory water and sewer lien. Iowa Code § 384.84(1) (1993). Statutory lien attaches to property served by various services enumerated in section 384.84(1) even if the current owner of that property did not incur the charges for those services. The only exception where the lien does not attach to the property involves water services incurred by the tenant and which are separately metered and paid directly by the tenant. (Miller to Siegrist, State Representative, 4-9-93) #93-4-4(L)

TREASURER; STATUTORY CONSTRUCTION

Treatment of Outdated State Warrants. Iowa Code §§ 25.2, 421.45, 556.8, 556.13, 556.18 (1993). Claims based on outdated state warrants are to be handled by the State Appeal Board pursuant to Iowa Code section 25.2 as opposed to the Treasurer of State pursuant to Iowa Code chapter 556. (Barnett to Fitzgerald, Treasurer of State, 4-2-93) #93-4-1(L)

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