



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XVII  
September 14, 1994

NUMBER 6  
Pages 401 to 464

## CONTENTS IN THIS ISSUE

Pages 410 to 454 include ARC 5071A to ARC 5098A

### ALL AGENCIES

Agency identification numbers .....	408
Publication procedures (revised) .....	405
Schedule for rule making .....	404

### AGRICULTURE AND LAND

#### STEWARDSHIP DEPARTMENT[21]

Filed, Dairy trade practices, 23.4(2), 23.5(2) ARC 5082A .....	433
Filed, Brucellosis — swine and cattle, 64.34(2), 64.43(1), 65.5, 65.6 ARC 5083A .....	433
Filed, Euthanasia, 67.9 ARC 5089A .....	434
Filed Emergency After Notice, Pasteurized milk tests, 68.5, 68.11(1), 68.12 ARC 5097A .....	427
Filed, Dairy — milk sample tests, 68.36 ARC 5098A .....	434

### ARTS DIVISION[222]

#### CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Filed, Organization, amendments to chs 1, 2, 4 to 8, 11 to 14, 20 to 23, 25, 30; rescind chs 9, 10, 15 to 19, 24, 26 to 29; new ch 18 ARC 5085A .....	436
--	-----

### CITATION OF ADMINISTRATIVE RULES ..... 403

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

Filed, CDBG guidelines, 23.2, 23.6 to 23.8, 23.11, 23.13 ARC 5074A .....	436
Filed Emergency After Notice, Value-added agricultural products and processes financial assistance program (VAAPFAP), ch 29 ARC 5073A .....	427

### ENVIRONMENTAL PROTECTION COMMISSION[567]

#### NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Filed Without Notice, Water pollution, 60.2, 62.4, 62.5, 65.5 ARC 5086A .....	439
--	-----

### EXECUTIVE DEPARTMENT

Executive Order 52 .....	455
Executive Order 53 .....	458

### HUMAN SERVICES DEPARTMENT[441]

Notice, RCFs — effective date of eligibility, 50.3(2) ARC 5087A .....	410
Notice, Elderly waiver service program, 77.33, 78.37(11), 79.1(2), 83.22(1), 83.27 ARC 5090A .....	410
Notice, EPSDT — child's physical exam, 78.1(1)"b" ARC 5088A .....	411

### INDUSTRIAL SERVICES DIVISION[343]

#### EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Filed, Purpose and function, general provisions, forms, contested cases, settlements and commutations, informal dispute resolution, 1.2, 2.2, 2.4, 2.5, 3.1, 4.1, 4.4, 4.6, 4.8(1), 4.9, 4.10, 4.15, 4.17, 4.18, 4.20, 4.23 to 4.25, 4.27, 4.40(5), 4.41 to 4.43, 4.48, 6.2, 10.1, 10.2(7) ARC 5095A .....	439
--	-----

### INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice, Nutrition sites for elderly, labeling and reduced oxygen packaging of food, 30.3(4), 30.14, 31.11 ARC 5081A .....	412
---	-----

### INSURANCE DIVISION[191]

#### COMMERCE DEPARTMENT[181]"umbrella"

Notice, Insurance producers — licensing and continuing education, 10.2, 10.15(2), 10.18, 10.22(3), 11.2, 11.3, 11.6 ARC 5079A .....	413
---	-----

### INTEREST RATES — PUBLIC FUNDS ..... 425

### JOB SERVICE DIVISION[345]

#### EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Notice, Employer records and reports, claims and benefits, benefit payment control, 2.1(1), 2.17, 3.40, 4.2(2)"a," 4.6, 4.13(2)"e," 4.23(23), 4.39, 4.40, 5.10 ARC 5094A .....	415
---	-----

### LABOR SERVICES DIVISION[347]

#### EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Notice, General industry — fall protection and occupational exposure to asbestos, 10.20 ARC 5092A .....	419
---	-----

## 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.

PHYLLIS BARRY, Administrative Code Editor  
KATHLEEN BATES, Deputy Editor

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

## SUBSCRIPTION INFORMATION

### Iowa Administrative Bulletin

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

First quarter	July 1, 1994, to June 30, 1995	\$221.00 plus \$11.05 sales tax
Second quarter	October 1, 1994, to June 30, 1995	\$165.75 plus \$8.29 sales tax
Third quarter	January 1, 1995, to June 30, 1995	\$110.50 plus \$5.53 sales tax
Fourth quarter	April 1, 1995, to June 30, 1995	\$ 55.25 plus \$2.76 sales tax

Single copies may be purchased for \$15.00 plus \$0.75 tax. Back issues may be purchased if the issues are available.

### Iowa Administrative Code

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

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

**Iowa Administrative Code** - \$1,002.75 plus \$50.14 sales tax

(Price includes 18 volumes of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders can be purchased for \$9.00 plus \$0.45 tax.)

**Iowa Administrative Code Supplement** - \$350.00 plus \$17.50 sales tax  
(Subscription expires June 30, 1995)

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

**Iowa State Printing Division  
Grimes State Office Building  
Des Moines, IA 50319  
Phone: (515)281-5231**

LABOR SERVICES DIVISION[347](cont'd)

Notice, Construction safety — fall protection and occupational exposure to asbestos, 26.1 ARC 5093A ..... 419  
 Filed Emergency After Notice, General industry — permit-required confined spaces, 10.20 ARC 5091A ..... 432

LIVESTOCK HEALTH ADVISORY COUNCIL[521]

Filed, Recommendations for fiscal year 1994-95, ch 1 ARC 5080A ..... 444

PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591]

Notice, Remediation — small business, 11.7(1)"g" ARC 5078A ..... 420  
 Filed, Remedial account claims, 11.7(1)"c" and "f" ARC 5077A ..... 445  
 Filed Without Notice, Remediation — small business, 11.7(1)"g" ARC 5076A ..... 446  
 Filed, Installers and inspectors, ch 15 ARC 5084A ..... 446

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"  
 Notice, Behavioral science examiners, 30.3(1)"c," 30.4(1), 30.6 to 30.10, 31.1 to 31.6 ARC 5096A ..... 420

PUBLIC BROADCASTING DIVISION[288]

EDUCATION DEPARTMENT[281]"umbrella"  
 Filed, Amend and transfer 225—chs 1 to 10 to 288—chs 1 to 10 ARC 5075A ..... 453

PUBLIC HEARINGS

Summarized list ..... 406

PUBLIC SAFETY DEPARTMENT[661]

Notice, Ignition interlock devices, 7.8 ARC 5072A ..... 423

TRANSPORTATION DEPARTMENT[761]

Notice, Tariff rate changes for carriers, 523.8, 525.14, 528.11 ARC 5071A ..... 424

TREASURER OF STATE

Notice — Public funds interest rates ..... 425

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).

## Schedule for Rule Making 1994

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 3 '93	Dec. 22 '93	Jan. 11	Jan. 26	Jan. 28	Feb. 16	Mar. 23	June 20
Dec. 17 '93	Jan. 5	Jan. 25	Feb. 9	Feb. 11	Mar. 2	Apr. 6	July 4
Dec. 31 '93	Jan. 19	Feb. 8	Feb. 23	Feb. 25	Mar. 16	Apr. 20	July 18
Jan. 14	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	May 20	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	July 1	July 20	Aug. 24	Nov. 21
May 20	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '95
July 1	July 20	Aug. 9	Aug. 24	Aug. 26	Sept. 14	Oct. 19	Jan. 16 '95
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '95
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '95
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '95
Aug. 26	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '95
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '95
Sept. 23	Oct. 12	Nov. 1	Nov. 16	Nov. 18	Dec. 7	Jan. 11 '95	Apr. 10 '95
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '95	Apr. 24 '95
Oct. 21	Nov. 9	Nov. 29	Dec. 14	Dec. 16	Jan. 4 '95	Feb. 8 '95	May 8 '95
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '95	Feb. 22 '95	May 22 '95
Nov. 18	Dec. 7	Dec. 27	Jan. 11 '95	Jan. 13 '95	Feb. 1 '95	Mar. 8 '95	June 5 '95
Dec. 2	Dec. 21	Jan. 10 '95	Jan. 25 '95	Jan. 27 '95	Feb. 15 '95	Mar. 22 '95	June 19 '95
Dec. 16	Jan. 4 '95	Jan. 24 '95	Feb. 8 '95	Feb. 10 '95	Mar. 1 '95	Apr. 5 '95	July 3 '95
Dec. 30	Jan. 18 '95	Feb. 7 '95	Feb. 22 '95	Feb. 24 '95	Mar. 15 '95	Apr. 19 '95	July 17 '95

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
8	Friday, September 23, 1994	October 12, 1994
9	Friday, October 7, 1994	October 26, 1994
10	Friday, October 21, 1994	November 9, 1994

#### 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.

# PUBLICATION PROCEDURES

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:

1. We use a Windows environment with Lotus Ami Professional 3.1 as our word processing system and can import directly from any of the following:

Ami Pro	Microsoft Word	SmartWare
Ami Pro Macro	Microsoft Word for Windows	SuperCalc
dBase	1.x, 2.0, 6.0	Symphony Document
DCA/FFT	MultiMate	Wang (IWP)
DCA/RFT	Navy DIF	Windows Write
DIF	Office Writer	Word for Windows 1.x, 2.0, 6.0
Display Write 4	Paradox	WordPerfect 4.2, 5.x, 6.0
Enable 1.x, 2.x, 4.x	Peach Text	WordStar
Excel 3.0, 4.0, 5.0	Professional Write	WordStar 2000 ver 1.0, 3.0
Exec MemoMaker	Rich Text Format	XyWrite III, Plus
Manuscript	Samna Word	XyWrite IV

2. If you do not have any of the above, a file in an ASCII format is helpful.

3. Submit only 3 1/2" or 5 1/4" high density MSDOS or compatible format diskettes. Please indicate on each diskette the agency name, file name, the format used for exporting, chapter or chapters of rules being amended.

4. **Deliver this diskette to the Administrative Code Division, 4th Floor, Lucas Building, when documents are submitted to the Governor's Administrative Rules Coordinator.**

Diskettes from agencies will be returned **unchanged** by the Administrative Code Division. Please refer to the hard-copy document which is returned to your agency by the Governor's office. This document reflects any changes in the rules—update your diskettes accordingly.

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

To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>EDUCATION DEPARTMENT[281]</b> Open enrollment — appeal procedures, 6.3(1), 6.11 IAB 8/31/94 ARC 5060A	Conference Room 3 South Grimes State Office Bldg. Des Moines, Iowa	September 20, 1994 9 a.m.
<b>GENERAL SERVICES DEPARTMENT[401]</b> Printing division, 5.8 IAB 8/31/94 ARC 5051A (See also ARC 5052A)	Director's Conference Room Level A Hoover State Office Bldg. Des Moines, Iowa	September 21, 1994 1 p.m.
Purchasing, 7.1, 7.3 to 7.7, 7.9, 7.14 to 7.18, 7.20, 8.2(2), 8.3 to 8.5, 9.1 to 9.8 IAB 8/31/94 ARC 5053A (See also ARC 5054A)	Director's Conference Room Level A Hoover State Office Bldg. Des Moines, Iowa	September 21, 1994 1 p.m.
Inventory guidelines for state personal and real property, ch 10 IAB 8/31/94 ARC 5055A	Director's Conference Room Level A Hoover State Office Bldg. Des Moines, Iowa	September 21, 1994 1 p.m.
<b>INSURANCE DIVISION[191]</b> Insurance producer licenses, 10.2, 10.15(2), 10.18, 10.22(3), 11.2, 11.3, 11.6 IAB 9/14/94 ARC 5079A	Conference Room — 6th Floor Lucas State Office Bldg. Des Moines, Iowa	October 4, 1994 10 a.m.
<b>JOB SERVICE DIVISION[345]</b> Employer records and reports, claims and benefits, benefit payment control, 2.1(1), 2.17, 3.40, 4.2(2), 4.6, 4.13(2), 4.23(23), 4.39, 4.40, 5.10 IAB 9/14/94 ARC 5094A	Job Service Division 1000 E. Grand Ave. Des Moines, Iowa	October 4, 1994 9:30 a.m.
<b>LABOR SERVICES DIVISION[347]</b> General industry — fall protection and exposure to asbestos, 10.20 IAB 9/14/94 ARC 5092A	Labor Services Division 1000 E. Grand Ave. Des Moines, Iowa	October 6, 1994 9 a.m. (If requested)
Construction safety — fall protection and exposure to asbestos, 26.1 IAB 9/14/94 ARC 5093A	Labor Services Division 1000 E. Grand Ave. Des Moines, Iowa	October 6, 1994 9 a.m. (If requested)
<b>LOTTERY DIVISION[705]</b> General operation, 1.3, 1.12, 1.27 IAB 8/31/94 ARC 5068A	Lottery Division 2015 Grand Ave. Des Moines, Iowa	September 20, 1994 2 p.m.
Licensing, 2.4 IAB 8/31/94 ARC 5050A	Lottery Division 2015 Grand Ave. Des Moines, Iowa	September 20, 1994 2 p.m.

## LOTTERY DIVISION[705](cont'd)

Computerized validation and  
inventory system, 3.4 to 3.6, 3.9,  
3.12, 8.2, 8.6, 8.8, 8.9, 11.2, 11.3  
IAB 8/31/94 ARC 5048A  
(See also ARC 5049A)

Lottery Division  
2015 Grand Ave.  
Des Moines, Iowa

September 20, 1994  
2 p.m.

## NATURAL RESOURCE COMMISSION[571]

Agricultural lease program,  
ch 21  
IAB 8/31/94 ARC 5065A

Conference Room — 5th Floor  
Wallace State Office Bldg.  
Des Moines, Iowa

September 21, 1994  
11 a.m.

Boat motor regulations — George Wyth  
Lake, Black Hawk County,  
45.4(2)  
IAB 8/31/94 ARC 5063A

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

September 20, 1994  
9 a.m.

## PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591]

Remediation — small business,  
11.7(1)"g"  
IAB 9/14/94 ARC 5078A  
(See also ARC 5076A herein)

Conference Room  
Williams and Company  
1000 Illinois St.  
Des Moines, Iowa

October 4, 1994  
10 a.m.

## PHARMACY EXAMINERS BOARD[657]

Patient counseling for new prescriptions,  
8.20  
IAB 7/20/94 ARC 4947A  
(See ARC 4801A, IAB 5/11/94)

Conference Room  
Second Floor East  
Executive Hills West  
1209 East Court Ave.  
Des Moines, Iowa

September 14, 1994  
2 p.m.

## PUBLIC HEALTH DEPARTMENT[641]

Burial-transit permit,  
101.4, 101.6  
IAB 8/31/94 ARC 5057A

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

September 20, 1994  
1 p.m.

Paternity registry,  
ch 105  
IAB 8/31/94 ARC 5059A

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

September 20, 1994  
10 a.m.

## PUBLIC SAFETY DEPARTMENT[661]

Ignition interlock devices, 7.8(1),  
7.8(2), 7.8(5), 7.8(8)  
IAB 9/14/94 ARC 5072A

Conference Room — East Half  
Third Floor  
Wallace State Office Bldg.  
900 E. Grand Ave.  
Des Moines, Iowa

October 10, 1994  
9:30 a.m.

## TRANSPORTATION DEPARTMENT[761]

Tariff rate changes for carriers,  
523.8, 525.14, 528.11  
IAB 9/14/94 ARC 5071A

Conference Room  
Motor Vehicle Division  
Park Fair Mall  
100 Euclid Ave.  
Des Moines, Iowa

October 6, 1994  
10 a.m.  
(If requested)

## 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]

### 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]

Public Broadcasting Division[225]

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

City Development Board[263]

Iowa Finance Authority[265]

High Technology Council[267]

Product Development Corporation[271]

### EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

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]

### ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 GENERAL SERVICES DEPARTMENT[401]  
 HEALTH DATA COMMISSION[411]  
 HUMAN RIGHTS DEPARTMENT[421]  
   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 Division[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 Board[650]  
   Medical Examiners Board[653]  
   Nursing Board[655]  
   Pharmacy Examiners Board[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]  
 SESQUICENTENNIAL COMMISSION, IOWA STATEHOOD[731]  
 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.

Iowa Advance Funding Authority[515]

Records Commission[710]

\* It is recommended that all white tabs be moved to a separate binder rather than interspersed with the colored tabs, which implemented state government reorganization.

## ARC 5087A

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 50, "Application for Assistance," appearing in the Iowa Administrative Code.

This amendment allows the effective date of eligibility for residential care facilities (RCFs) to be up to 30 days prior to the date of application. Under current policy, if a client files an application directly with the county office, the effective date of state supplementary assistance may be no earlier than the date of signature and also may be no earlier than the date the application was received in the county office. However, if a client files an application at the RCF, the effective date may still be no earlier than the date of signature, but may be up to five days earlier than the date the application was received in the county office to allow the RCF time to forward the application to the county office.

The county office often does not know if a received application was filed by the client directly at the county office or if the application was filed at the RCF and then sent by the RCF to the county office. Thus, the county office may not know which policy to apply. This change would allow use of the same policies regardless of where the application is filed. This change would also allow clients and RCFs up to 30 days to file an application after entry to the RCF. Currently, in order to protect the filing date, some clients and RCFs may file application forms before they have information to accurately answer all questions. This change would assist in ensuring that applications received by the county office are complete and include accurate information.

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 October 5, 1994.

This amendment is intended to implement Iowa Code section 249.4.

The following amendment is proposed.

Amend subrule 50.3(2) as follows:

~~50.3(2) Payment for residential care shall be effective as of the date of application or the date of eligibility, whichever is later that eligibility first exists, but in no case shall the effective date be earlier than 30 days prior to the date of application. If the application is completed in the residential care facility, the administrator of the facility must forward it to the local or area office of the department of human services to be received not later than five working days subsequent to the date the application was signed if the effective date is to be the date of signature. If not timely submitted, the effective date will not~~

~~be earlier than five working days prior to receipt of the application in the local or area office.~~

## ARC 5090A

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 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 83, "Medicaid Waiver Services," appearing in the Iowa Administrative Code.

These amendments revise the Elderly Waiver Service program as follows. The amendments:

1. Allow adult day care centers contracting with the Veterans Administration to provide adult day health care to be waiver providers and to be reimbursed at the contract rate paid by the Veterans Administration.
2. Require all home health agency providers to be Medicare certified.
3. Establish a new maximum rate for homemaker services of \$18 per hour.
4. Remove the maximum of 30 trips per month for transportation services, allow transportation to be reimbursed at the rate set by Area Agencies on Aging, but not to exceed \$200 per month for a handicapped individual or \$100 per month for a nonhandicapped individual, and provide that reimbursement for transportation will be made at the lowest cost service rate consistent with the consumer's needs.
5. Allow use of the case plan developed by the Department and Area Agencies on Aging as the common case plan.
6. Expand the Elderly Waiver program to three additional counties: Bremer, Butler, and Plymouth.

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 October 5, 1994.

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

The following amendments are proposed.

- ITEM 1. Amend rule 441—77.33(249A) as follows:  
Amend subrule 77.33(1), introductory paragraph, as follows:  
77.33(1) Adult day care providers. Adult day care providers shall *meet one of the following conditions*:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Further amend subrule 77.33(1) by adding the following new paragraph "a."

a. Contract with the veterans administration to provide adult day health care.

Amend subrules 77.33(3) and 77.33(4) as follows:

77.33(3) Home health aide providers. Home health aide providers shall be agencies ~~which meet the standards set forth in department of public health rules 641-80.3(135), 641-80.4(135) and 641-80.5(135) or which are certified to participate in the Medicare program as home health agencies.~~

77.33(4) Homemaker providers. Homemaker providers shall be agencies which meet the standards and requirements set forth in department of public health rules ~~641-80.3(135), 641-80.4(135) and 641-80.5(135) and 641-80.6(135) or which are certified as a home health agency under Medicare.~~

Amend subrule 77.33(6), paragraph "a," as follows:

a. Home health aide providers ~~meeting the conditions of participation set forth in 77.33(3) certified by Medicare.~~

Further amend subrule 77.33(6) by adding the following new paragraph "e."

e. Home care aides meeting the standards set forth in department of public health rules 641-80.5(135) and 641-80.6(135).

ITEM 2. Amend subrule 78.37(11) as follows:

78.37(11) Transportation. Transportation services may be provided for recipients to conduct business errands, essential shopping, to receive medical services not reimbursed through medical transportation, and to reduce social isolation. A unit of service is ~~either per mile, or per trip~~ *or rate established by area agency on aging. When paying the rate established by an area agency on aging, the monthly payment shall not exceed \$200 per month for wheelchair or other handicapped transportation, or \$100 per month for nonhandicapped transportation.*

ITEM 3. Amend subrule 79.1(2), provider category of elderly waiver service providers, subcategories of adult day care, homemakers, and transportation providers, as follows:

Elderly waiver service providers, including:

1. Adult day care	Prospective reimbursement for P.O.S. providers. Fee schedule for others.	P.O.S. contract rate <i>or veterans administration contract rate</i> or \$31.20 per full day or \$26 per half day if no P.O.S. contract
4. Home-makers	Fee schedule	<del>Rate determined by Medicare</del> <i>Maximum of \$18 per hour</i>
11. Transportation providers	Fee schedule	State per mile rate, <del>or \$10 per trip</del> for regional transit providers, or P.O.S. rate for P.O.S. providers-

*or rate established by area agency on aging. Maximum of 30 trips per month Reimbursement will be at the lowest cost service rate consistent with the consumer's needs.*

ITEM 4. Amend subrule 83.22(1), paragraph "b," as follows:

b. A resident of one of the following counties:

Adair	Des Moines	Kossuth
Appanoose	Dickinson	Linn
Black Hawk	Dubuque	Muscatine
Bremer	Fayette	Page
Butler	Franklin	Plymouth
Calhoun	Hamilton	Pocahontas
Cerro Gordo	Hancock	Polk
Chickasaw	Hardin	Ringgold
Clarke	Howard	Scott
Clay	Jackson	Story
Clinton	Jasper	Van Buren
Decatur	Johnson	Winneshiek
Delaware	Keokuk	Woodbury

ITEM 5. Amend rule 441-83.27(249A) as follows:

~~441-83.27(249A) Case plan. A case plan shall be prepared for elderly waiver clients in accordance with rule 441-130.7(234) In addition, the case plan shall include a written certification from the physician that the waiver services are appropriate and adequate to meet the needs of the client in a home environment, the frequency of the elderly waiver services, and the types of providers who will deliver them. Form 470-3156, Elderly Waiver Case Plan, shall be completed jointly by the area agency on aging case management program for the frail elderly and department service worker.~~

**ARC 5088A**

**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 78, "Amount, Duration and Scope of Medical and Remedial Services," appearing in the Iowa Administrative Code.

This amendment requires physicians to provide all the components of the Early and Periodic Screening, Diagno-

HUMAN SERVICES DEPARTMENT[441](cont'd)

sis and Treatment (EPSDT) screen when performing a child's physical examination which is to be billed to Medicaid.

The Health Care Financing Administration is requiring states to have 80 percent of their EPSDT eligibles receive screening examinations by October 1, 1995. Each state must report their progress toward the 80 percent goal annually. Iowa is presently at 28 percent for federal fiscal year 1994.

This change will allow examinations performed by physicians to be used toward the 80 percent goal of the EPSDT program. The Department is proposing this change after meeting with the Iowa Medical Society. It was determined that mandating that all preventive office visits for children meet the EPSDT regulations is the most effective way to allow those visits to be used toward the 80 percent goal.

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 October 5, 1994.

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

The following amendment is proposed.

Amend subrule **78.1(1)**, paragraph "**b**," subparagraphs **(3)**, **(4)**, **(7)**, and **(8)**, as follows:

**(3)** The examination is in connection with early and periodic screening, diagnosis, and treatment ~~of~~ for persons under age 21 ~~in aid to dependent children cases~~, as specified in ~~the~~ rules 441—78.18(249A) and 441—84.3(249A).

**(4)** The examination is required of a child or disabled adult for attendance at school or camp. *These examinations shall include all components necessary to meet all early and periodic screening, diagnosis and treatment requirements as set forth in rules 441—78.18(249A) and 441—84.3(249A).*

**(7)** The examination is for well baby care or a routine physical examination for a child under six ~~(6)~~ years of age. *These examinations shall include all components necessary to meet all early and periodic screening, diagnosis and treatment requirements as set forth in rules 441—78.18(249A) and 441—84.3(249A).*

**(8)** The examination is an annual routine physical examination for a child in foster care for whom the department assumes financial responsibility. *These examinations shall include all components necessary to meet all early and periodic screening, diagnosis and treatment requirements as set forth in rules 441—78.18(249A) and 441—84.3(249A).*

**ARC 5081A**

## INSPECTIONS AND APPEALS DEPARTMENT[481]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 10A.104(5), the Department of Inspections and Appeals proposes to amend Chapter 30, "Field Survey Administration," and Chapter 31, "Food Establishment Inspections," Iowa Administrative Code.

Items 1 and 2 clarify existing practices regarding licensed nutrition sites for the elderly and the labeling of food.

Item 3 implements Food and Drug Administration (FDA) guidelines for reduced oxygen packaging of food. Existing reduced oxygen packaging operations will have one year after the effective date of the adopted rule to comply with this requirement.

Any interested person may make written comments or suggestions on the proposed amendments on or before October 4, 1994. Written comments should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; fax (515)242-5022.

These amendments are intended to implement Iowa Code sections 137A.5, 137B.3 and 137B.6.

The following amendments are proposed.

ITEM 1. Amend subrule **30.3(4)** by adding the following new paragraph to the end thereof:

Nutrition sites for the elderly licensed under Iowa Code chapter 137B may change locations in the same city without obtaining a new license.

ITEM 2. Amend 481—Chapter 30 by adding the following new rule:

**481—30.14(137A,137B,137D,137E) False label or defacement.** No person shall use any label required by Iowa Code chapter 137A, 137B, 137D, or 137E, which is deceptive as to the true nature of the article or place of production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by these chapters.

This rule is intended to implement Iowa Code sections 137A.5, 137B.3 and 137B.6.

ITEM 3. Amend 481—Chapter 31 by adding the following new rule:

**481—31.11(137A) Reduced oxygen packaging of food.** All places which engage in reduced oxygen packaging: cook-chill, vacuum packaging, sous vide, modified atmosphere packaging, or controlled atmosphere packaging, shall comply with standards provided by the Association of Food and Drug Officials Retail Guidelines: Refrigerated Foods in Reduced Oxygen Packages of 1990. Existing reduced oxygen packaging operations will have until

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

[insert date one year after the effective date of this rule] to comply with this rule.

This rule is intended to implement Iowa Code sections 137A.5, 137B.3 and 137B.6.

**ARC 5079A****INSURANCE DIVISION[191]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 10, "Licensing of Insurance Producers," and Chapter 11, "Continuing Education for Insurance Producers," Iowa Administrative Code.

The amendments to Chapter 10 change several procedures relating to renewal of insurance producer licenses and appointment of producers. The definition of the producer renewal report has been changed to reflect the new continuing education reporting requirements proposed for Chapter 11.

Under the proposed new appointment procedure, the Division will no longer return a written confirmation that an appointment has been processed. A deemer clause has been added to this provision to assist insurance companies in compliance with appointment requirements. The Division will no longer sell appointment forms. A newly revised form has been created that is provided free of charge to insurance companies. This form can then be photocopied by the companies. This change eliminates a procedure that is no longer necessary to ensure accuracy in the appointment process.

Item 4 of the proposed amendments adds additional specific grounds of misconduct which can form the basis for administrative action against insurance producers. This particular amendment further clarifies the insurance producer conduct standard as set forth in Iowa Code section 522.3.

The amendments to Chapter 11 change the reporting procedures for insurance producers and continuing education providers to report continuing education credits. The definition of the producer renewal report is amended to conform to the same definition of this term in Chapter 10 and to reflect the change in the method producers will use to report their continuing education hours.

Under this change, continuing education course providers will be required to submit a course list of all course attendees directly to the Division. Providers will be encouraged to file these reports in computer disk format. Typewritten reports will also be accepted. Insurance producers will only be required to submit their course completion certificates if their records do not agree with Division records. Under existing rules, insurance producers may take courses in basic subjects and then assign those basic credits to either their property/casualty or life/

health continuing education requirement at the time of their license renewal. Under the proposed reporting system, insurance producers will be required to assign basic credits on the date the course is completed.

Items 7 and 8 of the proposed amendments impose limits on the amount of hours that a provider can earn through the use of self-study courses. Under current rules, a provider can satisfy the entire continuing education requirement through the use of self-study courses. The proposed amendments would permit up to one-third of the continuing education requirement to be fulfilled through self-study courses. Supervision of self-study courses is difficult and the Division feels that providers will benefit from attending the majority of continuing education hours from a classroom environment.

Providers are also being required to duplicate a bar code provided by the Division onto course completion certificates. This new technology will greatly increase the efficiency of the Division in processing continuing education reports. Item 10 of the amendments clarifies the duty of the continuing education provider to provide course attendance records to the Division.

Any interested person may make written comments on the proposed amendments on or before October 4, 1994. These written comments should be directed to Jo Page, Deputy Insurance Commissioner, Iowa Insurance Division, Lucas State Office Building, Des Moines, Iowa 50319.

A public hearing will be held at 10 a.m. on October 4, 1994, at the Insurance Division Conference Room, Sixth Floor, Lucas State Office Building, Des Moines, Iowa. At that time, interested persons may present their views orally and in writing. At the hearing, individuals will be asked to give their names and addresses for the records and to confine their remarks to the subject of the rule.

These amendments are intended to implement Iowa Code chapters 272C and 522.

The following amendments are proposed.

ITEM 1. Amend rule 191—10.2(522), definition of "Producer renewal report," as follows:

"Producer renewal report" means includes:

1. The form issued by the division with which producers apply for renewal of a producer license and ~~report verify CE credits to meet requirements on file with the division;~~

2. ~~Photocopies of all certificates of completion of continuing education earned in the CE term;~~

3- 2. The continuing education fee described in rule 191—11.10(272C); and

4- 3. The license fee set forth in rule 10.20(522); and

4. A nonresident producer who resides in a state or district that has producer CE requirements must include a certification letter from that producer's resident state or district which states that the producer is in compliance with those CE requirements.

ITEM 2. Amend subrule 10.15(2) as follows:

10.15(2) The company shall submit to the division a current appointment form; and the appropriate fee as set forth in rule 10.20(522); and ~~an envelope addressed to the company with appropriate postage paid.~~ If an appointment form is rejected by the division, the appointment form will be returned to the company, and the division shall retain the appointment fee. A company will have to submit a new fee with a corrected appointment form. *An appointment shall be deemed approved if not*

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

rejected within ten business days of its receipt at the division. Companies may, by arrangement with the division, submit appointments electronically.

ITEM 3. Amend rule 191—10.18(522) as follows:

**191—10.18(522) Appointment lost through merger.** A new appointment must be requested and issued for the producers of a company that loses its identity in a new company. *The new company must comply with rule 10.15(522) to request the new appointments.*

ITEM 4. Amend subrule 10.22(3) as follows:

**10.22(3)** The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a producer's license or may levy a civil penalty, in accordance with Iowa Code sections 522.3 and 522.5 or any combination of actions for any one or more of the following causes:

- a. Failure to timely respond to division inquiries;
- b. Incorrect or incomplete information provided on the application for license;
- c. Submitting a check to the division or to the division's outside testing service which is returned by the bank, or canceling or refusing amounts charged to a credit card by the division's outside testing service where services were received by the producer;
- d. Refusing to cooperate with division employees in an investigation; or

~~e. Any other action that shows noncompliance with the requirements of Iowa Code chapter 522 or these rules.~~

e. *Misappropriation, conversion, or improperly withholding money or property required to be held in a fiduciary capacity which belongs to policyholders, insurers, beneficiaries, or others and received in conduct of insurance business;*

f. *Intentionally misrepresenting the terms of any actual or proposed insurance policy;*

g. *Demonstrating incompetence, untrustworthiness or financial irresponsibility in the transaction of insurance business;*

h. *Acting as an insurance producer through persons not licensed as insurance producers;*

i. *Failing to report any administrative action or criminal prosecution taken against the producer;*

j. *Obtaining or attempting to obtain an insurance license by fraud, misrepresentation or material misstatement;*

k. *Improperly using notes, or any other reference material to complete an examination for an insurance license;*

l. *Suspension or revocation of the producer's insurance license, or equivalent by any other state, district or territory of the U.S. or any province of Canada or state of Mexico.*

m. *Taking any action to circumvent the spirit of these rules and the Iowa insurance statutes or any other action that shows noncompliance with the requirements of Iowa Code chapter 522 or these rules.*

ITEM 5. Amend rule 191—11.2(272C), definition of "Producer renewal report," as follows:

"Producer renewal report" means includes:

1. The form issued by the division with which producers apply for renewal of the producer license and report verify CE credits to meet requirements on file with the division;

~~2. Photocopies of all certificates of completion of continuing education earned in the CE term, except that non-~~

~~resident producers who reside in a state or district that has producer CE requirements, must file, in lieu of such certificates of completion, certification letters from their resident states or district which state that they are in compliance with those CE requirements;~~

~~3. 2. The continuing education fee described in rule 11.10(272C); and~~

~~4. 3. The license fee set forth in rule 191—10.20(522); and~~

4. *A nonresident producer who resides in a state or district that has producer CE requirements must include a certification letter from that producer's resident state or district which states that the producer is in compliance with CE requirements.*

ITEM 6. Amend rule 191—11.2(272C) by adding the following new definition in alphabetical sequence:

"Roster" means a listing of all attendees at an approved course and includes the Iowa course number, producer social security number, the date the course was completed, and the actual number of the hours attended by each producer.

ITEM 7. Amend subrule 11.3(1) by adding the following new unnumbered paragraph:

Effective January 1, 1995, a maximum of one-third of the credits required in a CE term may be completed through the use of self-study courses. Self-study courses which are nationally recognized designate courses are exempt from this limitation.

ITEM 8. Amend subrule 11.3(2) by adding the following new unnumbered paragraph:

Effective January 1, 1995, a maximum of one-third of the credits required in a CE term may be completed through the use of self-study courses. Self-study courses which are nationally recognized designate courses are exempt from this limitation.

ITEM 9. Amend subrule 11.3(5) as follows:

**11.3(5)** Producers who earn credits from courses certified as basic subjects must apply those credits toward either the property/casualty continuing education requirement or to the life/accident and health continuing education requirement. *The producer must inform the provider of the allocation of these basic credits on the day of completion of the CE course.* Once basic credits have been assigned to an area they may not be reassigned.

ITEM 10. Amend subrule 11.6(1) as follows:

**11.6(1)** Once a course is approved, the provider shall issue a standard Iowa certificate of completion to each person who satisfactorily completes a course within 20 days. The certificate shall be signed by either the course instructor or the provider's authorized representative. A provider also shall maintain a list, for at least four years from the end of the year in which the course is offered, of all persons who attend the course. *Upon request by the division, a provider must submit copies of course attendance records.*

ITEM 11. Amend subrule 11.6(2) as follows:

**11.6(2)** The certificate of completion used by the provider must be in the standard Iowa form provided by the division or substantially similar form which shall include:

- a. The producer's name;
- b. Social security number;
- c. Course number;
- d. Course title;

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

- e. Date and location of the course;
- f. The number of hours for which the course has been approved;
- g. The category for which those hours have been approved; ~~and~~
- h. The signature of the appropriate person; *and*
- i. *The bar code symbol assigned to the course by the division.*

ITEM 12. Amend rule 191—11.6(272C) by adding the following new subrule 11.6(8).

**11.6(8)** Providers must submit rosters of all course attendees to the division. These reports must be received at the division by the tenth day of the month following the month in which the course is completed. Rosters shall be submitted in computer disk format in a manner prescribed by the division. Providers who are unable to provide rosters in a computer disk format may request permission from the division to submit rosters in a typewritten format.

## ARC 5094A

## JOB SERVICE DIVISION[345]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 96.11, the Commissioner of the Division of Job Service hereby gives Notice of Intended Action to amend Chapter 2, "Employer Records and Reports," Chapter 4, "Claims and Benefits," and Chapter 5, "Benefit Payment Control," Iowa Administrative Code.

Subrule 2.1(1) is amended to define how records referred to in Iowa Code section 96.11, subsection 7, paragraph "a," are to be kept and when they may be inspected.

Rule 345—2.17(96) is proposed to be rescinded and a new rule adopted to clarify what authority a field auditor has and what employers may expect of an audit and of an auditor.

Rule 345—3.40(96) is proposed to be rescinded and a new rule adopted to give the formula for computing private sector employers' job insurance rates, and to explain administrative contribution surcharge and temporary emergency surcharge.

Subrule 4.2(2), paragraph "a," is amended to advise the public that they may be able to file a transitional claim for job insurance benefits when advised by job service.

New rule 345—4.6(96) provides the public with information regarding the procedures and guidelines the agency will utilize in performing profiling services to claimants.

Subrule 4.13(2), paragraph "e," is amended to clarify remuneration payable in any medium other than cash.

Subrule 4.23(23) is amended by deleting the number of hours, to enable the agency to determine each case on an individual basis.

Rule 345—4.39(96) is proposed to be rescinded and a new rule adopted to modify Department-Approved Training eligibility requirements so more unemployed individuals may have work search requirements waived so they can attend training and receive job insurance benefits.

Rule 345—4.40(96) is amended to modify division-approved training (DAT)-procedure.

Rule 345—5.10(96) is amended because the criteria is changed for submitting prosecution cases to county attorneys according to what will be accepted for prosecution.

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m., October 4, 1994, to William J. Yost, Department of Employment Services, Division of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319.

A public hearing will be held at 9:30 a.m. on October 4, 1994, at the above address. The proposed amendments are subject to revision after the Division considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. William J. Yost at (515)281-4986 or at the above address.

These amendments are intended to implement Iowa Code sections 96.4(3), 96.4(6)"a," 96.4(7), 96.6(1), 96.7(2)"d," 96.7(11), 96.7(12), 96.11(7)"a," 96.16, 96.17, 96.19(8), 1986 Iowa Acts, chapter 1246, section 623, 1994 Iowa Acts, Senate File 2261, section 6, and Pub. L. No. 97-35.

The following amendments are proposed.

ITEM 1. Amend subrule 2.1(1) as follows:

**2.1(1)** Each employing unit having employment performed for it shall maintain records to show the information hereinafter indicated. Such records shall be kept in such form and manner that it will be possible from an inspection thereof to obtain the facts necessary to determine ~~the eligibility of each employee when a claim has been filed~~ *what remuneration was made by the employing unit and what remuneration is reportable to the division.* Such records shall be open to inspection and be subject to be copied by the division and its authorized representatives at any reasonable time. Such records shall be kept for a period of five years after the calendar year in which the remuneration to which they relate was paid; or, if not paid, was due.

ITEM 2. Rescind rule 345—2.17(96) and insert in lieu thereof the following new rule:

**345—2.17(96) Procedures of field auditors.**

**2.17(1)** Field auditors are to provide a cost-effective method of promoting employers' understanding of employer rights and responsibilities under Iowa job insurance laws.

**2.17(2)** The division, through duly appointed field auditors, may examine an employer's records at any time, subject to the limitations of 2.1(96), to determine compliance with Iowa Code chapter 96.

**2.17(3)** The division has enforcement authority. An employer, when requested to produce records by an auditor, must make the records available within and at a reasonable time to the auditor. If an employer does not comply with the auditor's request to produce records, a subpoena duces tecum may be served on the employer to

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

appear before the auditor with the records in accord with Iowa Code section 96.11, subsection 9.

**2.17(4)** The division, through duly appointed field auditors, may perform a systematic audit of an employer's records as authorized by Iowa Code section 96.11, subsection 7, and as mandated by the United States Department of Labor. In addition to the provisions of subrules 2.17(1) to 2.17(3), the following provisions apply to systematic audits:

a. The employer is to be given reasonable notice of the intent to audit, and a preaudit interview is to be conducted with the employer or a designated representative.

b. The records required, if maintained, may include individual pay records, Internal Revenue Service Forms W-2 and 1099, cash disbursement journal, check register, chart of accounts, general ledger, balance sheet, profit and loss statement, federal and state tax returns and other records to the extent they relate to possible hidden or misclassified wages.

c. To verify the existence of the business, the auditor may require a visit to the business premises or to see other evidence of legitimate business activity.

d. To verify the correct business entity is listed on division files, the auditor may examine various employer business licenses, legal documents or other tax returns.

e. To verify the reporting of all workers reportable to the division under Iowa Code chapter 96, questionable entries will be investigated and documented. Under rule 2.7(96) if the employer disagrees with the audit decision on coverage of a worker, the auditor may require the employer to complete Form 68-0192, Job Service Questionnaire For Determining Status of Workers. In any disputed case, the auditor is to be granted access to records as necessary to determine the remuneration paid for any given calendar quarter.

f. To verify proper employer posting to division reports, a detail audit of check stubs, weekly time cards, or other maintained source documents will be made and documented for at least one worker for at least one quarter. The detail audit may be more comprehensive at the discretion of the auditor or if discrepancies are found.

g. Employer records will be compared and reconciled to amounts reported to the division on contribution and payroll reports and audit findings documented.

h. Discrepancies will be resolved or explained, and report adjustments prepared as necessary.

i. Generally the audit will cover a minimum of four calendar quarters; however, if the initial audit discloses material errors as defined by the division, the audit may be expanded to cover prior or subsequent periods subject to limitations of subrule 2.1(1), except that no period covered by a prior audit may be included in the expansion.

j. Additional amounts due will be calculated and collected, including applicable interest and penalties, or an explanation will be given. The employer may be required to submit a payment plan.

k. When the audit is completed, the audit will be discussed with the employer or a representative designated by the employer. The employer will be furnished copies of any wage adjustments, supplemental reports or delinquent reports prepared by the auditor. An audit report with all worksheets, adjustments and reports will be submitted by the auditor to the job insurance administrative office.

**2.17(5)** There are several other reasons division representatives may make employer contacts and demands un-

der authority of this rule. Any of these activities may be expanded into a systematic compliance audit as described in subrule 2.17(4) upon approval of the commissioner or a duly authorized representative of the division.

a. An auditor may request to examine business records to determine the date employment began and the date the employing unit became subject to Iowa Code chapter 96.

(1) To determine if an employing unit is to be a covered employer and if an individual, or class of individuals, are employees whose remuneration would be subject to contributions, the auditor will examine employment contracts and related documents.

(2) If it is determined that the employing unit is to be a covered employer, the auditor will examine legal documents such as leases, purchase contracts, partnership agreements, articles of incorporation, limited liability operating agreements and stock records to determine ownership of the business, to establish responsibility for filing reports and paying contributions, and to assist in the determination of the job insurance tax rate.

(3) If liability is determined, the payroll/remuneration records may be examined to establish the correct amount of covered wages and the period to which they belong. Reports will be completed and the correct amount of contribution, penalty and interest due will be computed and collection action will be initiated.

b. When a job insurance claim is filed, an auditor may request to examine the records of an employer to establish the claimant's rights to benefits under Iowa Code chapter 96. Form 68-0192, Job Insurance Questionnaire For Determining Status of Workers, and supporting documents may be required in contested cases. If the division determines that the claimant is an employee, the records will be examined to determine the correct amount of wages paid to the claimant and the period to which the wages apply.

c. When an employer fails or refuses to file a report, the auditor may examine the records to determine the correct amount of wages that should be reported, prepare the report, compute and collect contributions, penalty, and interest due. Should records not be made available, the auditor may estimate the wages paid and amounts due pursuant to 345—subrule 3.59(2).

d. When an employer is delinquent in paying contributions due, the auditor may examine records including cash accounts, accounts receivable, real and personal property accounts, accounts payable, notes payable, installment contracts and mortgages payable to determine the employer's equity in the assets on which a lien may be filed and judgment obtained.

**2.17(6)** When a temporary writ of injunction has been filed by the division, pursuant to Iowa Code section 96.16, against an employer because of the employer's failure or refusal to file a required report or to pay assessed contributions, penalty, and interest, a field auditor shall have the right to inspect the enjoined business premises during reasonable hours and interview any interested parties having knowledge of or being involved with the enjoined employer to ensure that such enjoined employer and all of the employer's agents, servants, employees, and assigns are observing the conditions of the temporary writ of injunction.

**ITEM 3.** Rescind rule 345—3.40(96) and insert the following new rule in lieu thereof:

JOB SERVICE DIVISION[345](cont'd)

**345—3.40(96) Computation of rates for private sector employer.**

**3.40(1) Experience rating.** For calendar year 1988 and subsequent years, an employer's experience rate shall be computed by dividing the average of all benefits charged to an employer during the five periods of four consecutive calendar quarters immediately preceding the computation date by the employer's five-year average annual taxable payroll to arrive at the benefit ratio. This ratio shall be applied to the appropriate rate table, as determined by the division, to determine the employer's contribution rate for the next calendar year.

**3.40(2) Administrative contribution surcharge.**

a. For calendar years 1988 through 1998, each employer except a governmental entity and a 501(c)(3) nonprofit organization will have an administrative contribution surcharge added to the contribution rate. The administrative contribution surcharge shall be a percentage, rounded to the next highest one-hundredth of 1 percent, of the taxable wage base in effect for the rate year following the computation date, which is equal to one-tenth of 1 percent of the Federal Unemployment Tax Act (FUTA) taxable wage base in effect on the computation date.

b. A portion of each payment received from an employer shall be considered administrative contribution surcharge and shall be credited to the administrative contribution surcharge fund. The administrative contribution surcharge shall be collectible, and interest shall accrue on unpaid surcharge at the same rate, as on regular contributions.

c. The portion of the employer's payment credited to the administrative contribution surcharge fund shall not be certified to the Internal Revenue Service as contributions for which the employer may take credit against the employer's federal unemployment tax (FUTA-Form 940).

d. The administrative contribution surcharge fund shall be a separate and distinct fund from the unemployment compensation fund. Interest earned on the moneys in the administrative contribution surcharge fund shall be credited to the administrative contribution surcharge fund. Moneys in the administrative contribution surcharge fund shall be appropriated by the general assembly. As a condition for the expenditure of \$200,000 from the fund to conduct labor availability surveys during fiscal year 1993, all communities scheduled to be surveyed during the fiscal year shall contribute 40 percent of the cost of completing the community surveys.

**3.40(3) Temporary emergency surcharge beginning January 1, 1983.** If it becomes necessary to implement a temporary emergency surcharge on all employers, except zero rated employers, governmental employers, and 501(c)(3) nonprofit organizations, for any quarter to pay interest on moneys borrowed from the federal government to pay job insurance benefits, the emergency surcharge shall be collected and credited in the following manner:

a. The emergency surcharge rate shall be added to the employer's regular contribution (tax) rate for the quarter. The add-on rate shall be a uniform percentage of each affected employer's regular contribution rate rounded to the nearest one-hundredth of a percent. The affected employers will be notified by the division of the surcharge by any appropriate means available at the time.

b. A portion of each payment that is received from an employer for a quarter in which the emergency surcharge is in effect shall be considered as being temporary emer-

gency surcharge and shall be credited to the temporary emergency surcharge fund.

c. The portion of the employer's payment credited to the temporary emergency surcharge fund shall not be certified to the Internal Revenue Service as contributions for which the employer may take credit against the employer's federal unemployment tax (FUTA-Form 940).

d. The temporary emergency surcharge shall be used to pay the interest accrued on the trust fund money advanced to job service by the federal government.

e. The commissioner of job service shall prescribe the manner and the amount of the surcharge to be collected.

This rule is intended to implement Iowa Code sections 96.7(2), 96.7(11), 96.7(12) and 96.19(8).

ITEM 4. Amend subrule 4.2(2), paragraph "a," to read as follows:

a. An individual may file a claim for unemployment benefits by completing Form 60-0330. Application for Job Placement Assistance and/or Job Insurance, at a job service office. *If an individual is in a continuous filing status, and a transitional claim needs to be filed, a Form 65-5526 may be mailed to the claimant to be completed, signed and mailed to the local office identified.* The form shall then be transmitted to the claims section for processing. A notice of claim filing, which includes the name and social security number of the individual claiming benefits, shall be sent to each base period employer on record and the last employer if different than the base period employer unless the separation issue has previously been adjudicated.

ITEM 5. Amend 345—Chapter 4 by adding the following new rule:

**345—4.6(96) Profiling for reemployment services.**

**4.6(1)** The department of employment services and the department of economic development will jointly provide a program which consists of profiling claimants and providing reemployment services.

**4.6(2)** Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

**4.6(3)** Reemployment services may include, but are not limited to, the following:

a. An assessment of the claimant's aptitude, work history, and interest.

b. Employment counseling regarding reemployment approaches and plans.

c. Job search assistance and job placement services.

d. Labor market information.

e. Job search workshops or job clubs and referrals to employers.

f. Résumé preparation.

g. Other similar services.

**4.6(4)** As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

**4.6(5)** The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

**4.6(6)** A claimant shall participate in reemployment services when referred by the division unless the claimant establishes justifiable cause for failure to participate or the

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

claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services.

a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant.

b. Reserved.

This rule is intended to implement 1994 Iowa Acts, Senate File 2261, section 6.

ITEM 6. Amend subrule 4.13(2), paragraph "e," to read as follows:

e. Remuneration other than cash. The cash value of all remuneration payable in any medium other than cash, ~~i.e., as board and room, working out a bill for groceries, coal, board, rent, housing, lodging, meals, or similar advantage,~~ is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

ITEM 7. Amend subrule 4.23(23) to read as follows:

**4.23(23)** The claimant's availability for other work is unduly limited because such claimant is working ~~as many as forty (40) hours a week and this, in effect, has removed such to such a degree that removes the~~ claimant from the labor market.

ITEM 8. Rescind rule 345—4.39(96) and insert the following new rule in lieu thereof:

**345—4.39(96) Division-approved training or retraining program.** The intent of division-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for division-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

**4.39(1)** Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the division setting out the following:

- a. Claimant's most recent employer and employment.
- b. The reasons for claimant's unemployment.
- c. The proposed course of training or retraining.
- d. The educational establishment at which the claimant would receive training.
- e. The estimated time required for such training.
- f. The type of jobs for which the claimant will qualify at completion of such training.

**4.39(2)** A claimant may receive job insurance while attending a training course approved by the division. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of division-approved training the claimant must, in order to continue to be eligible for job insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

**4.39(3)** The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to

complete the training to substantiate the expenditure of job insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

ITEM 9. Amend rule 345—4.40(96) to read as follows:

**345—4.40(96) Division-approved training (DAT), state tuition procedure.**

~~**4.40(1)** A claimant may receive job insurance while attending a training course approved by the division. While attending the approved training course the claimant need not be available for work or actively seeking work. After completion of division approved training the claimant must, in order to continue to be eligible for job insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause.~~

~~**4.40(2)** The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of job insurance funds.~~

**4.40(3 I)** For those individuals who are otherwise eligible, but who are financially incapable of paying tuition and related course fees, the division may provide up to ~~one thousand dollars (\$1,000)~~ per individual in a ~~twenty-four (24)~~ calendar-month period. The criteria are:

- a. Funds must be available.
- b. Approval of division-approved training must be received prior to payment to the educational institution.
- c. Individuals must certify financial need to qualify for DAT tuition and fees. An individual cannot have income of more than ~~one hundred twenty-five 125 percent (125%)~~ of ~~their~~ *the individual's* weekly unemployment insurance benefit amount. Income is defined as job insurance benefits and wages.
- d. Financial assistance shall be defined as grants and scholarships for tuition and fees.
- e. Tuition and fees can be approved for the length of the course up to the ~~twenty-four (24)~~-month maximum, even if the job insurance benefits subsequently exhaust or the claimant becomes ineligible.
- f. Tuition and fees cannot be approved for a person who is currently attending class.
- g. Any obligation to the training institution from the division-approved training assistance fund combined with other financial aid, which is awarded to the student and can only be used for tuition and fees, may not exceed the total cost of tuition and fees at the training institution.
- h. Any DAT funds which are not used by the educational institution, due to whatever the reason, shall be returned to the division within ~~ninety (90)~~ days of completion of the course.

**4.40(2)** Reserved.

This rule is intended to implement Iowa Code section 96.13(3) and 1986 Iowa Acts, chapter 1246, section 623.

ITEM 10. Amend rule 345—5.10(96) as follows:

**345—5.10(96) Prosecution on overpayments.**

**5.10(1)** When an overpayment occurs due to misrepresentation, ~~involving three or four consecutive weeks,~~ the case shall be given a thorough and detailed review of the facts, as obtained by the ~~benefit payment control section~~

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

*fraud unit*, to determine, in most cases, if prosecution for fraud is warranted meets the county attorney's criteria.

a. The claimant shall be afforded an opportunity to give testimony either refuting or affirming the overpayment.

b. The fraud unit will issue a decision concerning the overpayment.

~~5.10(2) When an overpayment occurs due to misrepresentation involving five or more consecutive weeks, prosecution shall be recommended to the appropriate county attorney.~~

~~a. The claimant shall be afforded an opportunity to give testimony either refuting or affirming the overpayment.~~

~~b. The benefit payment control section will issue a decision concerning the overpayment.~~

5.10(3 2) Restitution or the establishment of a repayment plan of an amount overpaid to a claimant due to fraudulent misrepresentation or failure to disclose a material fact shall not preclude the benefit payment control section fraud unit from instituting criminal proceedings against such claimant.

This rule is intended to implement Iowa Code sections 96.11(1) and 96.16(2) and ~~1986 Iowa Acts, Senate File 2175, sections 901 through 942.~~

## ARC 5092A

## 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 safety standards for fall protection in the construction industry and occupational exposure to asbestos.

If requested by October 4, 1994, a public hearing will be held on October 6, 1994, 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 on or before October 6, 1994, 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 one 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 re-

quest is filed by delivery or by mailing postmarked no later than October 5, 1994, 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 347-10.20(88) by inserting at the end thereof:

59 Fed. Reg. 40729 (August 9, 1994)

59 Fed. Reg. 41057 (August 10, 1994)

## ARC 5093A

## 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 safety standards for fall protection in the construction industry and occupational exposure to asbestos.

If requested by October 4, 1994, a public hearing will be held on October 6, 1994, 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 on or before October 6, 1994, 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 one 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 October 5, 1994, 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

## LABOR SERVICES DIVISION[347](cont'd)

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:

59 Fed. Reg. 40729 (August 9, 1994)

59 Fed. Reg. 41131 (August 10, 1994)

**ARC 5078A****PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455G.4(3) and 455G.9(5), the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 11, "Remedial or Insurance Claims," Iowa Administrative Code.

The Board amended 11.7(1)"c"(2) [see **ARC 5077A** herein] which becomes effective November 1, 1994. Subparagraph 11.7(1)"c"(2) gives priority to high-risk sites requiring remediation where the claimant is a small business as defined by Iowa Code section 455G.2(18). One of the requirements for meeting the definition of small business under Iowa Code section 455G.2(18) is the claimant must have a net worth of \$400,000 or less.

This amendment sets forth the manner in which net worth is to be calculated for purposes of 11.7(1)"c"(2). The manner specified in this amendment is the same manner as is presently required for loan guarantee purposes in 12.10(3).

This amendment also sets forth the form of financial statement disclosing net worth to be filed with the administrator and the time frame for filing such financial statements. Finally, this amendment sets forth the consequences of an untimely filing and the consequences of a falsified filing.

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

The Board has determined that this proposed amendment may have an impact on small business. The Board has considered the factors listed in Iowa Code section 17A.31(4). The Board will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than October 4, 1994, to the Iowa

Comprehensive Petroleum Underground Storage Tank Fund Board, Robert Galbraith, Department of Justice, 1223 East Court 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 Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on this proposed amendment on or before October 4, 1994. Such written comments should be directed to the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, Robert Galbraith, Department of Justice, 1223 East Court Avenue, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact Robert Galbraith, Department of Justice, at (515) 281-7020 or at the Department of Justice, 1223 East Court Avenue in Des Moines, Iowa.

There will be a public hearing on October 4, 1994, at 10 a.m., in the Conference Room of Williams and Company, 1000 Illinois Street, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

This amendment was approved by the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board at their meeting held August 23, 1994.

This amendment is intended to implement Iowa Code section 455G.9(5).

This amendment has also been Adopted and Filed Without Notice and is published herein as **ARC 5076A**. The content of that submission is incorporated by reference.

**ARC 5096A****PROFESSIONAL LICENSURE DIVISION[645]****BOARD OF BEHAVIORAL 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 Behavioral Science Examiners hereby gives Notice of Intended Action to amend Chapter 30, "Licensure of Marital and Family Therapists and Mental Health Counselors," and Chapter 31, "Continuing Education and Disciplinary Process," Iowa Administrative Code.

The proposed amendments include Psychopathology as a required course, rescind paragraphs 30.3(1)"c" and 30.4(1)"c" as they are no longer in effect, clarify renewal procedures, clarify reinstatement procedures, clarify fees and add a new chapter regarding Continuing Education and Disciplinary Procedures.

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

Any interested person may make written comments on the proposed amendments on or before October 4, 1994, addressed to Carol J. 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 section 147.76 and chapter 272C.

The following amendments are proposed.

ITEM 1. Rescind paragraph 30.3(1)"c."

ITEM 2. Add a new subparagraph 30.4(1)"b"(12) as follows:

(12) Psychopathology

ITEM 3. Rescind paragraph 30.4(1)"c."

ITEM 4. Add new rules 30.6(147,154D) to 30.9(147,154D) as follows:

**645—30.6(147,154D) License renewal**

**30.6(1)** The biennial license renewal period shall extend from October 1 of each even-numbered year until September 30 of the next even-numbered year beginning October 1994. The continuing education period shall extend from July 1 of the even-numbered year until June 30 of the next even-numbered year.

**30.6(2)** Licensees who have met continuing education requirements for the biennium and wish to have their licenses renewed shall complete the board-approved renewal form and the board-approved continuing education report and return them to professional licensure, department of public health by July 31 (even year) beginning July 31, 1996.

**30.6(3)** Late filing. Licensees who fail to submit the application for renewal and complete and appropriately document education hours by September 30 (even year) shall be required to pay a late filing fee and may be subject to an audit of their continuing education report.

**30.6(4)** Licensees who have not fulfilled the requirements for license renewal and who have not placed the license on inactive status by September 30 (even year) for the licensure biennium will have a lapsed license and shall not engage in the practice of marital and family therapy or mental health counseling as a licensed practitioner.

**645—30.7(147, 154D) Inactive practitioners.** A licensee who is not actively engaged in active practice as a licensed practitioner in the state of Iowa residing within or without the state of Iowa may place the license on inactive status and be granted a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of the profession as a licensed practitioner in Iowa without first complying with all provisions governing reinstatement after exemption (rule 30.8(147,154D)). The application for inactive status shall be submitted upon the form provided by the board.

**645—30.8(147,154D) Reinstatement of inactive practitioners.** Inactive practitioners who have not been granted a certificate of exemption shall, prior to engaging in the practice of the profession as a licensed provider in the state of Iowa, satisfy the following requirements for reinstatement:

**30.8(1)** Submit written application for reinstatement to the board upon forms provided by the board.

**30.8(2)** Furnish in the application evidence of completion of a total number of hours of accredited continuing

education computed by multiplying 20 by the number of years a certificate of exemption shall have been in effect for such applicant to a maximum of five renewal periods.

**30.8(3)** The board may require successful completion of an oral interview prior to reinstatement.

**30.8(4)** Pay only the current biennial license renewal fee and reinstatement fee.

**645—30.9(147,154D) Reinstatement of lapsed licensees.** Those persons who have failed to renew the license and have not placed the license on inactive status shall pay all past due renewal fees, penalty fees, the reinstatement fee, and the current biennial license fee in addition to completion of all past due continuing education requirements. Those persons whose license has lapsed for more than one year shall also be required to complete the appropriate professional exam.

ITEM 5. Amend rule 645—30.10(147,154D) by adding new subrules 30.10(3) to 30.10(5) as follows:

**30.10(3)** The renewal fee of a license to practice for a biennial period is \$100.

**30.10(4)** Penalty fee for failure to complete and return the renewal application by September 30 of even-numbered years is \$50.

**30.10(5)** Penalty fee for failure to complete the required continuing education by June 30 of even-numbered years is \$50. Failure to complete and return the continuing education report (Form-G) by July 31 of even-numbered years is \$25.

ITEM 6. Adopt new rules 31.1(272C) through 31.6(272C) as follows:

**645—31.1(272C) Continuing education requirements.**

**31.1(1)** It is the responsibility of each licensee to arrange for financing of costs of continuing education.

**31.1(2)** Each person licensed to practice marital and family therapy or mental health counseling in this state shall complete during each continuing education compliance period a minimum of 40 hours of continuing education approved by the board. Compliance with the requirement of continuing education is a prerequisite for license renewal for each subsequent license renewal period.

**31.1(3)** The continuing education compliance period shall be each biennium beginning July 1 of the even-numbered year to June 30 of the next even-numbered year. During the continuing education compliance period, attendance at approved continuing education programs may be used as evidence of fulfilling the continuing education requirement for the subsequent biennial license renewal period beginning October 1. The biennial license renewal period shall extend from October 1 of each even-numbered year until September 30 of the next even-numbered year.

**31.1(4)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity which meets the requirements in this chapter.

**31.1(5)** Carryover credit of continuing education hours into the next continuing education period will not be permitted.

**31.1(6)** When an initial license is issued via examination, the new licensee is exempt from meeting the continuing education requirement for the first renewal of the license.

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

**31.1(7)** Reinstated licenses and licensees through the interstate endorsement shall obtain 40 hours of continuing education credit for renewal of license if obtained in the first year of the continuing education biennium and 20 hours if license is obtained in the second year of the continuing education biennium.

**645—31.2(272C) Standards for approval.**

**31.2(1)** Continuing education is that board-approved education which is obtained by a licensee in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it:

a. Constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee; and

b. Pertains to common subject matters which integrally relate to the practice of the professions; and

c. Is conducted by individuals who have a special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request a curriculum vitae of presenters.

d. Fulfills stated program goals or objectives or both.

e. Provides proof of attendance to licensees in attendance including:

(1) Date, place, course title, presenter(s).

(2) Numbers of program contact hours. (One contact hour equals one hour of continuing education credit.)

(3) Official signature of program sponsor.

**31.2(2)** Continuing education credit may be granted for the following: scholarly research papers, publications in referred journals, academic course work or presenting professional programs. (Presentations to lay public are excluded.) Academic course work shall be credited as follows: one academic semester credit equals 15 hours of continuing education credit; one academic quarter hour equals 10 hours of continuing education credit.

**645—31.3(272C) Approval of sponsors, programs, and activities.**

**31.3(1)** Accreditation of sponsors. An organization or person not previously accredited by the board, which desires accreditation as a sponsor of courses, programs, and other continuing education activities, including individually designed programs, shall apply for accreditation to the board stating its education history, subjects offered, total hours of instruction presented, and the names and qualifications of instructors. By January 31 of each year, commencing January 31, 1995, all accredited sponsors shall report to the board in writing the education programs conducted during the preceding calendar year on a form approved by the board.

The board may at any time reevaluate an accredited sponsor. If after reevaluation the board finds there is basis for consideration or revocation of the accreditation of an accredited sponsor, the board shall give notice by ordinary mail to that sponsor of hearing on possible revocation at least 30 days prior to the hearing. The decision of the board after the hearing shall be final.

**31.3(2)** Prior to approval of activities. An organization other than an accredited sponsor, which desires prior approval of a course, program or other continuing education activity, shall apply for approval to the board at least 60 days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny such application in writing. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information.

**31.3(3)** Review of programs. The board may monitor or review any continuing education program already approved by the board and, upon evidence of significant variation in the program presented from the program approved, may disapprove all or any part of the approved hours granted by the program.

**31.3(4)** Postapproval of activities. A licensee seeking credit for attendance and participation in an educational activity which was not otherwise approved shall submit to the board, within 30 days after completion of activity, a request for credit, including a brief resumé of the activity, its dates, subjects, instructors, and their qualifications and the number of credit hours requested therefor. Within 60 days after the receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed therefor. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

**645—31.4(272C) Reporting continuing education credits.**

**31.4(1)** A report of continuing education activities shall be submitted on a board-approved form with the application for renewal by September 30 of the even-numbered years beginning September 30, 1996. All continuing education activities submitted must be completed by June 30 of the even-numbered year as specified in 30.6(1) and 31.1(3) or a late fee will be assessed as provided in 30.10(5).

**31.4(2)** Failure to receive renewal application shall not relieve the licensee of the responsibility of meeting continuing education requirements and submitting the renewal fee by September 30 of the even-numbered year.

**31.4(3)** Audit of continuing education reports.

a. After each educational biennium the board will audit a percentage of the continuing education reports at random before the renewal licenses are issued to those being audited.

b. All renewal license applications that are submitted late (after September 30 of the even-numbered year) shall be subject to an audit.

c. Any licensee against whom a complaint is filed may be subject to an audit of the licensee's continuing education.

d. The licensee must make the following information available to the board for auditing purposes:

(1) Date, place, course title, schedule, presenter(s).

(2) Number of contact hours for program attended.

(3) Official signature of sponsor indicating successful completion of course.

e. For auditing purposes the licensee must retain the above information for four years.

**645—31.5(272C) Hearing.** In the event of denial, in whole or part, of credit for continuing education activity, the licensee shall have the right, within 20 days after

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

sending of the notification of denial by ordinary mail, to request a hearing which will be held within 60 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board. If the hearing is conducted by an administrative law judge, the law judge shall submit a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the law judge. The decision of the board or decision of the administrative law judge after adoption by the board shall be final.

**645—31.6(272C) Disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the requirements. No waiver or extension of time shall be granted unless written application is made on forms provided by the board and is signed by the licensee and the appropriately licensed health care professional and the waiver is acceptable to the board. Waivers of the minimum continuing education requirements may be granted by the board for any period of time not to exceed one calendar year or in the event that the disability or illness upon which a waiver has been granted continues beyond the period for which the waiver has been granted. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**ARC 5072A****PUBLIC SAFETY  
DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 321J.4, the Iowa Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 7, "Devices and Methods to Test Body Fluids for Alcohol or Drug Content," Iowa Administrative Code.

These proposed amendments would update provisions regarding ignition interlock devices to accommodate current technology. They reflect model specifications for ignition interlock devices issued by the National Highway Traffic Safety Administration.

A public hearing on these proposed amendments will be held on October 10, 1994, at 9:30 a.m., in the Third Floor Conference Room (east half) of the Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the

Plans, Training, and Research Bureau, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, at the address indicated or by telephone at (515)281-5524, at least one day prior to the public hearing.

Any written comments or information regarding these rules should be directed to the Plans, Training, and Research Bureau at the address indicated. Persons who wish to convey their views orally may contact the Plans, Training, and Research Bureau by telephone or in person at the Bureau office at least one day prior to the public hearing.

These amendments are intended to implement Iowa Code section 321J.4.

The following amendments are proposed.

ITEM 1. Amend subrule 7.8(1) by adding a new paragraph "d" to read as follows:

d. The ignition interlock device shall meet or exceed performance standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices, as published in the Federal Register, April 7, 1992, pages 11772 through 11787.

ITEM 2. Amend subrule 7.8(2) as follows:

**7.8(2)** The division of criminal investigation state criminalistics laboratory shall maintain a list of *ignition interlock* devices approved by the commissioner of public safety in a manner consistent with the provisions of subrule 7.5(1). ~~Devices may include those approved by the National Highway Traffic Safety Administration or its successor agency, consistent with the provisions of subrule 7.2(1).~~

ITEM 3. Amend subrule 7.8(5) as follows:

**7.8(5)** An ignition interlock device utilized under these rules shall be calibrated at least once every 60 days using either a wet bath simulator or dry gas standard (minimum five cubic foot volume). Calibration shall be ~~at the site of installation completed~~ by the ~~installer distributor~~ of the ignition interlock device. *In lieu of calibration of an installed ignition interlock device, an installed device may be exchanged for another calibrated device.*

The calibration record for the ignition interlock device currently installed in a vehicle pursuant to Iowa Code section 321J.4 and this rule and for any other ignition interlock device previously installed in the same vehicle pursuant to the same court order shall be maintained by the ~~installer distributor~~ and the record shall include:

- a. Name of the person performing the calibration;
- b. Date;
- c. Value and type of standard used;
- d. Unit type and identification number of the ignition interlock device checked;
- e. Description of the vehicle in which the ignition interlock device is installed, including the registration plate number and state, make, model, vehicle identification number (VIN), year, and color.

Documentation of calibration shall be kept with the vehicle at all times for inspection by a peace officer, the court which ordered installation of the device, or the Iowa department of transportation.

ITEM 4. Amend subrule 7.8(8) as follows:

**7.8(8)** The ignition interlock device shall require the operator of the vehicle to submit to a retest within 10 minutes of starting the vehicle. Retesting shall continue at intervals not to exceed 60 minutes after the first retest. ~~Said retests~~ *Retests* may be achieved during the operation

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

of the vehicle. *The ignition interlock device shall enter a lockout condition in 5 days if a retest is not performed, or the result of a retest exceeds the maximum allowable alcohol concentration as prescribed in subrule 7.8(4). An ignition interlock device which enters a lockout condition shall be returned to the site of installation for service.*

## ARC 5071A

TRANSPORTATION  
DEPARTMENT[761]

## Notice of Intended Action

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 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 523, "Truck Operators and Contract Carriers," Chapter 525, "Motor Carriers and Charter Carriers," and Chapter 528, "Liquid Transport Carriers," Iowa Administrative Code.

These amendments allow carriers to change their tariff rates on 7 days' notice instead of the current 30 days' notice.

These amendments are intended to implement Iowa Code chapters 325, 327 and 327A.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Administrative Rules Coordinator, Director's Staff, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639.
5. Be received by the Coordinator no later than October 4, 1994.

A meeting to hear requested oral presentations is scheduled for Thursday, October 6, 1994, at 10 a.m. in the Conference Room of the Motor Vehicle Division at Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa. The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code subsection 17A.31(4), paragraphs "a" to "l." The following may request the issuance of a regulatory flexibility analysis: the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons signing the request who qualify as a small business, or an organization registered with the Department and representing at least 25 persons. The request must:

1. Include the name, address, and telephone number of the person(s) authoring the request.

2. Be submitted in writing to the Administrative Rules Coordinator, Director's Staff, at the address listed in this Notice.

3. Be delivered to the coordinator or postmarked no later than 20 days after publication of this Notice in the Iowa Administrative Bulletin.

The following amendments are proposed.

ITEM 1. Rescind subrule 523.8(1) and insert in lieu thereof the following **new** subrule:

**523.8(1)** Requirements. All truck operators shall maintain on file with the office of motor carrier services a tariff stating the rates and charges that apply for the services performed under the permit. When class rates are assessed naming a classification, the ratings must apply in connection with the rates named in each carrier's tariff. Rates and charges to be applied to movements of household goods transported in closed body, van-type equipment shall be according to the office of motor carrier services' household goods tariff No. 14 and supplements hereto. All tariffs and classifications must conform to the following rules except as otherwise authorized by the office of motor carrier services.

ITEM 2. Amend subrule 523.8(3) as follows:

**523.8(3)** Filing date. All changes to tariffs and supplements must be filed with the office of motor carrier services and posted in a conspicuous place at the operator's principal place of business at least ~~30~~ *seven* days prior to the effective date ~~thereof~~, unless otherwise authorized by the office of motor carrier services. ~~except that tariffs~~ *Tariffs*, supplements or adoption notices issued in connection with applications for truck operator permits, or the transfer of permits from one truck operator to another, may become effective on a date not earlier than the date ~~on which~~ permits are issued or transferred. Any new tariff shall be effective on the date specified on the permit issued by the office of motor carrier services.

ITEM 3. Amend subrule 523.8(6), catchwords, as follows:

**523.8(6)** Contents of tariff.

ITEM 4. Amend subrule 523.8(10) as follows:

**523.8(10)** Tariff changes. All rates, charges and classifications which have been filed with the *office of motor carrier services department* must be allowed to become effective and remain in effect for a period of at least ~~thirty~~ *seven* days before being changed, canceled or withdrawn, unless otherwise authorized by the *office of motor carrier services department*.

ITEM 5. Amend subrule 523.8(12) as follows:

**523.8(12)** Application for special permission. Truck operators and agents when making application for permission to establish rates, charges, classification ratings or ~~rule~~ *tariff rules* on less than statutory ~~thirty~~ *seven* days' notice shall use the form prescribed by the *office of motor carrier services department*.

ITEM 6. Rescind subrule 525.14(1) and insert in lieu thereof the following **new** subrule:

**525.14(1)** Requirements. All motor carriers of property shall maintain on file with the office of motor carrier services a tariff stating the rates and charges that apply for the services performed under the certificate. When class rates are to be assessed naming a classification, the ratings must apply in connection with the rates named in each carrier's tariff. All tariffs and classifications must

## TRANSPORTATION DEPARTMENT[761](cont'd)

conform to the following rules except as otherwise authorized by the office of motor carrier services.

ITEM 7. Amend subrule 525.14(3) as follows:

**525.14(3)** Filing date. All changes to tariffs and supplements must be filed *in the office of motor carrier services* and posted in a conspicuous place at the operator's principal place of business at least ~~30~~ *seven* days prior to the effective date thereof, unless otherwise authorized by the office of motor carrier services. ~~—except that tariffs Tariffs or supplements issued in connection with new or changed operating authority, or issued to reflect the transfer or leasing of operating authority from one motor carrier to another, may be filed and posted to become effective on less than 30 days' notice, under authority of the department's order covering the establishment, changing, transferring or leasing of operating authority may become effective on a date not earlier than the date the certificates are issued or transferred.~~ Any new tariff shall be effective on the date specified on the certificate issued by the office of motor carrier services.

ITEM 8. Amend subrule **525.14(6)** by rescinding the introductory paragraph and paragraph "a" and inserting in lieu thereof the following new paragraphs:

**525.14(6)** Contents of tariff. Each tariff shall contain in the order named:

a. Table of contents arranged alphabetically showing the number of the page on which each subject may be found. If a tariff contains so small a volume of information that its title page or interior arrangement plainly indicates its contents, the table of contents may be omitted.

Further amend subrule **525.14(6)** by relettering paragraphs "b," "c" and "d" as paragraphs "c," "d" and "e" respectively and adopting new paragraph "b," as follows:

b. A complete index of commodities on which specific rates are named, together with references to the pages or items in which they are shown. No index is needed in tariffs of less than five pages or if the rates are alphabetically arranged by commodity.

ITEM 9. Amend subrule 525.14(9), introductory paragraph, as follows:

**525.14(9)** Tariff changes. All rates, charges and classifications which have been filed with the *office of motor carrier services department* must be allowed to become effective and remain in effect for a period of at least ~~thirty~~ *seven* days before being changed, canceled or withdrawn, unless otherwise authorized by the *office of motor carrier services department*.

ITEM 10. Amend subrule 525.14(11) as follows:

**525.14(11)** Application for special permission. Carriers or agents when making application for permission to establish rates, charges, classification ratings or ~~rule tariff rules~~ on less than statutory ~~(thirty days)~~ *seven days*' notice shall use the form prescribed by the *office of motor carrier services department*.

ITEM 11. Amend subrule 528.11(1) as follows:

**528.11(1)** ~~Form and contents~~ *Requirements*. All liquid transport carriers shall maintain on file with the *office of motor carrier services department* a tariff stating the rates and charges ~~to be made that apply~~ for the services performed under ~~their the~~ certificates. ~~—also a classification, if~~ *When class rates are to be assessed, stating naming a classification, the rating(s) must apply ratings which are to be applied* in connection with the rates named in the

*each carrier's tariff*. All tariffs and classifications must conform to the following ~~regulations rules~~, except as otherwise authorized by the *office of motor carrier services department*.

ITEM 12. Amend subrule 528.11(3) as follows:

**528.11(3)** Filing date. All changes to tariffs and supplements must be filed in the office of motor carrier services and posted in a conspicuous place at the operator's principal place of business at least ~~30~~ *seven* days prior to the effective date thereof, unless otherwise authorized by the office of motor carrier services. ~~—except that tariffs Tariffs, supplements, or adoption notices issued in connection with applications for liquid transport carriers, or the transfer of certificates from one liquid transport carrier to another, may become effective on a date not earlier than the date on which certificates are issued or transferred.~~ Any new tariff shall be effective on the date specified on the certificate issued by the office of motor carrier services.

ITEM 13. Amend subrule 528.11(8), introductory paragraph, as follows:

**528.11(8)** Tariff changes. All rates, charges and classifications which have been filed with the department must be allowed to become effective and remain in effect for a period of at least ~~thirty~~ *seven* days before being changed, canceled or withdrawn, unless otherwise authorized by the *office of motor carrier services department*.

ITEM 14. Amend subrule 528.11(10) as follows:

**528.11(10)** Application for special permission. Liquid transport carriers and agents when making application for permission to establish rates, charges, classification ratings or ~~rule tariff rules~~ on less than statutory ~~thirty~~ *seven* days' notice shall use the form prescribed by the *office of motor carrier services department*.

## NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the Committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Banking Richard Buenneke, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for September is 9.25%.

### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

PUBLIC FUNDS INTEREST RATES(cont'd)

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

New official state interest rates, effective September 1, 1994, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7	- 31 days	.....	Minimum 3.30%
32	- 89 days	.....	Minimum 3.60%
90	- 179 days	.....	Minimum 3.90%
180	- 364 days	.....	Minimum 4.30%
One year		.....	Minimum 5.10%
Two years or more		.....	Minimum 6.10%

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

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

## ARC 5097A

AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 159.5(11), the Iowa Department of Agriculture and Land Stewardship hereby amends Chapter 68, "Dairy," Iowa Administrative Code.

These amendments update references in the administrative rules relating to the version of the Pasteurized Milk Ordinance which shall be implemented and to other documents adopted by reference. This update is mandated by Iowa Code section 192.102 and 1994 Iowa Acts, Senate File 2314, section 39.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 20, 1994, as **ARC 4969A**. These amendments are identical to the Notice of Intended Action with the exception of the deletion of "and any subsequent revision" from Items 2 and 3. No public comment was received. The Notice of Intended Action stated that the Department intended to adopt the amendments on an emergency basis after conclusion of the comment period.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and the amendments be made effective upon filing with the Administrative Rules Coordinator because they confer a benefit on the public and the dairy industry in that the amendments allow enforcement of the current federal requirements for the production and sale of Grade A milk without delay and thus permit continued marketing of Iowa dairy products.

These amendments became effective upon filing on August 29, 1994.

These amendments are intended to implement Iowa Code section 192.102 and 1994 Iowa Acts, Senate File 2314, section 39.

ITEM 1. Amend rule 21—68.5(190,192,194,195), introductory paragraph, as follows:

**21—68.5(190,192,194,195) Milk tests.** The department recognizes the Babcock test and the turbidimetric method or the Gerber test as an approved method of testing milk or cream for milk fat and other dairy products as specified in Standard Methods for the Examination of Dairy Products (~~13th~~ 16th Edition). That publication is hereby incorporated into this rule by this reference and made part thereof insofar as applicable, a copy of which is on file with the ~~secretary of state~~ department.

ITEM 2. Amend subrule 68.11(1) as follows:

**68.11(1) Grade A farm permit suspension.** The department may temporarily suspend a Grade A farm permit if the dairy farm fails to meet all the requirements as set forth in "Grade A Pasteurized Milk Ordinance, ~~1989~~ 1993 Revision, printed as Public Health Service/Food and Drug Administration Publication No. 229" and incorporated into rule 21—68.12(192). A Grade A farm under temporary suspension of their Grade A permit may sell the milk as "milk for manufacturing purposes" until reinstated as a Grade A farm.

ITEM 3. Amend rule 21—68.12(192), introductory paragraph, as follows:

**21—68.12(192) Milk standards.** Standards for the production, processing, distribution, transportation, handling, sampling, examination, grading, labeling, sale and standards of identity of Grade A pasteurized milk, Grade A milk products and Grade A raw milk, the inspection of Grade A dairy herds, dairy farms, milk plants, milk receiving stations and milk transfer stations, the issuing, suspension and revocation of permits and licenses to milk producers, milk haulers, and milk distributors shall be regulated in accordance with the provisions of the Grade A Pasteurized Milk Ordinance, ~~1989~~ 1993 Recommendations of the United States Public Health Service/Food and Drug Administration, a copy of which is on file with the department and is incorporated into this rule by reference and made a part of this rule.

[Filed Emergency After Notice 8/29/94, effective 8/29/94]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5073A

ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby rescinds Chapter 29, "Value-Added Agricultural Products and Processes Financial Assistance Program (VAAPPFAP)," Iowa Administrative Code, and adopts a new Chapter 29 with the same title.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 6, 1994, as **ARC 4927A**. The Department of Economic Development adopted these rules on August 18, 1994.

The new chapter implements revisions to the Value-Added Agricultural Products and Processes Financial Assistance Program made by 1994 Iowa Acts, House File 2337. The purpose of the program is to encourage the increased utilization of agricultural commodities produced in this state. The new chapter defines eligibility requirements, describes the application procedure, and outlines the approval and award process.

A public hearing was held on July 27, 1994. Based on comments received at the hearing and additional public input received during the comment period, the following revisions were made to the proposed rules:

1. Rule 261—29.1(15E) was amended to include definitions of "farming," "livestock production operations," "person," and "rural region." The definition of "soydiesel fuel" was modified to more accurately describe the phrase based on technical advice received during the comment period.

2. Subrule 29.4(1) was amended to indicate that funds will be allocated between the two program components on a 50/50 basis until the end of the third quarter of the fiscal year. After the third quarter, funds would become available for other eligible projects.

3. Subrule 29.4(2) was revised to clarify the meaning of a product that is "not commonly produced" and a process which is "not commonly used" in the state.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

4. Subrule 29.4(3) was modified to make it clear that the criteria listed in paragraphs "a" and "b" relate only to applications based on ethanol fuel production.

5. Subrule 29.4(4) was revised by renaming "feasibility studies" as "project development assistance" and specifying in more detail what proposed activities would qualify for project development assistance.

6. Subrule 29.5(1) was amended to specify a time frame within which violations of law, including environmental regulations and statutes, must be reported by the applicant.

7. Subrule 29.5(4) restricts applicants to no more than one award under this program for a single project. Language was added to the last sentence to clarify that an applicant who receives project development assistance is not disqualified from requesting funding under one of the two program components.

8. The "total amount of award" column in paragraph 29.6(2)"a" was amended to change the dollar amounts to whole dollar amounts (e.g., \$0-99,999 is now \$0-100,000).

9. Subrule 29.6(3) was revised to indicate that the Department may amortize loans up to 15 years with a balloon payment required by the fifth year.

10. Rule 261—29.8(15E) was revised by adding a process by which the Department may refer applications to the Office of Renewable Fuels and Coproducts.

11. Several changes were made in rule 261—29.10(15E), "Evaluation and rating criteria":

- For the Innovative Products and Processes component, the point total for "feasibility" in paragraph 29.10(1)"a" was reduced from 40 to 25 and a minimum of 15 points is now required in this category to be eligible for funding.

- A new paragraph 29.10(1)"b" was added to evaluate the degree to which the proposed product or process is new or innovative. Total points available under this category are 25 with a minimum required of 15 points to be eligible for funding.

- Renumbered paragraph 29.10(1)"c" was entitled "utilization" and the maximum points possible for this factor were increased from 20 to 25. A minimum of 15 points is required to be eligible for funding. The meaning of utilization was modified to provide that the Department will consider the degree to which the facility "adds value to" and increases the utilization of agricultural commodities produced in the state.

- Renumbered paragraph 29.10(1)"d" was revised to delete the population figures and the allocation of points based on population size.

- The 10 point maximum total proposed for each of the renumbered paragraphs 29.10(1)"e," "f" and "g" was reduced to a maximum of 5 points each to reflect the overall reallocation of points in the evaluation process.

- For the evaluation process for the renewable fuels component, subrule 29.10(2) was amended to provide a process for ranking projects and indicating the order of preferences the Department will use in its funding decision. Specific evaluation criteria for this component were added in a new paragraph 29.10(1)"b."

12. The acronym "VAAPPFAP" was modified throughout the chapter by deleting the second "p" in the term (now "VAAPFAP").

The Department finds, pursuant to Iowa Code section 17A.5(2)"b," that the normal effective date of the rules, 35 days after publication, should be waived and the rules

be made effective on August 19, 1994, upon filing with the Administrative Rules Coordinator. These rules confer a benefit on the public by allowing qualified applicants to submit applications for funding in a timely manner. This implementation schedule benefits the public by reducing any unnecessary delay in the initiation of project activities.

The agency is taking the following steps to notify potentially affected parties of the effective date of the rule: publishing the final rules in the Iowa Administrative Bulletin, providing free copies on request, and having copies available wherever requests for information about the program are likely to be made.

These rules are intended to implement Iowa Code sections 15E.111 and 15E.112 as amended by 1994 Iowa Acts, House File 2337, sections 5 and 6.

These rules became effective on August 19, 1994.

The following new chapter is adopted.

Rescind 261—Chapter 29 and insert in lieu thereof the following new chapter:

## CHAPTER 29

VALUE-ADDED AGRICULTURAL PRODUCTS  
AND PROCESSES FINANCIAL ASSISTANCE  
PROGRAM (VAAPFAP)

**261—29.1(15E) Purpose.** The purpose of this program is to encourage the increased utilization of agricultural commodities produced in this state. The program shall assist in efforts to revitalize rural regions of this state by committing resources to provide financial assistance to new or existing value-added production facilities.

**261—29.2(15E) Definitions.**

"Agricultural products advisory council" means the council composed of five members appointed by the secretary of agriculture and five members appointed by the director of the department of economic development who are experienced in marketing or exporting agricultural commodities or products, financing the export of agricultural commodities or products, or adding value to and the processing of agricultural products as further described in Iowa Code section 15.203.

"Agriculture" means the science, art, and business of cultivating the soil, producing crops and raising livestock.

"Committee" means the renewable fuels and coproducts advisory committee established pursuant to Iowa Code section 159A.4.

"Coordinator" means the administrative head of the office of renewable fuels and coproducts appointed by the department of agriculture and land stewardship as provided in Iowa Code section 159A.3.

"Coproduct" means a product other than a renewable fuel which at least in part is derived from the processing of agricultural commodities and which may include corn gluten feed, distillers grain, solubles, a feed supplement, or can be used as livestock feed.

"Department" or "IDED" means the Iowa department of economic development.

"Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming shall not include the production of timber, forest products, nursery products, or sod; and farming shall not include a contract where a pro-

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

cessor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

"Fund" means the renewable fuels and coproducts fund established pursuant to Iowa Code section 159A.7.

"Innovative" means a new or different agricultural product or a method of processing agricultural products which is an improvement over traditional methods in a new, different, or unusual way.

"Livestock production operations" means the production, feeding and marketing of livestock, poultry and aquaculture. This includes, but is not limited to, beef and dairy cattle, swine, sheep, goat, poultry, turkey and equine operations. It also includes nontraditional agricultural operations such as ostrich, fallow deer, rabbit, fish and other aquaculture.

"Office" means the office of renewable fuels and coproducts created pursuant to Iowa Code section 159A.3.

"Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

"Renewable fuel" means an energy source at least in part derived from an organic compound, capable of powering machinery, including an engine or power plant. A renewable fuel includes but is not limited to ethanol-blended or soydiesel fuel.

"Renewable fuels and coproducts activities" means either of the following:

1. The research, development, production, promotion, marketing, or consumption of renewable fuels and coproducts.

2. The research, development, transfer, or use of technologies which directly or indirectly increases the supply or demand of renewable fuels and coproducts.

"Rural region" means any geographic area which is predominantly rural in nature, that is, having a relatively low population density and where agriculture is the predominant economic activity.

"Soydiesel fuel" means a fuel made of processed soybean oil which is mixed with diesel fuel, the mixture being a minimum of 20 percent processed soybean oil.

"VAAPFAP" means the value-added agricultural products and processes financial assistance program.

"Value-added product" means a product, which through a series of activities or processes, can be sold at a higher price than its original purchase price.

**261—29.3(15E) General eligibility.** A person is eligible to apply for assistance under this program if the following requirements are met:

1. The existing or proposed facility is located in this state.

2. The person applies to the department of economic development in a manner and according to procedures required by the department.

3. The person submits a business plan which demonstrates managerial and technical expertise.

**261—29.4(15E) Program components and eligibility requirements.**

**29.4(1)** Program components. There will be two components to the VAAPFAP program. The first component relates to operations which are involved in the development of new and innovative products or processes related to agriculture and is referred to as the "Innovative Agricultural Products and Processes Component." The second component relates to renewable fuel production facilities

and is referred to as the "Renewable Fuel Component." Available funds will be allocated to the two components on a 50/50 basis until the end of the third quarter of the state fiscal year and then may become available for other eligible projects.

**29.4(2)** Innovative agricultural products and processes component. An application based on this component shall be considered if either of the following apply:

a. The business will produce a product derived from an agricultural commodity, if the product is not commonly produced in Iowa from an agricultural commodity; or

b. The business will utilize a process to produce a product derived from an agricultural commodity, if the process is not commonly used in Iowa to produce the product.

c. For purposes of this section, a product is "not commonly produced" and a process is "not commonly used" if the product or process is not usually, generally, or ordinarily produced or processed in Iowa.

**29.4(3)** Renewable fuel component. Applications for renewable fuel and ethanol production shall be considered by the department for funding. Applications based on ethanol fuel production must meet the following criteria to be considered for funding:

a. All fermentation, distillation, and dehydration of the ethanol occurs at the proposed facility.

b. The ethanol produced at the proposed facility is at least 190 proof and is denatured. However, if the facility markets the ethanol for further refining, the facility must demonstrate that the refiner produces at least 190 proof ethanol from the ethanol purchased from the facility.

**29.4(4)** Project development assistance. The department, at its discretion, may also provide funding for project development related to proposed projects under this program. Project development assistance could be for the purpose of assisting in departmental evaluation of proposals, or could be one of the proposed activities in a funding request whose further project development could reasonably be expected to lead to a VAAPFAP-eligible commercial enterprise. Feasibility studies and basic research are not eligible for assistance under this program.

**261—29.5(15E) Ineligible projects.**

**29.5(1)** The department shall not provide financial assistance to support a value-added production facility if the facility or a person owning a controlling interest in the facility has demonstrated, within the most recent consecutive three-year period prior to application, a continuous and flagrant disregard for the health and safety of its employees or the quality of the environment. Violations of environmental protection statutes, rules or regulations shall be reported for the most recent five-year period prior to application. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of employment services pursuant to Iowa Code chapter 84A, or rules enforced by the environmental protection division of the department of natural resources pursuant to Iowa Code chapter 455B.

**29.5(2)** The department shall not approve an application for assistance under this program to refinance an existing loan.

**29.5(3)** The department shall not directly award financial assistance to support an activity directly related to

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

farming as defined in Iowa Code section 9H.1, including the establishment or operation of a livestock production operation, regardless of whether the activity is related to a renewable fuel production facility.

**29.5(4)** An applicant may not receive more than one award under this program for a single project. However, previously funded projects may receive an additional award(s) if the applicant demonstrates that the funding is to be used for a significant expansion of the project, a new project, or a project which results from previous project development assistance.

**261—29.6(15E) Awards.**

**29.6(1) Form.** Financial assistance awarded under this program may be in the form of a loan, grant, production incentive payment, or a combination thereof. The department shall not award more than 25 percent of the amount allocated to the value-added agricultural products and processes financial assistance fund during any state fiscal year to support a single person. The department may finance any size of facility. However, the department shall reserve up to 50 percent of the total amount allocated to the fund, for purposes of assisting persons requiring \$100,000 or less in financial assistance. The amount shall be reserved until the end of the third quarter of the state fiscal year and may then become available for other projects.

**29.6(2) Amount.**

a. Grants and loans shall generally be awarded on the basis of the following chart:

Total Amount of Award	Minimum Loan %	Maximum Grant %
\$0-100,000	None	100%
\$100,001-200,000	10%	90%
\$200,001-300,000	20%	80%
\$300,001-400,000	30%	70%
\$400,001-500,000	40%	60%
\$500,001-600,000	50%	50%
\$600,001-700,000	60%	40%
\$700,001-800,000	70%	30%
\$800,001-900,000	80%	20%

b. The department reserves the right to provide any project a higher percentage of loan than indicated above. A higher percentage of grant may be provided only with a waiver of the rules by the department director upon a finding that the company being assisted would not be viable without such extra consideration.

**29.6(3) Loan rate and terms.** The interest rate to be applied to the loans shall be equal to the current "prime rate" on the day of the award, as published in the Wall Street Journal under "prime rate" as established by large commercial lending institutions. The department may, at its discretion, amortize loans up to 15 years. However, a balloon payment shall be required by the fifth year. The initial repayment may be deferred no longer than six months from the date of the award, or three months after drawdown of funds, whichever is later.

**261—29.7(15E) Application procedure.** Application materials may be obtained from the IDED Bureau of Business Finance, 200 East Grand Avenue, Des Moines, Iowa 50309, telephone (515)242-4819. A comprehensive business plan must accompany the application and shall include at least the following:

1. Marketing plan for the project;

2. Project budget and status of alternative financing (if applicable);

3. Production operations;

4. Management structure;

5. Personnel needs;

6. Description of product, process or practice;

7. Status of product/service development; and

8. Patent status (if applicable).

**261—29.8(15E) Review process.** Subject to availability of funds, applications are reviewed and rated by IDED staff on an ongoing basis. Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. The department may refer an application to the coordinator for further feasibility studies if deemed necessary, if the applicant had previously consulted with the coordinator in completion of the application. Notice of such referral shall simultaneously be mailed to the applicant. The IDED staff may refer viable applications for project development assistance. The applicant shall then have three weeks from the date of the IDED letter to submit the requested information. Applications will also be reviewed by the agricultural products advisory council on a regular basis. Recommendations from the IDED staff will be submitted to the director of the department for final approval, denial or deferral. Applicants shall be notified in writing within one week following the department's final action.

The department reserves the right to informally consult with external resources to assist in the evaluation of projects or to contract with outside consultants for the same purpose in an amount not to exceed \$20,000 per project.

**261—29.9(15E) Deferral process.** If all additional information requested is received within the three-week time frame, the application will be considered as soon as practicable thereafter. If information is not received in a timely manner, consideration will be delayed. If the department's request for additional information is not answered within 60 days of the date of the request, the application will be denied.

**261—29.10(15E) Evaluation and rating criteria.** The IDED staff shall evaluate and rank applications based on the following criteria:

**29.10(1)** For the innovative products and processes component:

a. Feasibility. The feasibility of the existing or proposed facility, process, or operation to remain a viable enterprise (0-25 pts.). Rating factors for this criterion include, but are not limited to, the following: initial capitalization, project budget, financial projections, marketing analysis, marketing plan, management team, and production plan. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

b. New or innovative. The degree to which the proposed product or process is new and innovative. This includes, but is not limited to, consideration of the degree to which the product or process is commonly produced or commonly used within the state (0-25 pts.). In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

c. Utilization. The degree to which the facility will add value to and increase the utilization of agricultural commodities produced in this state (0-25 pts.). In order

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

to be eligible for funding, proposals must score at least 15 points on this rating factor.

d. The extent to which the existing or proposed facility is located in a rural region of the state (0-10 pts.).

e. The proportion of local match to be contributed to the project (0-5 pts.).

f. The level of need of the region where the existing facility is or the proposed facility is to be located (0-5 pts.). More points are awarded to those projects which exhibit greater need as measured by factors including, but not limited to, the following: regional unemployment rate, poverty level, or other measures of regional fiscal distress.

g. The degree to which the facility produces a coproduct which is marketed in the same locality as the facility (0-5 pts.).

A minimum score of 65 points is needed for a project to be recommended for funding.

**29.10(2)** For the renewable fuels component:

a. The department shall give priority to supporting proposed renewable fuel production facilities which directly support livestock production operations. The highest priority shall be provided to a renewable fuel production facility which produces coproducts which are used to produce livestock raised in the same locality as the production facility.

b. All renewable fuels projects will be rated based on the following:

- (1) Feasibility (0-35 pts.).
- (2) Increased utilization (0-35 pts.).
- (3) Coproduct local market (0-10 pts.).
- (4) Level of need (0-10 pts.).
- (5) Rural region (0-5 pts.).
- (6) Local match (0-5 pts.).

All those projects scoring 65 points or higher will be recommended for funding if sufficient funds are available. If insufficient funds are available, those projects rating 65 or higher and qualifying as "highest priority" projects under paragraph "a" of this subrule will be recommended prior to those which do not qualify as "highest priority" projects.

c. If the department has two or more proposals which are otherwise equal, a preference shall be given to those proposals in which the livestock operation:

- (1) Is located in an agricultural area as provided in Iowa Code chapter 352, and
- (2) Is located in close proximity to and is an integral part of the renewable fuel production facility. However, the owner of the facility is not required to hold an interest in the land on which the livestock are produced. The livestock may be produced under the terms of a contract, in which a person regularly engaged in livestock production provides for the care and feeding of the livestock on behalf of the facility's owner.

In ranking projects according to this paragraph "c," subparagraphs (1) and (2) above, first preference will be given to projects which meet both subparagraphs. Second preference will be given to projects that meet either subparagraph (1) or (2), and third preference will be given to those projects meeting neither criteria.

**261—29.11(15E) Negotiation and award.** The department reserves the right to negotiate the amount, term, interest rate, and other conditions of the loan or grant prior to the award, subject to rule 261—29.6(15E).

**261—29.12(15E) Award process.** Upon approval by the director, the applicant business will receive an award letter which shall state the amount of award, conditions of the award, any security agreements, and the amount of monthly loan repayments, if applicable.

**261—29.13(15E) Contract.** Following notification of award, a contract will be prepared for execution between the applicant business owner and IDED. Business owners are subject to credit checks at this time. If judgments, federal tax liens, or state liens are found and not remedied within the time period required by the department, funding may be denied. After execution of the contract, the business owner may request disbursement of funds on the form(s) prescribed by IDED.

**261—29.14(15E) Administration.**

**29.14(1)** Access to records. The department, at any and all reasonable times, during the term of the agreement with the business may enter the business during the course of, or following, the completion of the project for any purpose arising from the performance of the contracted project. The business shall make all books, papers, records and accounts of the company open and available for inspection and audit by the department or its representatives at any and all reasonable times.

**29.14(2)** Waiver. The department may waive or vary particular provisions of these rules to conform to requirements of the federal government in connection with a loan with respect to which federal assistance, insurance, or guaranty is sought, provided the waiver does not conflict with applicable state laws.

**29.14(3)** Repayment of loans. Payments are due on the first day of each month that payments are due. Late fees may be charged for payments received after the tenth day following the due date.

**261—29.15(15E) Default.** When a loan is in default for a period of 60 days, the department may notify the office of the attorney general and recommend appropriate action or refer the account to other collection procedures deemed appropriate by the department.

These rules are intended to implement Iowa Code sections 15.111 and 15.112 as amended by 1994 Iowa Acts, House File 2337, sections 5 and 6.

[Filed Emergency After Notice 8/19/94, effective 8/19/94]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

**ARC 5091A****LABOR SERVICES DIVISION[347]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 88.5, 17A.3(1) and 17A.5(2), the Labor Commissioner adopts an amendment to Chapter 10, "General Industry Safety and Health Rules," Iowa Administrative Code.

The amendment is technical and related to permit-required confined spaces.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 20, 1994, as **ARC 4957A**.

In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for August 11, 1994. No comments were received.

This amendment is identical to the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(2) and (3), this amendment shall become effective upon publication

on September 14, 1994. The Commissioner finds that this amendment confers a benefit on employees by permitting them to be provided with safety and health equal those found in states under federal OSHA's jurisdiction and is necessary because of the safety and health of employees in this state.

This amendment is intended to implement Iowa Code section 88.5.

This amendment will become effective September 14, 1994.

The following amendment is adopted.

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

59 Fed. Reg. 26115 (May 19, 1994)

[Filed Emergency After Notice 8/26/94, effective 9/14/94]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5082A

**AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 192A.28, the Department of Agriculture and Land Stewardship hereby amends Chapter 23, "Dairy Trade Practices," Iowa Administrative Code.

These amendments amend subparagraphs 23.4(2)"b"(9) and (10) and delete the last two sentences of 23.4(2)"c"(2) and add a new 23.4(2)"c"(3) that a processor or distributor may lend equipment to a retailer for up to two consecutive weeks during a month if equipment is mounted on wheels, is designed for consumer access on all sides and has a capacity of less than 15 cubic feet. Subparagraphs 23.4(2)"c"(3) and (4) are renumbered as 23.4(2)"c"(4) and (5). Subrule 23.5(2) is amended by deleting the sentence "However, such equipment may not be used by the retailer for storage or display for sale."

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 6, 1994, as **ARC 4886A**. Public comments were solicited until July 26, 1994. One comment supporting the amendments was received. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 192A.

These amendments will become effective October 19, 1994.

The following amendments are adopted.

ITEM 1. Amend subparagraph 23.4(2)"b"(9) as follows:

(9) Furnish equipment for a promotion which is predominantly commercial in nature, run at a retail store location and incidental to the retailer's course of business *except as provided in 23.4(2)"c"(3)*.

ITEM 2. Amend subparagraph 23.4(2)"b"(10) as follows:

(10) Furnish dispensers, freezers, etc., on the retail route without charge *except as provided in 23.4(2)"c"(3)*.

ITEM 3. Amend subparagraph 23.4(2)"c"(2) as follows:

(2) Hostesses or demonstrators at any retailer's location to promote the products of the wholesaler, processor or distributor may also use equipment incidental to the function of the hostesses or demonstrators, such as equipment used for storage or for display for sale. ~~However, the equipment must be used only by the hostesses or demonstrators. It may not be used by the retailer for any purposes.~~

ITEM 4. Add a new subparagraph 23.4(2)"c"(3) and renumber 23.4(2)"c"(3) and 23.4(2)"c"(4) as 23.4(2)"c"(4) and 23.4(2)"c"(5), respectively.

(3) The lending of equipment to a retailer for a period not longer than two consecutive weeks per month for display and sale of the processor's or distributor's products if the equipment is mounted on wheels and designed for consumer access on all sides and has a capacity of less than 15 cubic feet. As used in this subparagraph, "month" means any consecutive 30-day period.

ITEM 5. Amend subrule 23.5(2) as follows:

23.5(2) Iowa Code section 192A.15 is also interpreted to mean that a dairy may also use equipment incidental to giving away its products. ~~However, such equipment may not be used by the retailer for storage or display for sale.~~ The dairy must conspicuously display that the dairy—not the retailer—is giving away the product.

[Filed 8/25/94, effective 10/19/94]

[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5083A

**AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5(11), 163.1, and 163A.9, the Department of Agriculture and Land Stewardship hereby adopts amendments to Chapter 64, "Infectious and Contagious Diseases," and Chapter 65, "Livestock Importation," Iowa Administrative Code.

The purpose of these amendments is to permit the sale, importation, or exhibition of breeding swine without a negative brucellosis test if the swine originate from a validated free state; to change the reference, by rule, to the most recent revision of Title 9 CFR; and to permit identification of imported feeder pigs by other than a special metal tag.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 20, 1994, as **ARC 4955A**. A public hearing was held on August 9, 1994, with one favorable comment received. There are no changes from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 163.1, 163A.2, 163A.3, 163A.4, 163A.5, and 163A.6, and 164.4.

These amendments were adopted August 24, 1994, and will become effective October 19, 1994.

The following amendments are adopted.

ITEM 1. Amend subrule 64.34(2) as follows:

64.34(2) Swine. All swine must originate from a herd or area not under quarantine; and must be individually identified. The exhibitors must present both a signed affidavit stating that to the best of their knowledge there has been no evidence of swine dysentery for the past 12 months and a test record indicating that the swine have had a negative test for pseudorabies within 30 days prior to the show.

All purebred or grade breeding swine six months of age or over must either: (a) have a negative brucellosis test conducted within 60 days prior to the show and confirmed by a state-federal laboratory; or (b) originate from a brucellosis-validated herd; and indicate on each health certificate the date of the last test and herd certificate number; *or (c) originate from a validated brucellosis-free state. Market-class swine can be moved from exhibition for further feeding when not meeting brucellosis requirements, provided a written permit is obtained from the veterinary inspector in charge of the exhibition.*

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ITEM 2. Amend subrule 64.43(1) as follows:

**64.43(1) Brucellosis.** All breeding swine four months of age or over moving through a livestock market or offered for sale or sold by the owner by private treaty must:

a. Originate from a validated herd, or from a validated brucellosis-free state according to Title 9 CFR as amended effective May 23, 1994, and published in the Federal Register, Vol. 59, No. 77, April 21, 1994, or

b. Be proved negative to a brucellosis test conducted within 60 days prior to sale or service and originate from a herd not under quarantine.

All breeding swine showing a positive reaction to a brucellosis test conducted at a livestock market shall be tagged in the left ear with a reactor tag and moved direct to slaughter on permit. The herd of origin shall be placed under quarantine for immediate test. Such quarantine to remain in effect until a complete negative herd test is conducted.

The negative animals from a reactor group disclosed at an auction market can return to the farm of origin or be sold as one unit under strict quarantine to be tested no sooner than 30 days nor later than 60 days from the date of test.

ITEM 3. Amend rule 65.5(163) as follows:

**21—65.5(163) Brucellosis—cattle.** Same as federal requirements for the interstate movement of cattle, 9 CFR, Part 78, effective as of September 15, 1982, January 1, 1994, with the following additions: All brucellosis tests of cattle shall be conducted by state or federal laboratories, or by approved laboratories under the direct supervision of the livestock sanitary official of the state of origin.

ITEM 4. Amend subrule 65.6(1) as follows:

**65.6(1) Brucellosis.** All breeding swine must prove negative to a brucellosis test conducted within 30 days; or originate from a validated brucellosis-free state; or originate from a brucellosis-validated herd, date of last test and herd certification number to be indicated on the approved certificate of veterinary inspection.

ITEM 5. Amend subrule 65.6(4) as follows:

**65.6(4) Feeder swine.** All swine shall have affixed in either ear of each animal an ear tag bearing a number and the name of the state of origin, or other identification as permitted by 21—paragraph 64.154(2)"b." A permit must be obtained for all shipments of feeder swine into Iowa; and all movements of feeder swine must be completed within 72 hours. All feeder swine moving into Iowa will be quarantined to farm of destination until slaughtered, unless otherwise released by special permit.

[Filed 8/25/94, effective 10/19/94]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5089A

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5(11) and 1994 Iowa Acts, House File 637, section 1,

the Iowa Department of Agriculture and Land Stewardship adopts the following new rule amending Chapter 67, "Animal Welfare," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 20, 1994, as **ARC 4968A**.

This rule is identical to that published as Notice of Intended Action.

No comments concerning the proposed new rule were received from the public.

This rule shall become effective October 19, 1994.

This rule is intended to implement Iowa Code section 162.13 as amended by 1994 Iowa Acts, House File 637, section 1.

The following rule is adopted.

Amend 21—Chapter 67 by adding the following new rule:

**21—67.9(162) Acceptable forms of euthanasia.** The euthanasia of all animals kept in facilities regulated under Iowa Code chapter 162 and these rules shall be performed in a manner deemed acceptable by and published in the 1993 Report of the American Veterinary Medical Association Panel on Euthanasia. A copy of this report is on file with the department.

This rule is intended to implement Iowa Code section 162.13 as amended by 1994 Iowa Acts, House File 637, section 1.

[Filed 8/26/94, effective 10/19/94]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5098A

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5(11), the Iowa Department of Agriculture and Land Stewardship hereby amends Chapter 68, "Dairy," Iowa Administrative Code.

This rule implements the antibiotic testing requirements contained in Appendix N of the Pasteurized Milk Ordinance by setting testing and sampling protocols and penalties for dairy farmers whose milk sample tests contain more than tolerable levels of antibiotics.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 1994, as **ARC 4821A**. This rule is very similar to the noticed rule. Technical changes were made following public comment including specifying that the program is to test for beta lactam drug residues or other drugs specified by the department.

This rule is intended to implement Iowa Code chapter 192.

This rule becomes effective October 19, 1994.

The following rule is adopted.

Amend 21—Chapter 68 by adding the following new rule:

**21—68.36(192) Antibiotic testing.**

**68.36(1)** The dairy industry shall screen all Grade A and Grade B farm bulk milk pickup tankers and farm can

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

milk loads for beta lactam drug residues or other residues designated. A sampling method shall be used with can milk loads to ensure that the sample includes raw milk from every can on the vehicle.

**68.36(2)** When loads are found to contain drugs or other inhibitors at levels exceeding Food and Drug Administration established "safety levels," the dairy products control bureau shall be notified immediately of the results and of the ultimate disposition of the raw milk. Disposition shall be in a manner approved by the bureau. The producer samples from the violative load shall be tested for trace back to the farm. The primary responsibility for traceback shall be that of the initial purchaser of the raw milk.

**68.36(3)** Further pickups of the violative individual producer(s) shall be immediately discontinued and the permit shall be suspended until such time that subsequent testing by a certified industry supervisor establishes that the milk does not exceed safe levels of inhibitory residues.

**68.36(4)** The dairy products control bureau staff, including the contract inspectors, shall monitor the dairy industry inhibitor load testing activities by making unannounced, on-site inspections to collect load samples and to review the load sampling records.

**68.36(5)** For the first violative occurrence within a 12-month period, the producer's permit shall be suspended for two days or an equivalent penalty. If the milk purchaser has in place a penalty equal to or exceeding a two-day suspension, the two-day suspension shall be waived. As used in this subrule, an "equivalent penalty" means a monetary penalty that must be paid by the producer, equaling at least two days of production for the producer.

**68.36(6)** For the second violative occurrence within a 12-month period, the producer's permit shall be suspended for four days or an equivalent penalty. If the milk purchaser has in place a penalty equal to or exceeding a four-day suspension, the four-day suspension shall be waived. As used in this subrule, an "equivalent penalty" means a monetary penalty that must be paid by the producer, equaling at least four days of production for the producer.

**68.36(7)** For the third violative occurrence within a 12-month period, the permit shall be suspended for four days and, in addition, the department shall initiate administrative procedures to revoke the producer's permit. Upon revocation the producer may reapply for a permit effective at least four days after the effective date of the revocation. However, a Grade A permit holder shall be ineligible for a Grade A permit until the applicant has been selling on the Grade B Class 1 market for at least 60 days. A Grade B permit holder shall be ineligible for a Grade A or Grade B permit until the applicant has been selling on the undergrade Class 3 market for at least 60 days. For purposes of this rule, a producer on the undergrade market shall be paid no more than 90 percent of the Grade B rate.

**68.36(8)** For the fourth violation occurrence within a 12-month period, the permit shall be suspended for four days and, in addition, the department shall initiate administrative procedures to revoke the producer's permit. Upon revocation, the producer may reapply for a permit effective at least 12 days after the effective date of the revocation. However, a Grade A permit holder shall be ineligible for a Grade A permit until the applicant has been

selling on the Grade B Class 1 market for at least 60 days. A Grade B permit holder shall be ineligible for a Grade A or Grade B permit until the applicant has been selling on the undergrade Class 3 market for at least 60 days. For purposes of this rule, a producer on the undergrade market shall be paid no more than 90 percent of the Grade B rate.

**68.36(9)** When the tests show a load is nonviolative, but routine regulatory sampling shows that a producer on the load is violative, the permit shall be suspended until subsequent testing establishes that the milk does not exceed safe levels of inhibitory residues. The first or second monetary penalty within a 12-month period shall be waived. In case of a third violation within a 12-month period, the permit shall be suspended and revocation procedures shall be initiated as provided in subrule 68.36(7). In the event of a fourth violation within a 12-month period, the permit shall be suspended and revocation procedures shall be initiated as provided in subrule 68.36(8).

**68.36(10)** Each violative occurrence within a 12-month period, including a violative producer found on a nonviolative load, shall count as a first, second, third or fourth violation against the producer. The permit shall be reinstated to a temporary status after subsequent testing shows no inhibitor residues. With each violation, the Milk and Dairy Beef Residue Prevention Protocol program shall be administered by the veterinarian to the producer, with the program certificate being signed by both. Failure to obtain the program certificate within 30 days and failure to mail or fax a copy to the dairy products control bureau office within 35 days from the date of the producer notice will result in the permit suspension of both the Grade A and Grade B producer to the Class 3 manufacturing undergrade status with the respective lowered milk price.

**68.36(11)** Records shall be kept by the industry at each receiving or transfer station of all incoming farm pickup loads of raw milk. The records shall be retained for a period of at least 12 months.

a. The records shall include the following information:

- (1) Name of the organization;
- (2) Name of test(s) used;
- (3) Date of the test(s);
- (4) Identification of the load;
- (5) Pounds of milk on the load;
- (6) Initials of the person filling out the record.

b. When the load is violative, the records shall also include the following:

- (1) Names of the producers on the load;
- (2) Identification of the violative producer(s);
- (3) The first name of the dairy products control bureau office person telephoned;
- (4) Location of disposition of the violative load;
- (5) The number of pounds of milk belonging to each producer.

**68.36(12)** When telephoning the dairy products control bureau office to report a violative load or violative producer, the following information shall be given:

- a. Name of the person telephoning;
- b. Name of the organization;
- c. Date of violation;
- d. Route number and name of the milk hauler;
- e. Verification that all producers on the violative load were tested;

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

- f. Name and producer number(s) of the violative producer(s) and milk grade;
- g. The concentration of residue in the producer sample;
- h. The concentration of residue in the load sample, if available;
- i. Name of test(s) used;
- j. Name of analyst;
- k. Pounds of milk on the load and violative producer(s) pounds;
- l. Location of disposition of the milk.

[Filed 8/29/94, effective 10/19/94]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

These amendments were adopted by the Arts Division on August 24, 1994, and will become effective on October 19, 1994.

These amendments are intended to implement Iowa Code sections 17A.2, 303.2, 303.16, 303.86 to 303.88, and 304A.8 to 304A.30.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [amendments to Chs 1, 2, 4 to 8, 11 to 14, 20 to 23, 25, 30; rescind Chs 9, 10, 15 to 19, 24, 26 to 29; new Ch 18] is being omitted. These rules are identical to those published under Notice as **ARC 4939A**, IAB 7/20/94.

[Filed 8/26/94, effective 10/19/94]  
[Published 9/14/94]

[For replacement pages for IAC, see IAC Supplement 9/14/94.]

**ARC 5085A****ARTS DIVISION[222]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 303.88(1), the Arts Division hereby adopts amendments to Chapter 1, "Organization and Operation," Chapter 2, "Operating and Granting Policies," Chapter 4, "Project Support for Organizations," Chapter 5, "Minigrants for Organizations," Chapter 6, "Operational Support Grants to Large Budget Organizations," Chapter 7, "Arts to Go Artist Roster," Chapter 8, "Arts to Go Presenter Program," Chapter 11, "Artist Residency Roster," Chapter 12, "Artists in Schools/Communities Program," Chapter 13, "Area Education Agencies," Chapter 14, "Professional Development Residency Program," Chapter 20, "Art-safe Program," Chapter 21, "Individual Artist Project Grant Program," Chapter 22, "Individual Artist Minigrant Program," Chapter 23, "Art in State Buildings Program," Chapter 25, "Operational Support Grants for Midsized Organizations," and Chapter 30, "Arts Education Minigrants for Organizations." Additionally, the Arts Division rescinds existing Chapter 9, "Iowa Scholarship for the Arts," Chapter 10, "Literary Awards Program," Chapter 15, "Arts to Share Program," Chapter 16, "Touring Arts Team," Chapter 17, "Special Constituencies Program," Chapter 18, "Slide Bank Program," Chapter 19, "Iowa Town Squares Program," Chapter 24, "Folk Arts Apprenticeship Program," Chapter 26, "Rural Arts Initiative Program," Chapter 27, "Folk Arts Community Residencies," Chapter 28, "Governor's New Works Commission," and Chapter 29, "Outstanding Achievement Awards." The Arts Division also adopts a new Chapter 18, "Iowa Artist Source Book Program," Iowa Administrative Code.

The amendments remove inconsistencies, delete outdated references and programs, highlight council policies, add a new program, and modify existing granting policies and procedures.

Notice of Intended Action was published in the July 20, 1994, Iowa Administrative Bulletin as **ARC 4939A**. No changes have been made to the proposed amendments. A public hearing was held on August 9, 1994, at which no oral or written comments were received.

**ARC 5074A****ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]****Adopted and Filed**

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

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 4921A** on July 6, 1994. The IDED Board adopted the amendments on August 18, 1994.

The amendments revise CDBG program guidelines in the following manner: (1) add definitions to clarify meaning; (2) make economic development and public facilities set-aside guidelines consistent with state CEBA policy; (3) delete provisions for two applications under the competitive program for flood-related damages; (4) allow the period for application preparation to extend beyond 60 days for the competitive program; (5) revise amount allowed for program administration by recipients; (6) establish rating criteria within the Housing Fund for period of affordability, amount of subsidy allowed per unit and per client served; (7) establish project performance timelines for Housing Fund projects; (8) establish audit performance standards; and (9) set a minimum amount of \$500 per draw request.

A public hearing was held on July 27, 1994. The following comments were received at the public hearing: (1) Period of affordability guidelines are too restrictive and would limit participation in program, especially for potential elderly clients (23.11(4)"b"); (2) Restrictions on per unit assistance to 150 percent of appraised value would limit the program operation in small communities and would cause loss of affordable units in the long run (23.11(4)"c"); (3) Restrictions on the amount of assistance provided to a family, based on income, is too narrowly

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

defined, thereby causing hardship on potential program participants (23.11(4)"d"); (4) Point system in rating system is useful and should be retained (23.11(5).)

Based on these comments, the following changes were made to the proposed amendments: (1) Definitions for "annual gross income," "appraised value," "cost burden" and "total gross housing costs" were deleted as they were no longer necessary based on other changes; (2) Amendments to subrule 23.11(4) were deleted from the adopted amendments and new, more permissive language was incorporated into paragraph 23.11(5)"c."

These amendments will become effective on October 19, 1994.

The following amendments are adopted.

ITEM 1. Amend rule 261—23.2(15) by adding the following new definitions in alphabetical order:

"Affordable housing" means housing where the occupant is paying no more than 30 percent of gross income for gross housing costs.

"Average county wage scale" means the calculation of wages using the four most current quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa department of employment services, audit analysis section. Agricultural/mining and government categories are deleted in the compiling of the wage information.

"Business start-up" means a business which has not been in operation for more than two years prior to the date of an application being submitted to the economic development set-aside program.

ITEM 2. Amend subrules 23.6(1) to 23.6(6) as follows:

**23.6(1)** Funds for state administration. ~~Up to 2~~ *Two* percent of total program funds including program income plus \$100,000 as allowed by P.L. 93-383, as amended, may be used for state administration.

**23.6(2)** Funds for provision of technical assistance. ~~Up to 1~~ *One* percent of total program funds may be used for the provision of additional substantive technical assistance to grant recipients as may be determined necessary by the department.

**23.6(3)** Distribution of competitive funds. The funds remaining after deducting those used for state administration, public facilities set-aside funds, imminent threat funds, housing set-aside, and the economic development set-aside will be open to all eligible applicants on a competitive basis.

**23.6(4)** Economic development/public facilities set-aside. ~~Beginning with the award of FY 93 CDBG funds, up to 20~~ *Twenty* percent of total program funds will be reserved for projects funded under the economic development set-aside program and the public facilities set-aside program. If this allocation for the current fiscal year is not fully allocated, the excess will be reallocated to the general competitive program for the following year.

**23.6(5)** Funds reserved for the imminent threat program. ~~Up to~~ \$500,000 may be used each year to fund projects that address an imminent threat to public health, safety or welfare which necessitates immediate corrective action. If this fund is not fully allocated in a program year, the excess will be reallocated to the general competitive fund.

**23.6(6)** Funds reserved for housing fund set-aside. ~~Up to 25~~ *Twenty-five* percent of the funds will be used for a

housing fund set-aside to be used to improve the supply of affordable housing. If these moneys are not fully allocated in the initially funded program year, the remainder will be reallocated to the general competitive program for the following year.

ITEM 3. Amend subrule 23.6(9), paragraphs "b" and "c," as follows:

b. Economic development set-aside. The maximum grant award for individual applications from any city or county is \$500,000 per application. *Individual applications with proposed projects involving a business start-up shall be limited to a maximum grant award of \$100,000.*

c. Public facilities set-aside. The maximum grant award for individual applications from a city or a county is \$500,000 per application. *Individual applications with proposed projects involving a business start-up shall be limited to a maximum grant award of \$100,000.*

ITEM 4. Amend subrule 23.7(1), paragraph "a," as follows:

a. No more than one application per community will be considered per year under the competitive program. ~~For FY94, a community may submit an additional application if necessary to address flood and weather related damages impacting public facilities and services.~~ An eligible applicant may also submit a separate application if involved in a joint application (but not as the lead applicant) when:

(1) The applicant is bound under a multijurisdictional agreement by state statute to provide a public service that is facilitated by the joint application; and

(2) The project proposed in the joint application is not located in the applicant's jurisdiction.

ITEM 5. Amend subrule 23.7(2) as follows:

**23.7(2)** Application procedure. Each year, prior to solicitation of general competitive applications, the department of economic development will, to the extent funds are available for this purpose, conduct a training program for all eligible applicants. All eligible applicants will be notified of the time, date, place and agenda by mail. Application instructions and all necessary forms will be available upon written request to the Department of Economic Development, Division of Community and Rural Development, 200 East Grand Avenue, Des Moines, Iowa 50309, or by telephone (515)242-4825. The training program will include a discussion of the program's purpose, eligible and ineligible program activities, and instructions regarding the preparation and submission of an application.

The deadline for submission of a general competitive application (one original) shall be *at least* two months following the last date of the training program. No applications will be accepted after the deadline for submission. Only data submitted by the established deadline will be considered in the selection process, unless additional data is specifically requested by DED in writing.

Review and ranking of general competitive applications will be performed by DED personnel after consultation, where appropriate, with other state agencies with program responsibility in CDBG-related areas. All applications meeting threshold requirements will be reviewed and ranked within 90 days of the final submission deadline.

Those applications with the highest rankings will be funded, to the extent that competitive program funding is available. All successful applicants will be notified and in-

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

vited to a conference with DED personnel to outline procedures to be followed as grant recipients.

ITEM 6. Amend subrule 23.8(1) by adding the following new paragraphs "d" and "e":

d. The average starting wage of the jobs to be created or retained by the proposed project must meet or exceed 75 percent of the average county wage scale.

e. Proposed projects involving business start-ups may apply for no more than \$100,000.

ITEM 7. Amend subrule 23.11(1), paragraph "c," as follows:

c. Applicants for the housing fund set-aside are limited to ~~10 percent of the CDBG amount and may not exceed 10 percent of the total contract amount for general administrative costs. Direct administrative "(carrying)" costs used for the purpose of housing rehabilitation and relocation activities may be as high as 20 percent of the total CDBG activity amount and total activity amount project award for all administrative costs. General administrative costs are limited to 5 percent of the CDBG amount. The remaining portion of administrative funds must be used for direct administrative carrying costs to support housing activities.~~

ITEM 8. Amend subrule 23.11(1) by adding the following new paragraph "e":

e. Applicants with active housing fund projects must meet the following criteria in order to apply for additional assistance through the housing fund.

(1) Applicants that have received an award from the housing fund must have expended 25 percent of the total project award amount within 12 months of the effective date on the contract in order to be eligible to apply for further funding under the Housing Fund program.

(2) Applicants that have received an award from the housing fund allocation must have expended 85 percent of the total project award amount within 24 months of the effective date on the contract in order to be eligible to apply for further funding under the Housing Fund program.

(3) Applicants that have received an award from the housing fund allocation must have expended 100 percent of the total project award within 36 months of the effective date on the contract in order to be eligible to apply for further funding under the Housing Fund program.

ITEM 9. Amend subrule 23.11(5) as follows:

~~23.11(5) Application rating review. The following system will be used to rate applications: Projects will be reviewed and awarded based on the following factors:~~

a. Magnitude of need identified by the applicant, 200 points possible, including, but not limited to, proportions of substandard housing concentration, population growth, constraints to affordability by lower-income households, presence or significance of unique factors which have prohibited the development of affordable housing.

b. Magnitude of impact, 200 points possible, including, but not limited to, the degree of CDBG and other federal funds in the overall project, documented local commitment, degree of low- and moderate-income direct benefit, degree to which the proposal substantially addresses needs identified in the DED CHAS, and magnitude of addressing the identified need.

c. Feasibility score, 100 points possible, including, but not limited to, administrative capacity, ~~long-term affordability~~, the impact of the design in relationship to the identified need, the subsidy level proposed, ~~and level of~~

~~firm~~, documented commitment from other financial sources, *long-term affordability, restriction on per unit assistance, allowances for family financial participation, rental restrictions, and community financial participation.*

d. Certified community builder plan, 30 points possible, upon completion and certification by the DED of a plan prepared according to 261—Chapter 80.

ITEM 10. Amend subrule 23.13(1) as follows:

**23.13(1) Contracts.** Upon selection of a project(s) for funding, the department of economic development will issue a contract. In the absence of special circumstances in which there is a legal incapacity on the part of the community to accept funds for eligible activities, the contract shall be between the department of economic development and the community. The designation by the community of another public agency to undertake activities assisted under this program shall not relieve the community of its responsibilities in ensuring the administration of the program will be in accordance with all federal and state requirements, including these rules. The rules and applicable federal and state laws and regulations become a part of the contract.

a. *CDBG recipients must execute and return the contract to the IDED within 45 days of the transmittal date from IDED (i.e., date on cover letter). Failure to do so will be cause for termination of the award.*

b. Certain activities may require that permits or clearances be obtained from other state or federal agencies prior to proceeding with the project. Grant awards may be conditioned upon the timely completion of such requirements.

ITEM 11. Amend subrule 23.13(3), paragraph "c," add new paragraphs "d" and "e," and reletter existing "d" and "e" as "f" and "g" as follows:

c. All contracts made under these rules are subject to audit. Recipients shall be responsible for the procurement of audit services and for the payment of audit costs. Audits may be performed by the state auditor's office or by a qualified independent auditor.

(1) Recipients which receive more than \$100,000 in federal financial assistance (including a CDBG grant) in any fiscal year must comply with the provisions of the Single Audit Act of 1984 (P.L. 98-502) and 24 CFR Part 44. In addition, recipients receiving between \$25,000 to \$100,000 in assistance may choose to comply with the Single Audit Act. In such cases, the local government must have an annual audit of all its financial statements. The Act should be consulted for additional compliance requirements.

*Recipients receiving less than \$25,000 in federal funds in a given fiscal year may have the option of a desk audit with prior approval from IDED.*

(2) Recipients who determine that the Single Audit Act of 1984 does not apply to their situation shall have audits prepared in accordance with CDBG requirements and state laws and regulations. All audits shall commence within 60 days of the CDBG program's contract expiration date, and be issued within 150 days of the contract expiration date, unless the recipient conducted annual audits on a fiscal year basis.

Variations of these time requirements shall only be allowed with prior approval from DED. Copies of the audit report shall be transmitted to DED and to other agencies as required.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

*d. All recipients are required to have a project completion statement included in the final audit of the project funds.*

*e. Audits done on a fiscal year basis shall be submitted to IDED within 6 months of the end of the audited fiscal year. Audits performed on the CDBG program only shall be submitted to IDED within 6 months of the expiration date of the CDBG contract. All audit reports must be submitted to the IDED within 6 months of the expiration date of the CDBG contract. All audit reports must be submitted to the IDED within 30 days after publication.*

ITEM 12. Amend subrule 23.13(4) as follows:

**23.13(4)** Requests for funds. Grant recipients shall submit requests for funds in the manner and on forms prescribed by DED. *Individual requests for funds must be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.*

[Filed 8/19/94, effective 10/19/94]

[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5086A

### ENVIRONMENTAL PROTECTION COMMISSION[567]

#### Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission amends Chapter 60, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limits or Prohibitions," and Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

The purpose of this rule making is to update references in rules 62.4(455B) and 62.5(455B) to federal effluent and pretreatment standards found in 40 Code of Federal Regulations (CFR) which need to be changed due to federal amendments and revisions to 40 CFR. The change to rule 60.2(455B) is to update the definition of "Act" to include amendments to the Water Pollution Control Act through July 1, 1994. The change to subrule 65.5(9) is to correct the reference to subrule 63.4(1) which was renumbered as 63.5(1) when Chapter 63 was last revised in June 1991.

In accordance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary. Under rule 62.2(455B) the Commission has determined previously that good cause exists for exempting from the notice and public participation requirements of Iowa Code section 17A.4(1) the adoption by reference of certain federal effluent and pretreatment standards. The Commission found that public participation is unnecessary since the Commission must adopt effluent and pretreatment standards at least as stringent as the enumerated promulgated federal standards in order to have continued approval of the Environmental Protection Agency of the Department's NPDES program. Iowa Code section 455B.173(3) requires that the effluent and pretreatment standards adopted by the Commission not be more stringent than the enumerated promulgated federal standards.

The Commission adopted these amendments on August 15, 1994.

These amendments will become effective on October 19, 1994.

These amendments may have an impact upon small businesses.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendments are adopted.

ITEM 1. Amend rule **567—60.2(455B)**, definition of "Act," to read as follows:

"Act" means the Federal Water Pollution Control Act as amended through July 1, ~~1993~~ 1994, 33 U.S.C. §1251 et seq.

ITEM 2. Amend rule 567—62.4(455B) to read as follows:

**567—62.4(455B) Federal effluent and pretreatment standards.** The federal standards, 40 Code of Federal Regulations (CFR), revised as of July 1, ~~1993~~ 1994, are applicable to the following categories:

ITEM 3. Amend rule 567—62.5(455B) to read as follows:

**567—62.5(455B) Federal toxic effluent standards.** The following is adopted by reference: 40 CFR part 129, revised as of July 1, ~~1993~~ 1994.

ITEM 4. Amend subrule 65.5(9) to read as follows:

**65.5(9) Permit conditions.** Operation permits shall contain conditions considered necessary by the department to ensure compliance with all applicable rules of the department, to ensure that the waste-disposal system is properly operated and maintained, to protect the public health and beneficial uses of state waters, and to prevent water pollution from waste storage or disposal operations. Self-monitoring and reporting requirements which may be imposed on animal-feeding operations are specified in departmental subrule ~~63.4(1)~~ 63.5(1).

[Filed Without Notice 8/26/94, effective 10/19/94]

[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5095A

### INDUSTRIAL SERVICES DIVISION[343]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 86.8, the Division of Industrial Services adopts amendments to Chapter 1, "Purpose and Function," Chapter 2, "General Provisions," Chapter 3, "Forms," Chapter 4, "Contested Cases," Chapter 6, "Settlements and Commutations," and Chapter 10, "Informal Dispute Resolution Procedures," Iowa Administrative Code.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on July 20, 1994, as **ARC 4954A**.

## INDUSTRIAL SERVICES DIVISION[343](cont'd)

Written comments were solicited until August 9, 1994. Few comments were received on the amendments. The comments received were in the nature of technical, clarifying suggestions. Two of the suggestions have been incorporated into the adopted amendments. The adopted amendments have the same general intent as the Notice of Intended Action. Both the adopted amendments and the noticed amendments describe purpose and function of the agency, general provisions of the agency, forms, contested cases, settlements and commutations, and informal dispute resolution procedures.

These amendments will become effective October 19, 1994.

The following amendments are adopted.

ITEM 1. Amend rule 343—1.2(86,17A) to read as follows:

**343—1.2(86,17A) Location.** Interested persons may contact the Iowa industrial commissioner, 1000 East Grand Avenue, Des Moines, Iowa 50319, or by telephoning (515)281-5934 or 1-800-Job-Iowa (1-800-562-4692). The fax number is (515)281-6501.

ITEM 2. Amend rule 343—2.2(85A,85B,86) to read as follows:

**343—2.2(85A,85B,86,87) Applicability to chapters 85A and 85B.** When appropriate, all rules shall apply to Iowa Code chapters 85A, and 85B, 86 and 87 as well as chapter 85.

ITEM 3. Amend rule 343—2.4(85), introductory paragraph, to read as follows:

**343—2.4(85) Guides to evaluation of permanent impairment.** The Guides to the Evaluation of Permanent Impairment published by the American Medical Association are adopted as a guide for determining permanent partial disabilities under Iowa Code section 85.34(2)"a" to "f s." The extent of loss or percentage of permanent impairment may be determined by use of this guide and payment of weekly compensation for permanent partial scheduled injuries made accordingly. Payment so made shall be recognized by the industrial commissioner as a prima facie showing of compliance by the employer or insurance carrier with the foregoing sections of the Iowa Workers' Compensation Act. Nothing in this rule shall be construed to prevent the presentations of other medical opinions or guides for the purpose of establishing that the degree of permanent impairment to which the claimant would be entitled would be more or less than the entitlement indicated in the AMA guide.

ITEM 4. Amend 343—Chapter 2 by adding the following new rule:

**343—2.5(85,85A,85B,86,87) Electronic filing.** Unless specifically prohibited by another rule, the industrial commissioner may approve an electronic method of filing forms, reports and information with the agency.

This rule is intended to implement Iowa Code sections 86.8 and 86.11.

ITEM 5. Amend rule 343—3.1(17A) as follows:

Amend subrules 3.1(1), 3.1(2), 3.1(3) and 3.1(7) as follows:

**3.1(1) Form No. 1—first report of injury.** (Form No. 309-5012 14-5012) The form contains general information concerning the employee, the employer and the

claimed injury. It is to be filed whether or not an adjudication or admission of the injury exists and is to be filed as provided in Iowa Code section 86.11.

**3.1(2) Form No. 2—claim activity report.** (Form No. 309-5007) Upon establishment of a claim with this agency, the industrial commissioner ~~will mail~~ *may provide* to the insurer this form which will show basic claim data found in the agency files. The form provides for filing of notice of commencement of payments, correcting erroneous claim information, supplying additional information, denying compensability, ~~making of voluntary payments,~~ agreeing to rate and agreeing to make payments under the Workers' Compensation Act, reporting the status of a claim, or recording benefits paid. Notice of commencement of payments shall be filed within 30 days of the first payment. When liability on a claim is denied, a ~~copy of the letter shall be~~ sent to claimant *stating reasons for denial.* ~~denying liability shall be filed with this form.~~ This form shall also be filed when compensation is terminated or significantly interrupted. Medical data supporting the action taken shall be attached when temporary total disability or temporary partial disability exceeds 13 weeks or when the employee sustains a permanent disability. In the event this form is rejected by the agency, a refile should be made within 15 days of the date of rejection.

**3.1(3) Form No. 2A—claim activity report.** (Form No. 309-5014 14-5014) This form is to be used by the insurer as the initiating party when a Form 2 is not available.

**3.1(7) Form—original notice and petition.** The following forms are types of original notice and petition: *original notice and petition* — Form 100 (Form No. 309-5048); *original notice, petition, answer and order concerning independent medical examination* — Form 100A (Form No. 309-5047 14-5047); *original notice, petition, answer and order concerning vocational rehabilitation program benefit* — Form 100B (Form No. 309-5033 14-5033); *original notice, petition, and answer concerning application for alternate medical care* — Form 100C (Form No. 14-5159); *original notice, petition answer expedited contested case proceeding* — Form 100X (Form No. 14-5162); *expedited issues worksheet and instructions for Form 100X* (Form No. 14-5163); *application for full commutation*—Form 9 (Form No. 309-5050 309-5019); and *application for partial commutation* — Form 9A (Form No. 309-5049). See 343—4.6(85, 86,17A) for further descriptions.

Further amend rule 343—3.1(17A) by adding the following new subrules:

**3.1(8) Form No. 15—subpoena.** (Form No. 309-5063) This form is the witness subpoena which is used to require a witness to appear and testify. Form No. 309-5058 is the Subpoena Duces Tecum which is used to require a witness to appear and to bring specified books and records.

**3.1(9) Form—corporate officer exclusion.** (Form No. 309-5010) This form is the corporate officer exclusion which is used for corporate officers to reject workers' compensation or employers' liability.

**3.1(10) Form—attorney lien.** (Form No. 309-5143A) This form is the request for allowance of attorney lien which is used to request that an attorney's lien on a claimant's weekly benefits be approved.

**3.1(11) Form—application and consent order for payment of benefits.** (Form No. 309-5089) This form is the

## INDUSTRIAL SERVICES DIVISION[343](cont'd)

application and consent order for payment of benefits under Iowa Code section 85.21 which is used by an employer or an insurance carrier to pay weekly and medical benefits without admitting liability and to be able to seek reimbursement from another carrier or employer.

**3.1(12)** Form—advisory opinion. (Form No. 309-5148) This form is the application for advisory opinion which is used to request an opinion from the agency pursuant to rule 343—10.2(17A,85,86) prior to the commencement of contested case proceedings.

**3.1(13)** Form—dispute resolution conference report. (Form No. 309-5145) This form is the dispute resolution conference report which is used to provide information for a dispute resolution pursuant to rule 343—4.40(73GA,ch1261).

**3.1(14)** Form—forms order blank. (Form No. 309-5052) This form is the forms order blank which is used to order other forms used by the agency.

ITEM 6. Amend rule 343—4.1(85,85A,85B,86,87,17A) to read as follows:

**343—4.1(85,85A,85B,86,87,17A) Contested cases.** Contested case proceedings before the industrial commissioner are:

**4.1(1)** Arbitration (Iowa Code section 86.14).

**4.1(2)** Review of award or settlement (review-reopening section 86.14).

**4.1(3)** Benefits under section 85.27.

**4.1(4)** Death and burial benefits (sections 85.28, 85.29, 85.31).

**4.1(5)** Determination of dependency (sections 85.42, 85.43, 85.44).

**4.1(6)** Equitable apportionment (section 85.43).

**4.1(7)** Second injury fund (section 85.63 et seq.).

**4.1(8)** Vocational rehabilitation benefits (section 85.70).

**4.1(9)** Approval of fees under section 86.39.

**4.1(10)** Commutation (section 85.45 et seq.).

**4.1(11)** Employee's examination (section 85.39).

**4.1(12)** Employer's examination or sanctions (section 85.39).

**4.1(13)** Determination of compliance with chapters 85, 85A, 85B, 86, and 87.

**4.1(14)** Applications for alternate medical care (section 85.27).

**4.1(15)** Determination of liability, reimbursement for benefits paid and recovery of interest (section 85.21).

**4.1(14 16)** Any other issue determinable upon evidential hearing which is under the jurisdiction of the industrial commissioner.

This rule is intended to implement the provisions of Iowa Code sections 17A.2(2) and 86.8 and the statutory sections noted in each category of the rule.

ITEM 7. Amend rule 343—4.4(86) to read as follows:

**343—4.4(86) Request for hearing.** *Unless otherwise ordered* A hearing shall not be held in proceedings under 4.1(8) to 4.1(12), unless requested in writing by the petitioner in the original notice or petition or by the respondent within ten days following the time allowed by these rules for appearance.

ITEM 8. Amend rule 343—4.6(85,86,17A), first unnumbered paragraph, to read as follows:

The original notice Form 100, Form 100A, ~~or~~ Form 100B, Form 100C, Form 100X or a determination of li-

*ability reimbursement for benefits paid and recovery of interest form* shall provide for the data required in Iowa Code section 17A.12(2) and shall contain factors relevant to the contested case proceedings listed in 4.1(85,85A,85B,86,87,17A). The Form 100 is to be used for all contested case proceedings except as indicated in this rule. The Form 100A is to be used for the contested case proceedings provided for in subrules 4.1(11) and 4.1(12). The Form 100B is to be used for the contested case proceeding provided for in subrule 4.1(8). *The Form 100C is to be used for the contested case proceeding provided for in subrule 4.1(14) and rule 4.48(17A,85,86). The Form 100X is to be used for a contested case provided in rule 4.44(17A,85,85A,85B,86,87). The application and consent order for payment of benefits under Iowa Code section 85.21 is to be used for contested case proceedings brought under Iowa Code section 85.21.* When a commutation is sought, the Form No. 9 or Form No. 9A must be filed in addition to any other document. The petition for declaratory ruling, approval of attorney fees, determination of compliance and other proceedings not covered in the original notice forms must accompany the original notice.

ITEM 9. Amend subrule 4.8(1) to read as follows:

**4.8(1)** ~~A copy of the original notice and petition if required by 4.6(85,86,17A) shall be filed with the industrial commissioner following the delivery of the notice. A contested case is commenced by filing the original notice and petition with the industrial commissioner.~~ No action shall be taken by the industrial commissioner on any contested case against an adverse party unless the adverse party has answered or unless it can be shown by proper proof that the adverse party has been properly served. ~~until a copy of the original notice and petition if required is filed.~~ The original notice and petition if required by 4.6(85,86,17A) shall be accompanied by proof that the petitioner has deposited copies of such documents with the U.S. post office for delivery by certified mail return receipt requested upon the respondent or has submitted such copies to a proper person for delivery of personal service as in civil actions.

ITEM 10. Amend subrule 4.9(7) to read as follows:

**4.9(7)** Consolidation. ~~Either~~ Any party may file a motion to consolidate common questions of fact and law surrounding an injury or a series of injuries. The motion shall be deemed approved if no resistance to the motion is filed with the industrial commissioner within ten days of the filing of the motion. No order granting the motion will be filed by the industrial commissioner. As an alternative, the parties may make an oral motion to consolidate common questions of fact or law at the time of the pretrial hearing. A ruling on the motion will be included with the order issued from the pretrial hearing.

ITEM 11. Amend subrule 4.9(8) to read as follows:

**4.9(8)** Withdrawal of counsel. If a case is not scheduled for prehearing conference or hearing, counsel may *move for permission to* withdraw by filing with the agency a proof of receipt by the client of notice of withdrawal and providing to the client and filing with the agency a notice of withdrawal advising the client of the following:

a. The reason for withdrawal.

b. The specific date upon which the withdrawal is intended to become effective, which date shall not be less than 20 days after the date the notice was mailed or delivered to the client.

## INDUSTRIAL SERVICES DIVISION[343](cont'd)

c. That the client may contest the withdrawal by filing objections and a request for hearing in writing in the division of industrial services prior to the date upon which the withdrawal is intended to become effective.

~~d. That the withdrawal will automatically become effective if written objection is not timely filed.~~

e. d. That the client, if desiring legal counsel, should obtain other legal counsel prior to the effective date of the withdrawal.

If no objections are timely filed the withdrawal will become effective on the specified date ~~without further action~~. If objections are filed the matter will be ruled upon as if the objections were a motion under subrule 4.9(6). *No withdrawal will be effective without the approval of the industrial commissioner.*

Under all other circumstances the appearance of an attorney may be withdrawn only on application with notice of opportunity for hearing mailed by certified mail to the client's last known address or delivered to the client and the withdrawal shall become effective only upon order of the agency with a copy thereof mailed or delivered to the client.

The filing of a notice of withdrawal or application to withdraw shall stay all pending discovery until the withdrawal becomes effective or permission to withdraw is denied.

ITEM 12. Amend rule 343—4.10(86) to read as follows:

**343—4.10(86,87) Insurance carrier as a party.** Whenever any insurance carrier shall issue a policy with a clause in substance providing that jurisdiction of the employer is jurisdiction of the insurance carrier, the insurance carrier shall be deemed a party in any action against the insured.

*This rule is intended to implement Iowa Code section 87.10.*

ITEM 13. Amend rule 343—4.15(86) to read as follows:

**343—4.15(86) Proof of service.** Proof of service of all documents and papers to be served on another party under 4.12(86) shall be filed with the division of industrial services promptly, and in any event, before action is to be taken thereon by the industrial commissioner or any party *unless a responsive pleading has been filed*. The proof shall show the date and manner of service and may be by written acknowledgment of service, by certification of a member of the bar of this state, by affidavit of the person who served the papers, or by any other proof satisfactory to the industrial commissioner.

ITEM 14. Amend rule 343—4.17(85,86,17A) to read as follows:

**343—4.17(85,86,17A) Service of medical records and reports.** Each party to a contested case shall serve all medical records and reports concerning the injured worker in the possession of the party upon each opposing party not later than 20 days following filing of an answer, or if not then in possession of a party, within 10 days of receipt. Medical records and reports are records of medical practitioners and institutions concerning the injured worker. Medical practitioners and institutions are medical doctors, osteopaths, chiropractors, dentists, nurses, podiatrists, psychiatrists, psychologists, counselors, hospitals, clinics, persons engaged in physical or vocational rehabil-

itation or evaluation for rehabilitation, all other practitioners of the healing arts or sciences, and all other institutions in which the healing arts or sciences are practiced. Each party shall serve a notice accompanying the records and reports identifying the records and reports served by the name of the practitioner or institution and date of the records and reports, and if served later than 20 days following filing of the answer, stating the date when the records and reports were received by the party serving them. Pursuant to 4.14(86), the notice and records and reports shall not be filed with the industrial commissioner. A party failing to comply with the provisions of this rule shall, if the failure is prejudicial to an opposing party, be subject to the provisions of 4.36(86). *This rule does not require a party to serve any medical record or report that was previously served by another party in a contested case proceeding.*

This rule is intended to implement Iowa Code sections 86.8 and 86.18.

ITEM 15. Amend rule 343—4.18(85,86,17A) to read as follows:

**343—4.18(85,86,17A) Medical evidence and discovery.** Any relevant medical record or report served upon a party in compliance with these rules prior to any deadline established by order for service of the records and reports shall be admissible as evidence at hearing of the contested case *unless otherwise provided by rule*. Any party against which a medical record or report may be used shall have the right, at the party's own initial expense, to cross-examine by deposition the medical practitioner producing the record or report and the deposition shall be admissible as evidence in the contested case.

This rule is intended to implement Iowa Code sections 86.8 and 86.18.

ITEM 16. Amend rule 343—4.20(86), introductory paragraph, to read as follows:

**343—4.20(86) Prehearing procedure.** A deputy commissioner or the industrial commissioner may order parties in the case to either appear before the commissioner or a deputy commissioner for a conference, or communicate with the commissioner or ~~a deputy the commissioner~~ *commissioner's designee* and with each other in any manner as may be prescribed to consider, so far as applicable to the particular case:

ITEM 17. Amend rule 343—4.23(86) by striking the first unnumbered paragraph and inserting in lieu thereof the following **new** unnumbered paragraph:

Defendants shall promptly notify the industrial commissioner of settlements.

ITEM 18. Amend rule 343—4.24(86) to read as follows:

**343—4.24(17A, 86) Rehearing before deputy commissioner.** Any party may file an application for rehearing of a *proposed* decision in any contested case by a deputy commissioner *or a decision in any contested case by the industrial commissioner* within 20 days after the issuance of the decision. A copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. An application for rehearing shall be deemed denied unless the deputy commissioner *or industrial commissioner* rendering the decision grants the application within 20 days after its filing. For purposes of this rule,

## INDUSTRIAL SERVICES DIVISION[343](cont'd)

motions or requests for reconsideration or new trial or retrial or any reexamination of any decision, ruling, or order shall be treated the same as an application for rehearing.

ITEM 19. Amend rule 343—4.25(17A,86) to read as follows:

**343—4.25(17A,86) Appeal when rehearing under rule 343—4.24(86) requested.** An appeal to or review on motion of the industrial commissioner must be filed within 20 days after the application for rehearing of a proposed decision by a deputy industrial commissioner under 4.24(17A,86) has been denied or deemed denied. If the application for rehearing is granted, the appeal shall be filed within 20 days of the decision on rehearing. If no application for rehearing under 4.24(17A,86) is filed, appeal shall be as provided in 4.27(17A,86).

ITEM 20. Amend rule 343—4.27(17A,86), introductory paragraph to read as follows:

**343—4.27(17A,86) Appeal.** Except as provided in 4.2(86) and 4.25(17A,86), an appeal to the commissioner from a decision, order or ruling of a deputy commissioner in contested case proceedings where the proceeding was commenced after July 1, 1975, shall be commenced within 20 days of the filing of the decision, order or ruling by filing a notice of appeal with the industrial commissioner. *The date the notice of appeal is filed shall be the date the notice of appeal is received by the agency. Miller v. Civil Constructors, 373 N.W.2d 115 (Iowa 1985).* The notice shall be served on the opposing parties as provided in 4.13(86). An appeal under this section shall be heard in Polk county or in any location designated by the industrial commissioner.

ITEM 21. Rescind subrule 4.40(5).

ITEM 22. Amend rule 343—4.41(17A,86), introductory paragraph, to read as follows:

**343—4.41(17A,86) Evidence.** All evidence which is to be considered in connection with binding arbitration, rule 4.42(17A,86); summary trials, rule 4.43(17A,85,86); and informal advisory opinions, rule 343—10.2(17A,85,86), shall be submitted to the industrial commissioner ten days prior to the time set for the conference or the hearing. The exhibits shall be marked and placed in chronological order. Any party that fails to timely file exhibits shall waive the right to submit exhibits for consideration by the industrial commissioner. The parties will be permitted to highlight specific parts of their written evidence as they choose. In the alternative, but not by way of limitation, the parties may file summaries of any evidence they would otherwise present in support of their case.

ITEM 23. Amend subrules 4.42(5) and 4.42(6) to read as follows:

**4.42(5) Disposition.** ~~Simultaneously with the entry of the deputy industrial commissioner's decision, an order approving a settlement by acquiescence shall be entered by the industrial commissioner.~~ If the deputy industrial commissioner's decision does not resolve all issues in a contested case proceeding, the decision will be the law of the case for the particular issues that are the subject of binding arbitration.

**4.42(6) Waiver of appeal rights.** By electing this procedure, the parties agree to waive all of their rights of intra-agency and judicial appeal with regard to the issues

subject to arbitration as provided in Iowa Code chapter 17A. ~~Additionally, the parties agree to waive their right to a review reopening to the issues subject to arbitration unless there has been a substantial change in condition as provided by Iowa Code sections 85.26(2) and 86.14. Eligibility for subsequent review-reopening shall be on the same basis as other contested case decisions.~~

ITEM 24. Rescind and reserve 343—4.43(17A,85,86).

ITEM 25. Amend subrule 4.48(9) to read as follows:

**4.48(9) Discovery and evidence.** All discovery must be completed prior to the contested case hearing. See subrule 4.48(10) on motions on discovery matters. Any written evidence to be used by the employer or the employee must be exchanged prior to the hearing. All written evidence must be filed with the agency before the date of the hearing. Written evidence shall be limited to ten pages per party.

ITEM 26. Amend subrule 4.48(12) to read as follows:

**4.48(12) Hearing.** The hearing will be held either by telephone or in person in Des Moines, Iowa. The employer shall have the right to request an in-person hearing if the employee has requested a telephone hearing in the application. The employer shall on the record respond to the allegations contained in the application. The hearing will be electronically recorded. If there is an appeal of a proposed decision or judicial review of final agency action, the appealing party is responsible for filing a transcript of the hearing. ~~The provisions of 4.44(11)"e" relating to preparation of and cost of the transcript of the hearing shall apply.~~

*If the hearing was electronically recorded, copies of the tape will be provided to the parties. A transcript shall be provided by the appealing party pursuant to Iowa Code subsection 86.24(4) and a copy thereof shall be served on the opposing party at the time the transcript is filed with the industrial commissioner unless the parties submit an agreed transcript. If a party disputes the accuracy of any transcript prepared by the opposing party, that party shall submit its contentions to the industrial commissioner for resolution. Any transcription charges incurred by the industrial commissioner in resolving the dispute shall be initially paid pursuant to Iowa Code subsection 86.19(1) by the party who disputes the accuracy of the transcript prepared by the appellant.*

ITEM 27. Amend rule 343—6.2(85,86) as follows:

Amend the introductory paragraph as follows:

**343—6.2(85,86) Commutation.** The following requirements must be met before a *an uncontested* commutation will be considered or granted:

Amend subrules 6.2(1) and 6.2(6) as follows:

**6.2(1)** A first report of injury ~~and agreement for settlement regarding compensation, an acknowledgment of compensability and an updated supplemental claim activity report~~ must be filed.

**6.2(6)** A detailed statement of claimant's need or other reason for a lump sum of money must be attached to the application. *The analysis shall include disclosure of any attorney fee amount to be paid from the full commutation. A commutation of less than ten weeks' benefits is presumed to be not in the best interest of the claimant.*

ITEM 28. Amend rule 343—10.1(17A,85,86), introductory paragraph, to read as follows:

## INDUSTRIAL SERVICES DIVISION[343](cont'd)

**343—10.1(17A,85,86) Informal dispute resolution procedures.** The industrial commissioner or industrial commissioner's designee (hereinafter collectively referred to as the industrial commissioner) shall be available to resolve disputes relating to the Iowa workers' compensation law (Iowa Code chapters 85, 85A, 85B, 86, and 87) prior to the initiation of a contested case proceeding. Persons are encouraged to utilize the informal procedure provided herein so that a settlement may be reached between the parties without the necessity of a contested case proceeding. Informal procedures may be initiated as requested by any party either before or after a first report of injury has been filed. After a first report of injury is filed with the industrial commissioner, a letter is provided to the injured employee. That letter includes an explanation of the function of the office of the industrial commissioner, an explanation of informal dispute resolution procedures and the information contained on the first report of injury ~~which indicates, among other things, the date of injury and the weekly rate of compensation.~~ Additionally, even where a first report of injury is not on file, any party who elects to engage in informal dispute resolution may contact the industrial commissioner by telephone or mail for information regarding the claim. Documentation regarding the claim may be submitted to or requested by the industrial commissioner. The industrial commissioner may respond to the parties either by telephone or, when appropriate, in writing regarding the information sought by the parties.

ITEM 29. Amend subrule 10.1(4) to read as follows:

**10.1(4)** Good faith effort to resolve disputes. Before the parties will be allowed to elect any alternative dispute resolution procedures including those identified in rules 4.40(73GA,ch1261), 4.42(17A,86), ~~4.43(17A,85,86)~~ and 4.46(17A,85,86), they must make a good faith effort to resolve their dispute. The parties may file a professional statement signed by all parties and their representatives or an affidavit by an unrepresented party filed with the industrial commissioner attesting to the good faith attempts to settle the dispute prior to utilizing the procedures described in these rules. The professional statement will be deemed sufficient to meet the requirements of this rule. Notwithstanding the foregoing, a claimant who files a contested case proceeding in order to toll the statute of limitations included in Iowa Code chapters 85, 85A, 85B, and 86 may elect alternative dispute resolution procedures including the informal procedures described in this chapter even though claimant or claimant's representative did not engage in settlement negotiations prior to the time the contested case proceeding was filed.

ITEM 30. Amend subrule 10.2(7) to read as follows:

**10.2(7)** Disposition. After the conclusion of the conference the industrial commissioner will announce an oral disposition for the case or enter a report and recommendation within three business days of the conference. The oral disposition will also be incorporated in a report and recommendation which will be sent to the parties.

~~a. No objection and waiver. If no objection to the report is filed, the industrial commissioner will deem that the parties have entered into a settlement by acquiescence. An order approving the settlement will be entered and the file will be closed.~~

~~b. No settlement. If any party rejects the report and recommendations of the industrial commissioner, the rejecting party must file, within 20 days of the filing of the industrial commissioner's report, a notice of no settle-~~

~~ment. Upon receipt of this notice, the file will be closed unless the claimant commences a contested case proceeding in conformance with 343—Chapter 4 and Iowa Code chapter 17A, agreed with the report. A party who disagrees with the report must file, within 20 days of the filing of the industrial commissioner's report, a notice with the industrial commissioner that specifies that the report is rejected. The notice of rejection must also be sent to other parties by the party rejecting the report.~~

[Filed 8/26/94, effective 10/19/94]

[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5080A

### LIVESTOCK HEALTH ADVISORY COUNCIL[521]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 267.5(3), the Livestock Health Advisory Council hereby rescinds Chapter 1, "Recommendation," Iowa Administrative Code, and adopts a new Chapter 1 with the same title.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 27, 1994, as **ARC 4766A**. The new chapter allocates a \$276,186 appropriation among various livestock disease research projects at the College of Veterinary Medicine of Iowa State University. No public comments were received, either written or verbal.

A single change to the recommendation as published in the Notice was adopted by the Livestock Health Advisory Council on June 14, 1994. The Council approved funding for swine reproductive failure, after January 1, 1995, and contingent upon no emergency livestock disease present in Iowa. The Livestock Health Advisory Council approved this contingency project funding delay in response to potential livestock disease outbreaks in Iowa.

This chapter is intended to implement Iowa Code section 267.5(3).

This chapter will become effective October 19, 1994.

Rescind 521—Chapter 1 and insert in lieu thereof the following new chapter:

#### CHAPTER 1 RECOMMENDATIONS

**521—1.1(267) Recommendations for fiscal year 1994-1995.** House File 2411 (1994 Session, 75th General Assembly) proposes a \$276,186 appropriation for fiscal year 1994-1995 to be used by the Iowa State University College of Veterinary Medicine for research into livestock diseases. The livestock health advisory council recommends that this appropriation for fiscal year 1994-1995 be applied in the following manner:

1. \$18,000 for Haemophilus somnus.
2. \$10,000 for sheep pneumonia.
3. \$18,500 for swine salmonellosis.

## LIVESTOCK HEALTH ADVISORY COUNCIL[521](cont'd)

4. \$ 8,000 for salmonella enteritidis.
5. \$10,000 for avian mycoplasma.
6. \$17,500 for bovine viral enteric disease.
7. \$17,500 for transmissible gastroenteritis.
8. \$10,000 for bovine respiratory syncytial virus.
9. \$10,000 after January 1, 1995, for swine reproductive failure.
10. \$16,500 for Newcastle disease.
11. \$17,000 for poultry enteric disease: S. enteritidis.
12. \$15,000 for bovine respiratory disease: The role of mycoplasmas.
13. \$21,000 for swine pneumonia.
14. \$15,000 for immunosuppression in cattle associated with mastitis, respiratory disease, or coccidiosis.
15. \$20,000 for production of pigs free of salmonella isolated weaning.
16. \$11,000 for BVD virus and reproductive efficiency.
17. \$15,386 for effect of PRRS virus (mystery swine disease).
18. \$11,800 for the role of vitamin E and copper in resistance to Streptococcus suis.
19. \$14,000 for avian cecal spirochetosis.

This chapter is intended to implement Iowa Code section 267.5(3).

[Filed 8/25/94, effective 10/19/94]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5077A

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

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 455G.4(3) and 455G.9(5), the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board amends Chapter 11, "Remedial or Insurance Claims," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 1994, as **ARC 4820A**. A public hearing was held on June 15, 1994. The Board adopted these amendments on August 23, 1994.

The Board previously adopted rule 591—11.7(455G) which was published in the Iowa Administrative Bulletin on May 25, 1994, as **ARC 4822A**. This rule requires priority be given to remedial account claims for high-risk sites requiring remediation after paying expenses, including administrative costs, bond reserving requirements, bond services costs, 28E agreements, and paying costs for site cleanup reports.

The amendments the Board adopted on August 23, 1994, require priority for remedial account claims for high-risk sites requiring remediation be given to claimants who are small businesses as defined by Iowa Code section

455G.2(18). These amendments further provide that if remedial account funds are available after all payments have been made on high-risk sites requiring remediation where the claimant is a small business, remedial account payments will then be made on such sites where the claimant is not a small business.

There are only two differences between the amendments published under Notice of Intended Action and the amendments which were adopted by the Board.

Due to the fact the Board adopted these amendments later than was anticipated at the time of the Notice of Intended Action, the effective date of the amendments was changed from September 1, 1994, to November 1, 1994, and the corresponding dates related to the mechanics of implementation were also moved by two months.

An interpretation of Item 2 of the Notice of Intended Action could be that no remedial benefits would be paid on high-risk sites requiring remediation where the claimant is not a small business. This interpretation is inconsistent with both the Board's intent and with Item 1 of the Notice of Intended Action. Therefore, the other difference between the Notice of Intended Action and the amendments as adopted by the Board is a clarification to Item 2 that remedial account payments on high-risk sites requiring remediation will be made to claimants who are not small businesses if there are remedial account funds available after all payments have been made on such sites where the claimant is a small business.

These amendments shall become effective November 1, 1994.

These amendments are intended to implement Iowa Code section 455G.9(5).

The following amendments are adopted.

ITEM 1. Amend 11.7(1)"c" as follows:

c. All other benefits subject to this rule have third priority and shall be further prioritized as follows:

(1) All sites classified by the department as high risk as defined in Iowa Code section 455B.474 shall have the highest priority, after 11.7(1)"a" and "b" above, except sites that have been classified as being high risk but which are allowed to monitor the site as otherwise provided by statute or rule.

~~(2) Should it be determined pursuant to classification of sites as defined in 11.7(1)"c"(1) that sufficient funds are not available for all high risk sites, the board shall establish by rule additional priority classifications reflecting funding available compared to the total expected costs of benefits allowed under Iowa Code section 455G.9. Initially, payments on sites defined in 11.7(1)"c"(1) will be made only to eligible claimants who are small businesses as defined by Iowa Code section 455G.2(18). Should there be remedial account funds available after all payments have been made related to sites defined in 11.7(1)"c"(1) for eligible claimants who are small businesses, payments will be made on such sites to claimants who are not small businesses.~~

ITEM 2. Amend subrule 11.7(1) by adding the following new paragraph "f":

f. The effective date for prioritization of benefits under 11.7(1)"c"(2) shall be November 1, 1994. Budgets for work to be completed prior to November 1, 1994, will be approved up to October 31, 1994. Work completed after October 31, 1994, related to a site that is not a high-risk site requiring remediation owned and operated by a small business will not be paid until all payments have

## PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

been made related to sites defined in 11.7(1)"c"(1) for claimants who are small businesses. All program-eligible remedial sites shall continue to have their budgets reviewed subject to board rules.

[Filed 8/25/94, effective 11/1/94]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

**ARC 5076A**

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

**Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code sections 455G.4(3) and 455G.9(5), the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby amends Chapter 11, "Remedial or Insurance Claims," Iowa Administrative Code.

The Board amended 11.7(1)"c"(2) [see **ARC 5077A** herein] which becomes effective November 1, 1994. Subparagraph 11.7(1)"c"(2) gives priority to high-risk sites requiring remediation where the claimant is a small business as defined by Iowa Code 455G.2(18). One of the requirements for meeting the definition of small business under Iowa Code section 455G.2(18) is the claimant must have a net worth of \$400,000 or less.

This amendment sets forth the manner in which net worth is to be calculated for purposes of 11.7(1)"c"(2). The manner specified in this amendment is the same manner as is presently required for loan guarantee purposes in 12.10(3).

This amendment also sets forth the form of financial statement disclosing net worth to be filed with the administrator and the time frame for filing such financial statements. Finally, this amendment sets forth the consequences of an untimely filing and the consequences of a falsified filing.

Prioritization under 11.7(1)"c"(2) cannot be implemented without this amendment. The Board finds that any further delay in the implementation of prioritization is harmful to the program and to the public interest. Therefore, in accordance with Iowa Code section 17A.4(2), the Board finds that notice and public participation related to this amendment are contrary to the public interest. Because prioritization under 11.7(1)"c"(2) cannot be implemented without this amendment, the Board finds this amendment both confers a benefit and removes a restriction on the public or some segment thereof.

In addition, this amendment is also published herein under Notice of Intended Action as **ARC 5078A** which will give the public the opportunity to comment on and critique this amendment.

This amendment was approved by the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board at their meeting held August 23, 1994.

This amendment will become effective November 1, 1994, the same time as 11.7(1)"c"(2) becomes effective.

This amendment is intended to implement Iowa Code section 455G.9(5).

The following amendment is adopted.

Amend subrule 11.7(1) by adding the following new paragraph "g":

g. In determining whether a claimant is a small business for purposes of prioritization under 11.7(1)"c"(2):

(1) Calculation of net worth shall be done in accordance with Iowa Code section 455G.10(4) and 591—subrule 12.10(3).

(2) Claimants wishing to qualify as a small business for purposes of prioritization under 11.7(1)"c"(2) shall submit a financial statement to the administrator. Financial statements submitted pursuant to this subparagraph shall be as of December 31, 1993, or later. Subsequent to the November 1, 1994, effective date of this subrule, no remedial account payments will be made to a claimant under 11.7(1)"c"(2) until the administrator has received the required financial statement from the claimant.

(3) The financial statement shall be completed on a one-page form provided by the administrator. The claimant shall certify that the information and net worth set forth in the financial statement are true and correct. Financial statements submitted under this subparagraph may be audited by the administrator. Falsified financial statements submitted under this subparagraph will result in the loss of all claimant's benefits under Iowa Code sections 455G.9 to 455G.11 and may subject the claimant to cost recovery under Iowa Code section 455G.13.

[Filed Without Notice 8/25/94, effective 11/1/94]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

**ARC 5084A**

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

**Adopted and Filed**

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

Chapter 15 sets forth policy dealing with installations and inspections on new or upgrading of underground storage tank systems. The chapter establishes Board procedure and policy for testing and licensing of individuals and companies performing new installations or upgrades of underground storage tank systems and the procedures for the licensees to follow.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 16, 1994, as **ARC 4604A**. A public hearing was held on March 8, 1994.

These rules allow for clearer understanding of the licensing process. Insurance requirements for installers

## PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

and inspectors under the Board's financial responsibility program have been clarified. Educational requirements have been simplified. Definitions have been clarified with additional definitions added to further clarify meanings.

There are numerous minor differences between the rules published under Notice of Intended Action and the rules which were adopted by the Board.

Due to the fact that the Board adopted these rules later than was anticipated at the time the rules were published under Notice of Intended Action, the effective date of the rules was changed from July 1, 1994, to January 1, 1995. The corresponding dates related to the mechanics of implementation were also moved back by six months.

Various definitions were modified to make them more concise and easier to understand. In addition, additional definitions were added which were previously included under other definitions. "Maintenance" was added as a new definition. References to "maintenance" under the definition of "repair" were deleted. Other definitions were modified to be consistent with other areas of the Iowa Administrative Code and Iowa Code chapter 455G.

Proposed subrule 15.9(8), which identified the responsibility for payment of inspection fees, has been deleted. This subrule raised many contractual questions which the Board has decided should not be handled in this chapter. Finally, a new rule, 15.2(455G), has been added which explains the applicability of the chapter. This rule was added based upon previous requests from the Administrative Rules Review Committee that such a rule be included in all agency rules.

Based on the above changes, rules have been renumbered where necessary and appropriate.

The Iowa Comprehensive Petroleum Underground Storage Tank Fund Board adopted these rules on August 23, 1994.

The rules will become effective January 1, 1995.

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

The following amendment is adopted.

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

#### CHAPTER 15 INSTALLERS AND INSPECTORS

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

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

"Board" means the Iowa comprehensive petroleum underground storage tank fund board.

"Deductible" means the portion of a claim paid by insureds on the policy issued by the board.

"DNR" means the Iowa department of natural resources.

"Inspector" means a licensed individual who is engaged in the inspection and approval of the installation of new or upgraded underground storage tank systems.

"Installer" means a licensed individual or licensed company engaged in the installation of a new underground storage tank system or the upgrading or lining of existing underground storage tank systems.

"In the aggregate" means for all claims or suits in a single year seeking damages under an insurance policy issued by the board.

"Licensed company" means a person, or company which employs a person who meets all of the qualifica-

tions to install, upgrade, repair, test or line underground storage tank systems.

"Licensed individual" means an individual who has received a license to perform any of the activities regulated under this chapter.

"Liner" means a licensed company or an individual who lines a tank using an acceptable procedure under subrule 15.8(2).

"Maintenance" means minor service work to existing equipment, associated with underground storage tank systems, which is installed above grade level and can be observed from grade level. Maintenance does not require licensing.

"OSHA" means the Occupational Safety and Health Act.

"Precision test" means a tank and line tightness test that meets the requirements in Iowa Administrative Code 567—135.4(455B).

"Removal" means the process of removing and disposing of an underground storage tank system no longer in service or the process of abandoning an underground storage tank system in place, in accordance with DNR rule 567—135.9(455B).

"Repair" means modification or correction of any existing portion of an underground storage tank system through such means as replacement of valves, fillpipes, vents, liquid level monitoring systems, and installation of spill and overflow devices, provided the activity occurs above grade, and the maintenance and inspection of the efficacy of cathodic protection devices. Repair does not include activities which are maintenance as defined in this chapter.

"Self-insured retention" means the portion of a claim paid by insureds who self-insure a portion of their risk as part of a policy issued by the board. Expenses included as a part of the self-insured retention are the cost of claims settlements or suits, the cost of adjusting, legal fees, court costs and any other investigative cost associated with the claim.

"Tester" means a licensed company or individual who tests tanks, lines, leak detection systems, or monitoring systems, using an acceptable procedure under subrule 15.7(2). For the purposes of this definition, an owner, operator or one of their employees performing vapor monitoring, cathodic protection tests, statistical inventory reconciliation or using an automated in-tank gauging device installed at a site location they own or operate shall not be defined as a tester. An owner or operator or one of their employees may also perform volumetric, nonvolumetric or vacuum tests on their own tanks and hydrostatic pressure tests on their own lines, provided they have received certification from the manufacturer or supplier of the system for its usage and the system has been approved by the USEPA.

"Testing" means the process of utilizing a system to test underground storage tank systems or any part thereof for tightness, leak detection, cathodic protection or monitoring.

"Underground storage tank system" means tank or tanks and associated piping intended to contain and dispense petroleum products and for which proof of financial responsibility is, or on a date definite will be required to be maintained pursuant to the Federal Resource Conservation and Recovery Act, 40 CFR 280, and the regulations in effect on December 31, 1994, adopted pursuant to that Act or successor Acts or amendments.

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

"USEPA" means the United States Environmental Protection Agency.

**591—15.2(455G) Applicability of chapter.** To be eligible for program benefits under Iowa Code chapter 455G, all underground storage tank systems must comply with this chapter. All new installations, or the upgrading of existing underground storage tank systems, must comply with the installation and inspection guidelines established in this chapter and the underground storage tank systems must be registered with the DNR as provided for by 567—Chapter 135 of the Iowa Administrative Code.

**15.2(1)** Nonapproved underground storage tank systems. Owners may elect not to have their underground storage tank system approved by the board. Any underground storage tank system which is not approved in accordance with this chapter and 591—11.4(455B,455G) shall not be eligible for program benefits until such time as the underground storage tank system can be approved. Installations not approved in accordance with these rules do not require a licensed installer to perform the work. Should an owner/operator later want to become eligible for program benefits provided for in Iowa Code chapter 455G, all requirements as outlined in 591—Chapter 15 of the Iowa Administrative Code shall be completed prior to application for benefits.

**15.2(2)** Reserved.

**591—15.3(455G) Licensing—general and fees.** Effective January 1, 1995, new and renewal licenses shall be on a calendar-year basis, with the licensing fees to be prorated from the date of application or expiration of license to cover the time period to the next anniversary date. The license application will note the type of work the individual or company will be performing.

Persons working for a licensed company as an installer, liner or tester may not provide services as an inspector on sites that are being installed, upgraded or lined by that employer for the period of employment and the first six months following termination of employment with that company.

Persons working for a licensed company as an installer, liner or tester may provide services as an inspector on sites that are being installed or lined by their prior employer six months after leaving the licensed company.

If a licensed individual leaves the employment of a licensed company, the licensed company shall notify the administrator within 30 days of that occurrence.

**15.3(1)** Licensing of individuals. The following individuals shall be licensed:

a. Installers, liners and testers. The license application will note the type of work the individual will be performing: installation or the upgrading of underground liquid storage tank systems to meet federal USEPA or 591—11.4(455B,455G) requirements, corrosion protection, monitoring and leak detection systems, tank lining, tank and line tightness testing and removal done in conjunction with the above. The annual license fee is \$35. The annual \$35 individual fee is waived for a sole proprietor doing business as a licensed company.

b. Inspectors.

(1) The application for an inspector will note the type of work the inspector will be performing: inspections of underground storage tank systems or any part thereof on new or upgraded equipment.

(2) Underground storage tank systems which have been lined do not require an internal inspection by the inspec-

tor, but shall meet all requirements as outlined herein for lining underground storage tank systems.

(3) Cathodic systems do not need a separate inspection if the only work being completed is adding cathodic protection designed by a corrosion expert to an existing system.

(4) The annual license fee is \$50.

**15.3(2)** Licensed company. Companies employing licensed individuals for installation, upgrading, lining or testing of underground liquid storage tank systems shall be registered as a licensed company. A company shall lose its license if it fails to employ at least one licensed individual or if it employs unlicensed individuals to do work requiring a license. Sole proprietors need only to apply for a company license. However, employees of a sole proprietor must be licensed individually under 15.3(1)"a." The annual license fee is \$50.

**15.3(3)** License not required. A license is not required for the following list of exceptions:

a. Individuals or companies performing only underground storage tank system removal. Please note that they may be subject to requirements in subrule 15.3(4).

b. Individuals or companies performing maintenance as herein defined.

c. Individuals installing groundwater or vapor monitoring wells used in the remediation of a site or to be used for leak detection at a site. Please note that individuals installing wells might be subject to the requirements in 567—Chapters 134 and 135.

**15.3(4)** OSHA safety requirements. All licensed individuals and companies regulated under this chapter will conduct their work as required by OSHA safety requirements defined under 29 CFR 1910, effective on July 1, 1993. OSHA standards apply whenever flammable, combustible or hazardous materials are present, especially during the following activities:

a. Excavating, placing liquid underground storage tank systems in excavations, and ballasting liquid underground storage tank systems with flammable, combustible or hazardous materials.

b. Purging, cleaning and removal of liquid underground storage tank systems which have contained flammable, combustible or hazardous materials.

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

**591—15.4(455G) Educational requirements for installers, liners, testers and inspectors.**

**15.4(1)** Education and examination.

a. Prior to the issuance of a license as an installer, liner or inspector, the applicant shall successfully complete a course of instruction and pass a qualification examination approved by the board, unless excepted under 15.4(2).

b. Examination requirements for all installers, liners, and inspectors are as follows:

(1) A passing grade of not less than 85 percent is required on the Iowa examination.

(2) Candidates who have failed the examination may not perform work unless supervised by the appropriate licensed individual for the work they are performing.

(3) A fee as approved by the board may be charged for each examination and course of instruction.

(4) Nothing herein shall limit the right of the board to require additional educational requirements of license holders.

**15.4(2)** Exceptions on completion of the course of instruction or examination. A course of instruction is not

## PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

required in the following circumstances:

a. Individuals doing testing only are not required to complete the course of instruction. However, the board will establish a separate test by January 1995 that all persons renewing their license as a tester will be required to take and pass in accordance with the same provisions outlined in 15.4(1) in order to renew their license in 1996. The test will cover all types of systems being installed and also leak detection requirements.

b. Installers, liners, testers or inspectors with more than two years' experience as an installer, inspector or liner as defined under rule 15.1(455G), may take the examination without taking the course. If the candidate is not successful on the second attempt, then an approved course and the Iowa examination shall be successfully completed in order to obtain a license.

**15.4(3) Reciprocity.** Persons who complete the University of Wisconsin Liquid Storage Tank Program, or a program offered by another state or recognized regulatory agency which covers installations of underground liquid storage tank systems and is approved by the board, shall successfully pass the Iowa examination only. Candidates shall provide an outline and evidence of the successful completion of the course. If the content of the course taken is not similar to that offered by the board, the board may still require that the Iowa course be taken.

**15.4(4) Continuing education.** Effective January 1, 1995, each person licensed hereunder shall complete a refresher course covering changes in installation, lining and testing standards at least once every two years and the course shall be completed prior to the anniversary of the next license renewal. The board shall evaluate continuing education courses. Testers are exempt from this requirement. The first refresher course shall be completed prior to the January 1, 1996, license renewal date for all individuals licensed on or after January 1, 1995.

**591—15.5(455G) Environmental liability insurance requirements.** All licensed installers, liners, testers and inspectors are required to have environmental liability insurance with minimum liability limits of \$250,000 per occurrence and in the aggregate, as approved by the administrator.

**15.5(1) Licensed company.** A licensed company is required to provide environmental liability insurance for all licensed activities of the company and its licensed installers, liners and testers.

**15.5(2) Licensed installers, liners, testers and inspectors.** Each licensed installer, liner, tester and inspector is required to provide proof of environmental liability insurance covering licensed activities. The insurance may be provided by the licensed company employing the individual, or by the individual licensee.

**15.5(3) Exception to this requirement.** Licensed installers, liners, testers and inspectors employed by owners or operators of underground storage tank systems, to work on their own system(s) and not for others, are exempted from insurance requirements. Licensed persons may install, line or inspect liquid underground storage tank systems owned by the licensed person's employer, but shall not perform both inspection and installation of a liquid underground storage tank system owned by the licensed company.

**15.5(4) Forms of acceptable insurance.**

a. All parties covered by the licensing provisions of this chapter shall provide evidence of environmental li-

ability insurance to the administrator upon request. This subrule applies to all companies and individuals as outlined in rule 15.5(455G).

(1) Environmental liability insurance may be provided by the board.

(2) Environmental liability insurance may be provided by a private insurer authorized to do business in Iowa.

(3) Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—Chapter 136.

(4) Environmental liability insurance shall, at minimum, cover the same risks as provided for by the board in its approved insurance document form.

b. Coverage offered by the board.

(1) Limits of environmental liability insurance offered by the board on a primary basis shall not exceed a limit of \$1,000,000 per occurrence and \$1,000,000 in the aggregate for environmental liability arising out of the activities of a licensed individual or companies.

(2) The board shall offer limits less than the primary for those companies or individuals licensed hereunder who wish to self-insure part of the overall limit. The board may offer excess coverage to self-insureds. The excess limits offered shall be no less than \$750,000 per occurrence and \$750,000 in the aggregate and no more than \$900,000 per occurrence and \$900,000 in the aggregate. Self-insureds shall meet one of four tests for the retention portion of their insurance.

1. A fully funded dedicated account equal to the self-insured retention,

2. An irrevocable letter of credit equal to their self-insured retention,

3. A certificate of deposit equal to their self-insured retention assigned to the board,

4. Or a method approved in 567—Chapter 136.

(3) The board shall offer excess limits above acceptable primary insurance. The board shall offer, if the primary coverage is at least \$1,000,000 in the aggregate, total limits of \$2,000,000 in the aggregate. The board may offer limits up to \$5,000,000 in the aggregate. Limits above \$2,000,000 in the aggregate shall be provided through a commercial insurer or reinsurer authorized to do business in Iowa. The cost and availability of the insurance in excess of \$2,000,000 in the aggregate shall be based on existing market conditions at the time of the request. The board is not obligated to provide limits above \$2,000,000 in the aggregate.

c. Insurance provisions.

(1) Insurance on all policies issued by the board shall be on a claims-made basis.

(2) The retroactive date shall be the date insurance is initially issued. Individuals licensed as an inspector or tester may have their initial retroactive date carried forward should they move to another licensed company or form a company of their own so long as coverage is continuously maintained.

(3) Insurance as provided shall cover only the environmental liabilities associated with the installation, inspection, testing or lining of a liquid underground storage tank system as defined herein. No insurance shall be provided for activities not described by the potential insured in the application and accepted by the board.

(4) Any activity performed and not included in the application shall not be covered. Maintenance as defined is not covered by the policy issued by the board. Primary insurance provided shall be equal to the board-approved

## PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

policy, subject to all terms, conditions, exclusions and endorsements. Board-issued insurance in excess of that offered through private insurers or reinsurers shall be no more broad than the primary insurance offered by the board.

(5) Should a licensed individual or company apply for more than one type of insurance, each policy shall be issued separately subject to minimum premiums as provided. Limits shall apply only to the type of liability covered and shall not be stacked for either individuals or companies covered hereunder.

d. Board rates and premiums.

(1) Premiums shall be 100 percent earned on the binding of insurance. No refunds will be made for any reason after binding of insurance.

(2) Initial premiums shall be due 15 days from the date of the billing to the insured. Renewal premiums are due 10 days prior to the policy's expiration date. Mailing of the premium notice shall be conclusive proof that a billing was received.

(3) Rates shall be calculated as provided by Iowa Code section 455G.11 to determine appropriate premium levels.

1. Rates shall be based on the cost per tank that owners and operators pay for financial responsibility insurance and shall increase each year as reflected in Iowa Code section 455G.11.

2. The first year rate shall be the currently established per tank premium paid by owner/operators per upgraded or new tank installed or, if using gross revenues, an amount per \$100 of revenue that reflects the then-specified costs paid by owner/operators for the primary insurance of \$1,000,000/\$1,000,000. Renewal premiums shall be:

- For the second year, the base premium plus \$0.30 per \$100 of revenues based on audited total of prior year receipts;

- For the third year, the base premium plus \$0.30 per \$100 of revenues based on audited total of the prior two years' receipts. Rates for years beyond the third year will be the cost of the third year or actuarially determined rates.

(4) The minimum premium is \$500 per policy.

(5) All policies issued shall include a \$50 policy fee.

(6) Premiums for excess insurance issued by the board shall be:

1. Twenty-two percent of the base premiums as calculated under 15.5(4)"d" for excess policies of \$750,000 over a self-insured retention meeting requirements of this subrule.

2. Forty percent of the base premiums as calculated under 15.5(4)"d" for excess policies of \$900,000 over a self-insured retention meeting requirements of this subrule 15.5(4).

3. Twenty percent of the base premiums as calculated under 15.5(4)"d" for excess policies of \$1,000,000 over any primary or self-insured retention meeting the requirements of this subrule. If self-insured for more than \$250,000, the base premium used for this calculation shall be the premium derived from the program offered by the board to installers and inspectors.

e. Deductibles and other conditions.

(1) The deductible shall be \$10,000.

(2) An insured may request a reduction in the deductible to \$5,000 with the payment of a 50 percent surcharge on the total policy premium. The board is not required to provide this option.

(3) No retroactive or "tail" insurance shall be offered.

(4) An extended reporting endorsement is available upon expiration and nonrenewal of a policy for a premium of 125 percent of the annual audited premium. Payment is due within 10 days of expiration. Coverage shall be provided for claims occurring prior to the expiration date but not reported until after the expiration date for a period of time not to exceed 180 days. Coverage offered shall be on the same terms and conditions as contained in the expiring policy.

(5) The board or its representative may audit the base underwriting data provided.

(6) Final premiums shall be calculated upon expiration of the policy and based on revenues or the number of liquid underground storage tank systems installed during the prior 12 months of the policy period. Audit premiums are due within 10 days from the date of the billing.

(7) Cancellation shall be 10 days for nonpayment of premium and 60 days for all other reasons. If a license is canceled or not renewed, insurance in effect with the program shall not be renewed until the person or company meets the licensing requirements of this chapter. If the license is not renewed until after the policy period, a new retroactive date shall be established.

f. Insurance claim provisions. Claims presented hereunder shall be individually investigated and settled by the board per the terms and conditions of coverage in effect. The administrator will assign an adjuster for the purposes of this paragraph "f" and may, subject to board approval, retain expert assistance. The administrator will recommend to the board a resolution of the case. Expenses incurred in the adjusting or legal defense process shall be included within the self-insured retention portion of the account.

g. The state of Iowa is not obligated to provide coverage beyond the scope provided for by 591—Chapter 15 and in the insurance policy document, nor does the state have any obligation to pay claims submitted under any of the policies issued by the board beyond the funds provided under Iowa Code chapter 455G. On any claim reported and covered by a policy issued by the board, a reserve reflecting the known liability and damage exposure shall be established by the board.

**591—15.6(455G) Installers.** Installers of underground liquid storage tank systems shall apply for a license as an installer and shall indicate on the license application the types of installations and upgrade procedures they use.

**15.6(1) Installer licensing requirements.** The requirements are as follows. The applicant shall:

a. Possess two years of experience in underground storage tank system installation procedures or other experience approved by the administrator.

b. Pay the annual licensing fee as provided for in rule 15.3(455G).

c. Provide evidence of environmental liability insurance as provided for in rule 15.5(455G).

d. Complete the educational and examination requirements described in rule 15.4(455G), unless otherwise exempted under 15.4(2).

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

(1) Tank systems.

## PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

- (2) Piping systems.
- (3) Leak detection and monitoring systems.
- (4) Corrosion protection systems.

**15.6(2) Responsibilities of installers.** A licensed installer shall be on-site during the performance of all work, including subcontracted work, for which the owner/operator has contracted to have completed by the installer. A licensed installer does not need to be on-site during paving, site grade preparations or when electrical work is being conducted. If removal is a part of the work being completed by or subcontracted by the installer, these same rules apply. Work on the site may be subcontracted by the licensed installer to another person or firm. The licensed installer is responsible for the integrity of the complete installation under the control of the licensed installer. Tank installation includes all work associated with the placement of the tanks, pipes, pumps, dispensers, gauging systems, monitoring systems, corrosion protection, containment devices, and ancillary systems which, if installed incorrectly, could cause or delay detection of a leak. This specifically includes excavation, equipment placement, backfilling, piping, electrical work, paving, testing calibration and start-up.

**15.6(3) Documentation of work performed, installers and liners.** Installations of all new systems or upgrading to meet USEPA or 591—11.4 (455B,455G) requirements of underground liquid storage tank systems requires the submission to the board of a copy of the new owner-signed DNR Form 148 by the licensed company. Each licensed installer or liner responsible for the new system installation or the upgrading of an existing system shall sign the DNR Form 148 as required by 567—paragraph 135.3(3)"e."

**591—15.7(455G) Testers.** Testers of underground liquid storage tank systems shall apply for licensing as a tester and note on the license application the systems and method(s) of testing they will use. If the applicant is employed by a licensed installer company as an installer or liner, a separate tester application is not required.

**15.7(1) Tester licensing requirements.** The requirements are as follows. The applicant shall:

a. Possess one year's experience in testing underground storage tank system installations.

b. Pay the annual licensing fee as provided for in rule 15.3(455G).

c. Provide evidence of environmental liability insurance as provided for in rule 15.5(455G).

d. Provide the administrator proof of certification, training or approval from the manufacturers or suppliers of testing methods and systems for which the applicant is seeking a license and, after January 1, 1995, meet requirements outlined in rule 15.4(455G).

**15.7(2) Approval of testing systems.** Testing systems which have been evaluated by the USEPA or the DNR and which meet or exceed the USEPA criteria for the detection of leaks and cathodic protection shall be accepted.

**15.7(3) Documentation of work performed—testers.** A copy of the test results shall be attached to the DNR Form 148 when testing is done in connection with a new or the upgrading of an existing underground liquid storage system installation. A precision test is required when the system is covered and is ready to be placed into service; a volumetric, nonvolumetric or vacuum test may be used as a method for testing the system and a hydrostatic pressure test may be used for testing the lines. Systems used for

leak detection or monitoring, such as statistical inventory reconciliation, vapor or water monitoring wells or tracer type tests, shall not be acceptable as a precision test at the completion of the installation of a new or upgrading of an existing system. Automatic in-tank gauging may be acceptable if third-party USEPA approval as a precision test has been received for testing tanks.

a. The test results shall identify the tanks tested, the test method employed, the results of the test, and shall be dated and signed by the licensed tester performing the tests.

b. The original DNR Form 148 without attachments shall be mailed to the DNR.

c. Inspectors are not required for testing liquid underground storage tank systems, lines, leak detection and cathodic protection as required by 567—Chapter 135 after the liquid underground storage tank systems have been put into service.

**591—15.8(455G) Additional liner requirements.** Liners of underground liquid storage tank systems shall apply for licensing as a liner and the liner and lining system must be an USEPA-approved system.

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

a. The applicant must possess at least one year of experience in lining underground storage tank systems with an approved lining method (see subrule 15.8(2)).

b. The applicant must pay the annual licensing fee as provided for in rule 15.3(455G).

c. The applicant must complete educational and examination requirements described in rule 15.4(455G) unless otherwise excepted under 15.4(2).

d. The applicant must provide evidence of environmental liability insurance as provided for in rule 15.5(455G).

e. The applicant must be certified, licensed or approved by a lining system manufacturer or supplier for which the applicant is requesting a license and which meets the requirements in subrule 15.8(2). A copy of the lining system specification installation instructions and other documentation shall be provided to the administrator with the license application.

**15.8(2) Approval of lining systems.** The lining method employed must be specifically designed for the purpose, compatible with the product stored, and meet acceptable national standards. The following standards are acceptable:

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

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

c. No other standard will be acceptable for lining. Licensed liners shall certify, in writing to the inspector, if the system is being fully upgraded as required by Iowa Code section 455G.11, that the requirements as noted in subrule 15.8(2) have been met. If the system is only being lined, the liner shall certify to the administrator that the requirements as noted under 591—15.8(455G) have been met.

**15.8(3) Documentation of work performed—liners.** Liners shall follow the process as outlined in subrule 15.6(3) for the documentation of work performed.

## PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

**591—15.9(455G) Inspectors.** Inspectors of underground liquid storage tank systems shall apply for licensing as an inspector and shall be trained and licensed to do the requisite work. Engineers that have met requirements in Iowa to be a registered professional engineer (P.E.) may be exempt from the educational requirement as provided for in rule 15.4(455G), but not the examination requirement.

**15.9(1) Inspector licensing requirements.** The requirements are as follows:

a. The applicant must possess at least one year of experience in underground storage tank system installations, testing, inspecting or design.

b. The applicant must pay the annual licensing fee as provided for in rule 15.3(455G).

c. The applicant must complete educational and examination requirements as described in rule 15.4(455G) unless otherwise excepted under 15.4(2).

d. The applicant must provide evidence of environmental liability insurance as provided for in rule 15.5(455G).

**15.9(2) Documentation of work performed—inspector.**

a. A copy of the inspection report shall be attached to the DNR Form 148 when the inspection is done in connection with a new system or the upgrading of an existing underground liquid storage system installation. "Repair" and "Maintenance" as defined in 15.1(455G) do not require inspection.

(1) A licensed inspector shall inspect the job site a minimum of two times during the course of the new tank or system installation or the upgrading of an existing system.

(2) If the work being completed consists of the adding or replacement of spill or overfill devices, lining or cathodic protection designed by a corrosion expert, an inspection is not required.

(3) If the work being done consists of more than lining or adding or replacement of spill/overfill equipment, then an inspection shall be completed.

b. New installations and upgrades shall have one of the inspections take place prior to the covering of the system when all tanks and pipes are exposed. The final inspection shall take place when all systems are operational and the system has been covered, but shall occur prior to actual operation. The inspector shall be present and visually observe the final inspection and be able to attest to the results. A video or other recording device showing the work completed by the installer or liner shall not be used nor shall it be an acceptable method of providing independent inspection of the work completed.

**15.9(3) Compensation.** Licensed inspectors shall be compensated on the basis of a fee for each inspection by the owner or operator.

**591—15.10(455G) Inspector notification regulation.**

**15.10(1)** The licensed company is responsible for notifying the licensed inspector hired by the owner/operator prior to performing approved work. The owner/operator is responsible for notifying any state or local agency with rules impacting installations or upgrades, and identifying who the inspector shall be, if other than a governmental entity.

**15.10(2)** Work plan approval requires prior notice to the inspector. The notification shall include, at a minimum, the following information:

a. Description of the work planned.

b. The licensed individual responsible for the work to be performed.

c. A schedule of the work to be performed.

The inspector shall review the work plan, and any required changes by the inspector must be submitted to the installer prior to the beginning of the described work.

**15.10(3)** New installations and upgrades subject to 591—11.4(455B,455G) may require budget approval. Such approval request must be submitted 30 days prior to installation or removal.

**15.10(4)** A "preinstallation checklist" as approved by the administrator shall be submitted at least 14 days prior to an installation or upgrade by the licensed company to the inspector and administrator.

**15.10(5)** Inspectors are required to use an inspection form or checklist which has been approved by the administrator. Payment for services and board-approved secondary containment is dependent on the owner or operator as required herein having the work inspected.

**15.10(6)** The licensed inspector and licensed individual or company shall agree upon an inspection schedule before work commences.

**15.10(7)** Rescheduling due to weather or unforeseen job-site conditions shall be done as soon as the extenuating circumstances are recognized to minimize the disruption of schedules.

**15.10(8)** Inspectors who work directly for or as a subsidiary of a licensed company may not inspect the work of those licensed companies.

a. If the inspector establishes a contract to perform inspection services for a company or individual in any form, or performs more than five inspections per calendar year for any one company or individual, then the inspector is required to disclose that relationship in writing to the administrator within 30 days of the fifth inspection.

b. The administrator may require the owner or operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

**15.10(9)** An inspector has the right to keep work from starting or to stop work on a job if standards as outlined herein are not followed by the installer. Furthermore, once an inspector has been placed on a job, that inspector cannot be replaced without the administrator's approval.

**591—15.11(455G) Standards.** Standards for new tank installations are prescribed in 567—Chapter 135, the federal technical standards for underground storage tank systems (40 CFR Part 280) and the following publications:

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

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

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

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

**591—15.12(455G) General procedures.**

**15.12(1)** Data base. The administrator will maintain a data base including the following information:

a. Liquid underground storage tank systems registered with the DNR.

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

## PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

c. Licensed companies (employers of licensed individuals).

d. Violations (including disposition or status).

15.12(2) Revocation of license. A license may be revoked for 12 months if the licensed company or individual, including installers, testers, liners or inspectors:

a. Fails to perform duties or the assigned work consistent with industry standards as outlined in 591—Chapter 15.

b. Intentionally falsifies reports to the board or DNR.

c. Intentionally fails to report to the board or DNR when a prohibited practice regulated by this chapter is observed or identified at a site at which they are performing work regulated by this chapter.

d. Fails to report to the board any practice by any party, including the owner/operator, which is prohibited under these rules.

e. Acts in collusion with any other party.

f. Fails to report a release from an underground storage tank system to the board or DNR that is discovered by the licensed individual at a site at which they are performing work regulated by this chapter, but which has not been reported as required under 591—Chapter 11.

15.12(3) Nothing herein shall eliminate the ability of the license holder to appeal, under Iowa Code chapter 17A procedures, any administrative action allowed by these rules.

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

[Filed 8/26/94, effective 1/1/95]  
[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.

## ARC 5075A

### PUBLIC BROADCASTING DIVISION[288]

#### Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 256.84(9), the Public Broadcasting Board hereby transfers and amends 225—Chapters 1 to 10 to 288—Chapters 1 to 10, Iowa Administrative Code, under the "umbrella" of the Department of Education.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 1994, as ARC 4793A. A public hearing was held on May 31, 1994. No written or oral comments were received. These amendments are identical to those published under Notice of Intended Action.

The amendments change an internal bureau reorganization, update several items, and set forth the policies adopted by the Iowa Public Broadcasting Board at its meeting held April 13, 1994.

The amendments will become effective October 19, 1994.

These amendments are intended to implement Iowa Code Supplement section 256.81.

The following amendments are proposed:

ITEM 1. Transfer 225—Chapters 1 to 10 to 288—Chapters 1 to 10.

ITEM 2. Amend 288—Chapters 1 and 2 by striking the parenthetical implementation statute "303" and all other references to "303" and inserting "256".

ITEM 3. Amend rule 288—1.1(256), introductory paragraph, as follows:

**288—1.1(256) Establishment of the division of public broadcasting and the Iowa public broadcasting board.** The public broadcasting division of the department of ~~cultural affairs~~ *education* and the public broadcasting board (hereinafter referred to as the board) were created by ~~Iowa Code sections 303.76 and 303.77 as amended by the 1987 Iowa Acts, chapter 211 Iowa Code Supplement sections 256.80 to 256.90.~~

ITEM 4. Amend rule 288—1.2(256) as follows:

**288—1.2(256) Operational organization.** For operational efficiency, the board has organized the division into ~~six~~ *five* bureaus each of which is administered by a chief.

1.2(1) No change.

~~1.2(2) Educational services bureau.~~ *Educational telecommunications bureau.* The chief of educational ~~services~~ *organizes, develops, directs, and implements plans and programs in the areas of instructional television, in-school utilization of television programs, business and industry programming, adult and higher education courses, telecommunications* has the following responsibilities:

a. *Administers the development and coordination of all instructional telecommunications activities including those related to the educational applications of the Iowa communications network;*

b. *Establishes the structure and operations of the narrowcast advisory committee and subcommittees;*

c. *Ensures the appropriate interface with the other bureaus;*

d. *Organizes, develops, directs, and implements plans and programs in the areas of instructional television, in-school utilization of television programs, business and industry programming, adult and higher education courses.*

~~1.2(3) Telecommunications and engineering~~ *Engineering* bureau. The chief of ~~telecommunications and engineering~~ has the following responsibilities:

a. No change.

b. No change.

1.2(4) No change.

~~1.2(5) Narrowcast telecommunications bureau.~~ *The chief of narrowcast telecommunications* has the following responsibilities:

~~a. Administers the development and coordination of all narrowcast telecommunications activities including those related to the Iowa educational telecommunications network;~~

~~b. Establishes the structure and operation of the narrowcast advisory committee and subcommittees;~~

~~c. Ensures the appropriate interface with the other bureaus.~~

~~1.2(6)~~ *1.2(5) Community relations and Development* bureau. The chief of *community relations and development* administers the following activities:

a. to c. No change.

Bureau chiefs shall complete other projects and activities as assigned by the administrator.

## PUBLIC BROADCASTING DIVISION[288](cont'd)

These rules are intended to implement ~~Iowa Code section 303.75 to 303.83 as amended by 1987 Iowa Acts, chapter 211, and Iowa Code Supplement sections 303.84 and 303.85 256.80 to 256.90.~~

ITEM 5. Amend rule 288—2.1(256) as follows:  
Amend the introductory paragraph as follows:

**288—2.1(256) Location.** The division of public broadcasting's Iowa public television center is located at 6450 Corporate Drive, Johnston, Iowa 50131, (515)281-4500 242-3100.

Amend subrule 2.1(3), paragraphs "a," "b," and "e," by striking the telephone number "281-4500" and inserting "242-3100".

Amend the implementation sentence as follows:

These rules are intended to implement ~~Iowa Code sections 303.75 to 303.83 as amended by 1987 Iowa Acts,~~

~~chapter 211, and Iowa Code Supplement sections 303.84 and 303.85 256.80 to 256.90.~~

ITEM 6. Amend rule 288—3.1(22) as follows:

**288—3.1(22) Definitions.** As used in this chapter:

"Administrator" means the administrator of the public broadcasting division of the department of ~~cultural affairs~~ education.

"Agency" means the Iowa public broadcasting board.

"Custodian" means the public broadcasting board, the public broadcasting division of the department of ~~cultural affairs~~ education, and Iowa public television.

[Filed 8/23/94, effective 10/19/94]

[Published 9/14/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/94.



State of Iowa  
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA  
EXECUTIVE ORDER NUMBER 52

- WHEREAS, the people of Iowa recognize the fundamental importance of foreign language study and international education in an increasingly interdependent world; and
- WHEREAS, additional efforts must be made to increase the number of Iowans with a fluency and proficiency in foreign languages, and with an understanding of and an appreciation for foreign cultures; and
- WHEREAS, an aggressive effort in foreign language training can give Iowans a clear advantage in a competitive world economy; and
- WHEREAS, Executive Order Number 35 was enacted on April 30, 1992 creating the Iowa Commission on Foreign Language Studies and International Education;
- NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in me by the laws and the Constitution of the State of Iowa do hereby order that:
- I. Executive Order Number 35 be rescinded and replaced with Executive Order Number 52.
  - II. There shall be created an Iowa Commission on Foreign Language Studies and International Education to be appointed by the Governor whose membership shall include representatives from:
    - A. Faculty of higher education institutions, secondary schools, and primary schools;

- B. Business and industry;
  - C. Government; and
  - D. General public.
- II. The Commission on Foreign Language Studies and International Education shall be administratively attached to the Department of Education. With the approval of the Director of the Department of Education, the Department shall fund the travel and administrative expenses of the Commission. The Commission shall have a chairperson, appointed by the Governor to serve for a term of two years. One-half of the initial members shall serve for a term of two years and the remaining half shall serve for three years. Subsequent appointments shall be for a term of three years. The Commission shall consist of at least 20 members and no more than 28 members.
- III. The Commission's charge shall include but need not be limited to:
- A. Coordinating and enhancing efforts to inform and educate Iowans on the importance of foreign language study and international education.
  - B. Promoting a comprehensive foreign language and international studies program for Iowa, extending from kindergarten through college and beyond.
  - C. Developing closer and more productive relationships between educational programs and the business community and encouraging efforts to explore the educational and economic benefits of such relationships.
  - D. Working with appropriate state and private agencies to promote international exchange programs.
  - E. Presenting an annual written report to the Governor, the Board of Regents, and the State Board of Education and providing continuing advice on coordination and implementation of recommendations.

- IV. The chairperson shall be responsible for calling meetings and preparing meeting agendas with the advice of the membership.
  
- V. After a period of one year, the Iowa Commission on Foreign Language Studies and International Education shall make a recommendation to the Governor regarding the continuation of the Commission. The Governor shall review this recommendation and shall make a decision to continue or discontinue the Commission. Following this review, the Governor shall review the status of the Commission upon each subsequent appointment of the chairperson.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the Great Seal of the State of Iowa to be affixed. Done on this first day of July in the year of our Lord one thousand nine hundred and ninety-four.



*Terry E. Branstad*  
 \_\_\_\_\_  
 GOVERNOR

ATTEST:

*Elaine Baxter*  
 \_\_\_\_\_  
 SECRETARY OF STATE



State of Iowa  
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA  
EXECUTIVE ORDER NUMBER 53

WHEREAS, the skill content of jobs continues to rise and the use of technology will expand in the work place, and

WHEREAS, the competition for these high skill, high wage jobs is increasing, and

WHEREAS, the State of Iowa is seeking to attract, retain, and create high skill, high wage jobs for its citizens, and

WHEREAS, the creation of quality jobs requires Iowa's workforce to have the necessary skills to perform these jobs, and

WHEREAS, the State of Iowa will benefit by providing a workforce readiness system that is responsive to the learning needs of individuals, and

WHEREAS, a workforce readiness system must be relevant, responsive, and valuable to the needs of employers, and

WHEREAS, the State of Iowa will benefit from an integrated, coordinated state workforce development system that responds to the needs of employers and individuals,

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by the power vested in me by the laws and Constitution of the State of Iowa, do hereby order that:

- I. An Iowa Workforce Development Council be established to coordinate the implementation of state and federal workforce development programs in the State of Iowa.
- II. The Iowa Workforce Development Council shall consist of the following members:

The Director of the Department of Economic Development or designee,  
The Director of the Department of Employment Services or designee,

The Director of the Department of Human Services  
or designee,  
The Director of the Department of Education  
or designee,  
One person representing a public school district,  
One person representing a post-secondary  
educational institution,  
One person representing a secondary or post-  
secondary vocational education institution,  
One person representing a community-based  
organization,  
Four persons representing business and industry,  
Four persons representing labor organizations,  
One person representing a state or local  
employment and training program,  
Two persons who have expertise in serving special  
populations.

Persons representing labor organizations shall be selected from nominations submitted by statewide labor organizations in Iowa.

Membership of the Council shall conform to the requirements of PL 102-367, the 1992 Amendments to the Job Training Partnership Act. If action is taken by Congress to change the membership requirements, the membership of the Council shall be modified by action of the Governor.

The chair of the Council shall be appointed by the Governor. Members shall be appointed to fixed and staggered terms.

III. The Council shall:

Review the provision of services and use of funds under all workforce development programs and advise the Governor and the General Assembly on methods of coordinating such services consistent with the laws and regulations governing such programs;

Advise the Governor and the General Assembly on the development, coordination, and implementation of plans and policies relating to workforce development programs;

Coordinate the duties and functions prescribed for existing councils for state and federal workforce development programs;

Coordinate the delivery of workforce development programs to maximize their effectiveness and efficiency;

Identify the employment and training needs in the state and recommend to the Governor and the General Assembly goals for meeting such needs;

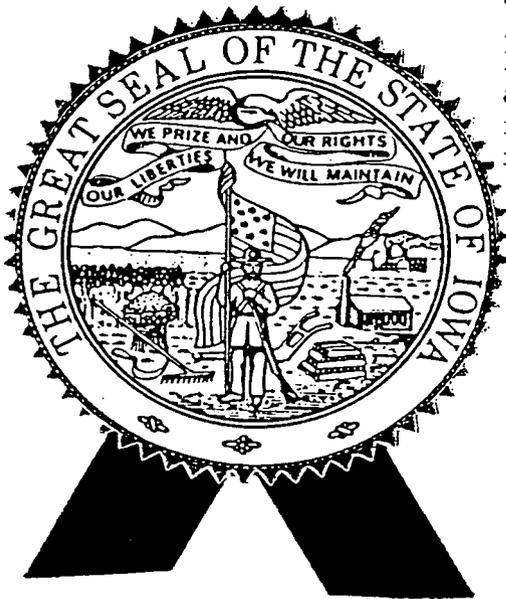
Advise and assist the Council on Human Investment concerning the development and implementation of appropriate state and local standards and performance measures for workforce development;

Recommend to the Governor and the General Assembly goals for the development and coordination of the workforce development systems in the state;

Prepare and recommend to the Governor and the General Assembly a strategic plan to accomplish the goals including the establishment of local workforce development centers and an integrated information system; and

Monitor the implementation of and evaluate the effectiveness of the strategic plan.

- IV. The Workforce Development coordinator shall provide the necessary support and assistance to carry out the responsibilities of the Workforce Development Council.
- V. For the purposes of this Executive Order and to define the scope of work for the Workforce Development Council, the term workforce development shall be interpreted broadly, and is intended to include all federal, state, and local programs which provide employment, training and retraining services, and educational services relating to the knowledge, skills and abilities required for successful employment.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 29<sup>th</sup> day of July in the year of our Lord, one thousand nine hundred ninety-four.

*Tom E. Brandstad*  
GOVERNOR

ATTEST:

*Elaine Bayter*  
SECRETARY OF STATE







**IOWA ADMINISTRATIVE BULLETIN**  
Iowa State Printing Division  
Grimes State Office Building  
Des Moines, Iowa 50319

Bulk Rate  
U.S. Postage  
**PAID**  
Des Moines, Iowa  
Permit No. 1195

---

**FROM**  
**STATE OF IOWA**  
**PRINTING/MAIL/RECORDS MANAGEMENT**  
**GRIMES STATE OFFICE BUILDING**  
**Des Moines, Iowa 50319**

---

STATE LAW LIBRARY 9CR 3S 3B  
CAPITOL  
LOCAL