



IOWA ADMINISTRATIVE BULLETIN

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July 19, 1995

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Pages 65 to 116

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PREFACE

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

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

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

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

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

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

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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, 1995, to June 30, 1996	\$228.00 plus \$11.40 sales tax
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Fourth quarter	April 1, 1996, to June 30, 1996	\$ 57.00 plus \$2.85 sales tax

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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.

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CITATION of Administrative Rules

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

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

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

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

Schedule for Rule Making 1995

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. 2 '94	Dec. 21 '94	Jan. 10	Jan. 25	Jan. 27	Feb. 15	Mar. 22	June 19
Dec. 16 '94	Jan. 4	Jan. 24	Feb. 8	Feb. 10	Mar. 1	Apr. 5	July 3
Dec. 30 '94	Jan. 18	Feb. 7	Feb. 22	Feb. 24	Mar. 15	Apr. 19	July 17
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sept. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sept. 25
Mar. 24	Apr. 12	May 2	May 17	May 19	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	June 30	July 19	Aug. 23	Nov. 20
May 19	June 7	June 27	July 12	July 14	Aug. 2	Sept. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sept. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '96
June 30	July 19	Aug. 8	Aug. 23	Aug. 25	Sept. 13	Oct. 18	Jan. 15 '96
July 14	Aug. 2	Aug. 22	Sept. 6	Sept. 8	Sept. 27	Nov. 1	Jan. 29 '96
July 28	Aug. 16	Sept. 5	Sept. 20	Sept. 22	Oct. 11	Nov. 15	Feb. 12 '96
Aug. 11	Aug. 30	Sept. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '96
Aug. 25	Sept. 13	Oct. 3	Oct. 18	Oct. 20	Nov. 8	Dec. 13	Mar. 11 '96
Sept. 8	Sept. 27	Oct. 17	Nov. 1	Nov. 3	Nov. 22	Dec. 27	Mar. 25 '96
Sept. 22	Oct. 11	Oct. 31	Nov. 15	Nov. 17	Dec. 6	Jan. 10 '96	Apr. 8 '96
Oct. 6	Oct. 25	Nov. 14	Nov. 29	Dec. 1	Dec. 20	Jan. 24 '96	Apr. 22 '96
Oct. 20	Nov. 8	Nov. 28	Dec. 13	Dec. 15	Jan. 3 '96	Feb. 7 '96	May 6 '96
Nov. 3	Nov. 22	Dec. 12	Dec. 27	Dec. 29	Jan. 17 '96	Feb. 21 '96	May 20 '96
Nov. 17	Dec. 6	Dec. 26	Jan. 10 '96	Jan. 12 '96	Jan. 31 '96	Mar. 6 '96	June 3 '96
Dec. 1	Dec. 20	Jan. 9 '96	Jan. 24 '96	Jan. 26 '96	Feb. 14 '96	Mar. 20 '96	June 17 '96
Dec. 15	Jan. 3 '96	Jan. 23 '96	Feb. 7 '96	Feb. 9 '96	Feb. 28 '96	Apr. 3 '96	July 1 '96
Dec. 29	Jan. 17 '96	Feb. 6 '96	Feb. 21 '96	Feb. 23 '96	Mar. 13 '96	Apr. 17 '96	July 15 '96

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, July 28, 1995	August 16, 1995
5	Friday, August 11, 1995	August 30, 1995
6	Friday, August 25, 1995	September 13, 1995

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.

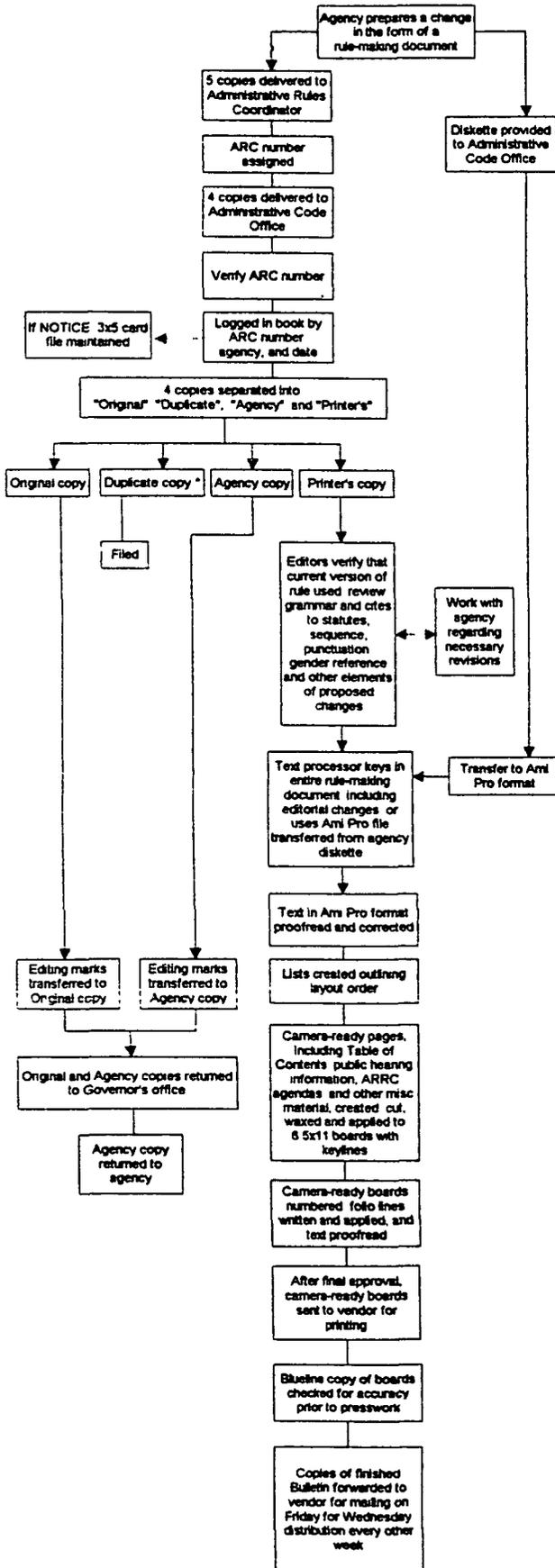
3. Submit only 3 1/2" or 5 1/4" high density MSDOS or compatible format diskettes. Please indicate on each diskette the agency name, file name, the format used for exporting, chapter or chapters of rules being amended.

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

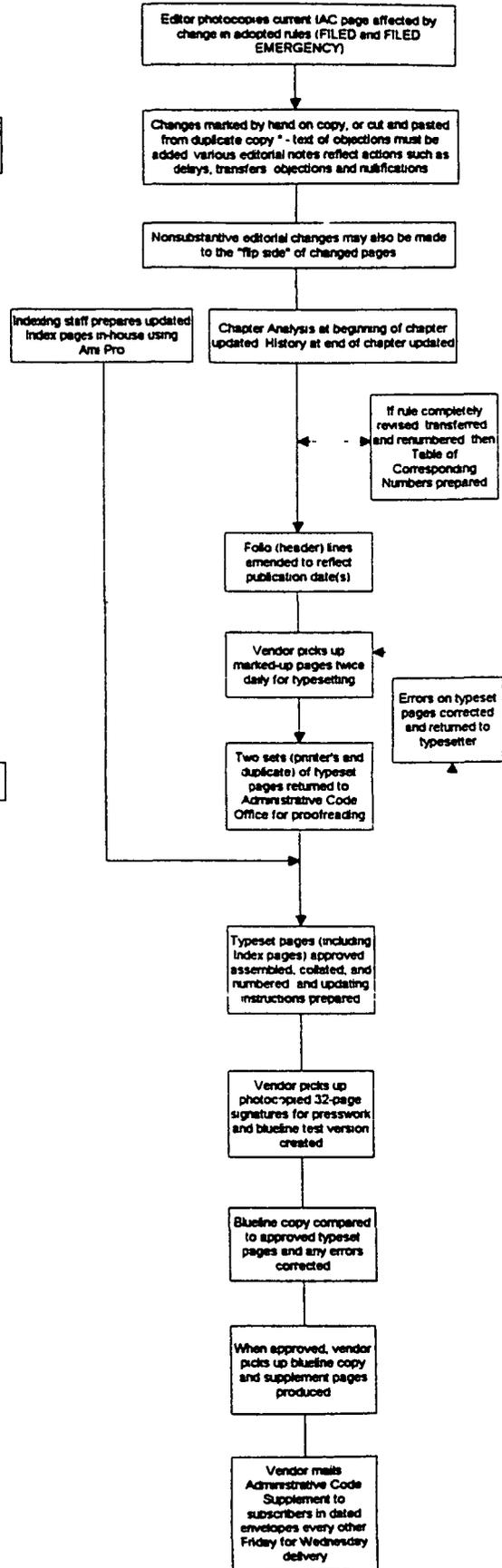
Diskettes from agencies will be returned **unchanged** by the Administrative Code Division. Please refer to the hard-copy document which is returned to your agency by the Governor's office. This document reflects any changes in the rules—update your diskettes accordingly.

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

IOWA ADMINISTRATIVE BULLETIN (IAB)



IOWA ADMINISTRATIVE CODE (IAC) SUPPLEMENT



The Administrative Rules Review Committee will hold a special meeting on Tuesday, August 15, 1995, at 10 a.m. and Wednesday, August 16, 1995, at 9 a.m. in Senate Committee Room 22, State Capitol. This meeting will be in lieu of the regular, statutory date. The following rules will be reviewed:

NOTE: See also Supplemental Agenda to be published August 2, 1995.

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ARCHITECTURAL EXAMINING BOARD[193B] Professional Licensing and Regulation Division[193] COMMERCE DEPARTMENT[181]"umbrella" Description of organization — definitions, 1.5, <u>Filed</u> ARC 5705A	7/5/95
ARTS DIVISION[222] CULTURAL AFFAIRS DEPARTMENT[221]"umbrella" Program changes, amend chs 2, 4, 6 to 8, 11 to 14, 21, 23, 25; adopt new chs 5, 10, 18, 24; rescind chs 22 and 30, <u>Filed</u> ARC 5733A	7/19/95
BANKING DIVISION[187] COMMERCE DEPARTMENT[181]"umbrella" General definition of bank, 8.9, <u>Notice</u> ARC 5740A	7/19/95
CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428] HUMAN RIGHTS DEPARTMENT[421]"umbrella" Juvenile crime prevention community grant fund — contract extensions, 4.3(1), 4.3(6), <u>Notice</u> ARC 5698A, also <u>Filed Emergency</u> ARC 5699A	7/5/95
DEAF SERVICES DIVISION[429] HUMAN RIGHTS DEPARTMENT[421]"umbrella" Organization, services and procedures, 1.3(1), 1.3(2)"b" and "g," 2.3(12), 2.4(3)"b" and "d," <u>Notice</u> ARC 5702A	7/5/95
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261] Reorganization of agency rules, amendments to chs 1 to 103, <u>Filed</u> ARC 5727A	7/19/95
High technology apprenticeship program, 17.1 to 17.7, <u>Notice</u> ARC 5413A <u>Terminated</u> ARC 5730A	7/19/95
High technology apprenticeship program, 17.1, <u>Filed Emergency</u> ARC 5732A	7/17/95
High technology apprenticeship program, 17.2 to 17.7, <u>Notice</u> ARC 5731A	7/19/95
CEBA project review committee, 22.3, 22.10(1), <u>Filed</u> ARC 5728A	7/19/95
Entrepreneurs with disabilities program, ch 30, <u>Filed</u> ARC 5729A	7/19/95
ENVIRONMENTAL PROTECTION COMMISSION[567] NATURAL RESOURCES DEPARTMENT[561]"umbrella" Air pollution — PM ₁₀ , 22.9, <u>Notice</u> ARC 5746A	7/19/95
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Reporting requirements — out-of-state contributions, 4.13, <u>Notice</u> ARC 5735A	7/19/95
GENERAL SERVICES DEPARTMENT[401] Organization and operation of Terrace Hill, 14.1, 14.3(3), 14.4 to 14.10, <u>Notice</u> ARC 5720A	7/5/95
HUMAN SERVICES DEPARTMENT[441] Transitional child care assistance, ch 49 division II preamble, 49.21, 49.24, 49.25, 49.35, <u>Filed</u> ARC 5679A	7/5/95
Medicaid provider policy, 52.1(3), 79.1(2), 79.1(9)"d," 81.6(16)"e," 177.4(3), 177.4(7), 177.4(8)"b," <u>Notice</u> ARC 5680A, also <u>Filed Emergency</u> ARC 5681A	7/5/95
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- Support enforcement services, 95.16, 98.23, 98.24(2), 98.33(2), 98.36, 98.42(1), 98.42(2), 98.91 to 98.97, Filed ARC 5688A 7/5/95
- Life skills service workers in child-placing agencies, 108.1, 108.4, 108.4(3), 108.4(5), 108.6(3), Notice ARC 5545A Terminated ARC 5726A 7/19/95
- Income guidelines for child day care, fee schedule, eligibility of migrant farm workers, 130.3(1)"d"(2), 130.4(3), 170.1, 170.2(1), Notice ARC 5689A 7/5/95
- Income guidelines for child day care, eligibility of migrant farm workers, 130.3(1)"d"(2), 170.1, 170.2(1), Filed Emergency ARC 5690A 7/5/95
- Adolescent monitoring and outreach services, 133.1, 133.3(4)"f," ch 151 title. ch 151 preamble, 151.21 to 151.30, Filed ARC 5691A 7/5/95
- Social service providers, rates, 150.3(5)"p"(2), 150.3(5)"p"(3), Notice ARC 5692A, also Filed Emergency ARC 5693A 7/5/95
- Foster care and foster parent training, subsidized adoptions, foster care services, 156.6(1), 201.5(9), 202.17(1)"a," "b," and "d," Notice ARC 5694A, also Filed Emergency ARC 5695A 7/5/95
- Rehabilitative treatment services, 185.106(2)"a," Notice ARC 5696A, also Filed Emergency ARC 5697A 7/5/95

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- Egg handlers, 30.2, 30.4(9), 30.8(5), ch 36, Notice ARC 5704A 7/5/95

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- Charitable gift annuity exemption, 50.14, Filed ARC 5718A 7/5/95
- Long-term care asset preservation program, 72.3, 72.4, 72.5(2)"e," 72.6(4)"b," 72.6(4)"c"(4), 72.6(6)"d," 72.7(1)"h"(2), 72.9(1) to 72.9(7), 72.10(6)"a"(2), 72.11(2), 72.13, Notice ARC 5716A 7/5/95

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- Limited law enforcement officer certification for sheriffs, 3.1, Filed ARC 5708A 7/5/95
- Extension of certification period, 3.1(3), Filed Emergency ARC 5722A 7/5/95

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- Certification — volunteer bow and fur harvester education instructors, snowmobile and all-terrain vehicle safety instructors and boating safety instructors, 15.9, Notice ARC 5713A 7/5/95
- All-terrain vehicle and snowmobile safety-education classes, 50.3, Notice ARC 5714A 7/5/95
- Canada goose hunting within closed areas, 91.5, Notice ARC 5715A 7/5/95

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- Nursing education programs — use of preceptors, employment data, 2.1, 2.2(2)"a"(3), 2.2(2)"g," 2.3(1)"g"(1) to (6), 2.9, 2.10, Filed ARC 5711A 7/5/95
- Licensure to practice RN/LPN, 3.1, 3.4(3)"a"(3), 3.4(3)"b"(2), 3.4(3)"c"(1), (3), (6), and (7), 3.4(4)"a"(2), 3.4(4)"b"(3), (6) and (7), 3.4(5)"b"(3), (6) and (7), 3.4(6)"b"(10) and (11), 3.4(8)"e"(3) and (4), 3.7(5)"d," 3.7(5)"d"(1), 3.7(5)"e," 3.7(5)"e"(1), 3.7(6)"b," 3.7(6)"b"(1), 3.7(8), Filed ARC 5710A 7/5/95
- Licensure — graduation from program required, 3.3(1)"b," 3.4(5), Notice ARC 5709A 7/5/95

PERSONNEL DEPARTMENT[581]

- Health insurance, 15.1, Filed Emergency ARC 5712A 7/5/95
- IPERS, 21.1(2), 21.1(3), 21.2(2), 21.3(1), 21.4, 21.5(1), 21.5(7), 21.6, 21.8, 21.9(2), 21.10(1), 21.10(3), 21.10(5), 21.10(8), 21.10(10), 21.10(12), 21.11(1), 21.11(2), 21.11(10), 21.12(1)"a," 21.12(10), 21.13(2)"a," 21.13(6)"d," 21.13(8), 21.14(2), 21.16(1) to 21.16(4), 21.17(5), 21.18(2), 21.18(3), 21.18(5), 21.18(6), 21.19(2), 21.19(4), 21.20(2), 21.22, 21.24(2), 21.24(5) to 21.24(7), 21.25 to 21.27, Filed ARC 5719A 7/5/95

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

- Financial responsibility coverage, 10.1(2)"i," 10.1(6)"a," 10.1(6)"d," Notice ARC 5737A, also Filed Emergency ARC 5738A 7/19/95

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

- Environmental damage offset, rescind 11.5, Notice ARC 5724A 7/19/95
- Prioritization of remedial account claims, rescind 11.7, Notice ARC 5723A 7/19/95

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Chiropractic continuing education, 40.62(1), 40.62(6), 40.70(2)"b," 40.73(1)"d," Notice ARC 5743A 7/19/95
- Mortuary science continuing education, 101.103(1), Notice ARC 5742A 7/19/95

PUBLIC HEALTH DEPARTMENT[641]

- State plumbing code, ch 25, Notice ARC 5741A 7/19/95

PUBLIC SAFETY DEPARTMENT[661]

- Criminal justice information — Iowa sex offender registry, ch 8 title, 8.301 to 8.304,
Filed Emergency ARC 5739A 7/19/95

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- Thoroughbred racing — locked claim box, 10.5(17)"b"(2), 10.5(17)"c"(1), Notice ARC 5706A, also
Filed Emergency ARC 5707A 7/5/95

SECRETARY OF STATE[721]

- Election forms, 4.3, Notice ARC 5744A 7/19/95
- Voter identification documents, change of address, 21.3, 21.4, Filed ARC 5745A 7/19/95

TRANSPORTATION DEPARTMENT[761]

- Abandoned vehicles, 480.2, 480.3(2)"a" and "c," Filed ARC 5734A 7/19/95
- Regulations applicable to carriers, 520.1(1)"a" and "b," Notice ARC 5701A 7/5/95

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

- Quality of service — telephone, 22.1(3), 22.3(1), 22.6(1), 22.6(2)"a" to "i," Notice ARC 5703A 7/5/95

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regulatory statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8 A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 1999.

Senator Berl E. Priebe, Co-chair 2106 100th Avenue Algona, Iowa 50511	Representative Janet Metcalf, Co-chair 12954 NW 29th Drive Des Moines, Iowa 50325
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Senator H. Kay Hedge R.R. 1, Box 39 Fremont, Iowa 52561	Representative Horace Daggett 400 N Bureau Creston, Iowa 50801
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Senator John P. Kibbie R.R. 1, Box 139A Emmetsburg, Iowa 50536	Representative Minnette Doderer 2008 Dunlap Court Iowa City, Iowa 52245
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Senator William Palmer 1340 E. 33rd Street Des Moines, Iowa 50317	Representative Roger Halvorson 609 S. Main Monona, Iowa 52159
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Senator Sheldon Rittmer 3539 230th Street DeWitt, Iowa 52742	Representative Keith Weigel 315 W Main, P O Box 189 New Hampton, Iowa 50659
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Joseph A. Royce Legal Counsel Capitol, Room 116A Des Moines, Iowa 50319 Telephone (515)281-3084	Paula Dierentfeld Administrative Rules Coordinator Governor's Ex Officio Representative Capitol, Room 15 Des Moines, Iowa 50319 Telephone (515)281-6331
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To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21] Dairy — bulk milk tanks, 68.12 IAB 6/21/95 ARC 5674A	Conference Room — 1st Floor Wallace State Office Bldg. Des Moines, Iowa	July 19, 1995 1 p.m.
BANKING DIVISION[187] General definition of bank, 8.9 IAB 7/19/95 ARC 5740A	Conference Room Suite 300 200 E. Grand Ave. Des Moines, Iowa	August 8, 1995 2 p.m.
CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428] Contract extensions, 4.3(1), 4.3(6) IAB 7/5/95 ARC 5698A (See also ARC 5699A)	Conference Room — 3rd Floor Lucas State Office Bldg. Des Moines, Iowa	July 25, 1995 2 p.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261] High technology apprenticeship program, 17.2 to 17.7 IAB 7/19/95 ARC 5731A	Workforce Development Administrative Center Room 136 150 Des Moines St. Des Moines, Iowa	November 20, 1995 1:30 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567] Emissions from air contaminant sources, 22.9 IAB 7/19/95 ARC 5746A	Conference Room — 5th Floor West Half Henry A. Wallace Bldg. Des Moines, Iowa	August 18, 1995 10 a.m.
GENERAL SERVICES DEPARTMENT[401] Terrace Hill operation, 14.1, 14.3(3), 14.4 to 14.10 IAB 7/5/95 ARC 5720A	Carriage House Terrace Hill 2300 Grand Ave. Des Moines, Iowa	July 25, 1995 9 a.m.
HUMAN SERVICES DEPARTMENT[441] Substance abuse care program, amendments to ch 88 IAB 7/5/95 ARC 5686A (See also ARC 5687A)	Beems Auditorium Public Library 500 1st St. N.E. Cedar Rapids, Iowa	July 26, 1995 10 a.m.
	Regional Office Lower Level 417 E. Kanessville Blvd. Council Bluffs, Iowa	July 26, 1995 10 a.m.
	Conference Room 3 Bicentennial Bldg. Fifth Floor 428 Western Davenport, Iowa	July 26, 1995 10 a.m.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Conference Room 104
City View Plaza
1200 University
Des Moines, Iowa

July 31, 1995
10 a.m.

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

July 26, 1995
10 a.m.

Conference Room 3
120 E. Main
Ottumwa, Iowa

July 26, 1995
10 a.m.

Suite 624
507 7th St.
Sioux City, Iowa

July 26, 1995
1 p.m.

Conference Room 220
Pinecrest Office Bldg.
1407 Independence Ave.
Waterloo, Iowa

July 27, 1995
10 a.m.

INSURANCE DIVISION[191]

Long-term care asset preservation program,
72.3 to 72.7, 7.9 to 7.11,
rescind 72.13
IAB 7/5/95 ARC 5716A

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

July 31, 1995
1 p.m.

NATURAL RESOURCE COMMISSION[571]

Volunteer bow and fur harvester education
instructors; ATV, snowmobile, and
boating safety instructors, 15.9
IAB 7/5/95 ARC 5713A

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

July 25, 1995
9 a.m.

ATV and snowmobile
safety education classes, 50.3
IAB 7/5/95 ARC 5714A

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

July 25, 1995
10 a.m.

Canada goose hunting,
91.5
IAB 7/5/95 ARC 5715A

Lost Island Prairie
Wetland Nature Center
Palo Alto County Conservation
Board Headquarters
Ruthven, Iowa

August 16, 1995
7 p.m.

PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591]

Financial responsibility coverage,
10.1(2)"i," 10.1(6)
IAB 7/19/95 ARC 5737A
(See also ARC 5738A herein)

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

August 8, 1995
10 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Chiropractic examiners,
40.62, 40.70(2)"b," 40.73(1)"d"
IAB 7/19/95 ARC 5743A

Conference Room
Fourth Floor, Side 1
Lucas State Office Bldg.
Des Moines, Iowa

August 8, 1995
9 to 11 a.m.

PUBLIC HEALTH DEPARTMENT[641]

State plumbing code,
ch 25
IAB 7/19/95 ARC 5741A

Conference Room — 4th Floor
Lucas State Office Bldg.
Des Moines, Iowa

August 9, 1995
1 p.m.

RACING AND GAMING COMMISSION[491]

Thoroughbred racing — claim box,
10.5(17)
IAB 7/5/95 ARC 5706A
(See also ARC 5707A)

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

July 25, 1995
9 a.m.

SECRETARY OF STATE[721]

Election forms,
4.3
IAB 7/19/95 ARC 5744A

Secretary of State — 2nd Floor
Hoover State Office Bldg.
Des Moines, Iowa

August 8, 1995
1:30 p.m.

TRANSPORTATION DEPARTMENT[761]

Regulations applicable to carriers,
520.1(1)
IAB 7/5/95 ARC 5701A

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

July 27, 1995
10 a.m.
(If requested)

UTILITIES DIVISION[199]

Quality of service — telephone,
22.1(3), 22.3(1), 22.6
IAB 7/5/95 ARC 5703A

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

August 15, 1995
10 a.m.

Guide to Rule Making, June 1995 Edition, available upon request to the Iowa Administrative Code Division,
Lucas State Office Building, Fourth Floor, Des Moines, Iowa 50319.

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]

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]
 NATIONAL AND COMMUNITY SERVICE, IOWA
 COMMISSION ON[555]
 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]
 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]
 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

The agency listed below is identified in the Iowa Administrative Code with a WHITE TAB*. This agency has not yet implemented government reorganization.

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.

NOTICE -- AVAILABILITY OF PUBLIC FUNDS

<u>Agency</u>	<u>Program</u>	<u>Service Delivery</u>	<u>Eligible Applicants</u>	<u>Services</u>	<u>Application Due Date</u>	<u>Contract Period</u>
Public Health	PRIMECARRE Community Grant	Statewide	Communities/not for profit of 10,000 population or less	Physician Recruitment and Retention	* September 11, 1995	Oct. 1, 1995 - June 30, 1996

* To receive an application kit, letters of intent must be received by August 28, 1995.

Request application packet from:

Carl Kulczyk
Center for Rural Health & Primary Care
Division of Family and Community Health
Iowa Department of Public Health
Lucas State Office Building
Des Moines, Iowa 50319-0075
515/281-7223

ARC 5740A**BANKING DIVISION[187]****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 17A.3 and 524.213, the Banking Division of the Commerce Department hereby gives Notice of Intended Action to amend Chapter 8, "General Banking Powers," Iowa Administrative Code.

This amendment is intended to clarify the Superintendent of Banking's intent concerning the definition of entities that constitute a bank under the general definition in Iowa Code section 524.103(7) of the Iowa Banking Act.

Any interested person may make written comments on the proposed amendment on or before August 8, 1995. Such written material should be directed to the Superintendent of Banking, Banking Division, Department of Commerce, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309.

In addition, a public hearing will be held Tuesday, August 8, 1995, at 2 p.m. in the Banking Division Conference Room at 200 East Grand Avenue, Suite 300, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Superintendent by August 7, 1995.

This amendment is intended to implement Iowa Code section 524.103(7).

The following amendment is proposed.

Amend 187—Chapter 8 by adding the following new rule:

187—8.9(524) General definition of bank. It is the superintendent's intent that term "bank" used in Iowa Code section 524.103(7) means a corporation organized under Iowa Code chapter 524 or a corporation organized under 12 U.S.C. §21. The general definition of bank as set forth in 524.103(7) does not include a state savings association, federal savings association, state credit union, or federal credit union.

ARC 5730A**ECONOMIC DEVELOPMENT,
IOWA DEPARTMENT OF[261]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby terminates further rule-making proceedings under the provisions of Iowa Code section 17A.4(1)"b" for proposed rule making relating to Chapter 17, "High Technology Apprenticeship Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 15, 1995, as **ARC 5413A**.

The Notice proposed amendments which would have distributed funds through a request for proposal process rather than the formula method described in the existing rules. Subsequent to the submission of the Notice of Intended Action and prior to final adoption of the amendments, legislation was passed which requires fund distribution for fiscal year 1996 to remain as described in the current administrative rules.

The Department is terminating the rule making commenced in **ARC 5413A** and will renotice proposed changes to the chapter for applicability in fiscal year 1997.

ARC 5731A**ECONOMIC DEVELOPMENT,
IOWA DEPARTMENT OF[261]****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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 17, "High Technology Apprenticeship Program," Iowa Administrative Code.

The proposed amendments expand the purpose of the program, further define the program, establish a request for proposal process, (including time frames, review criteria, and budget), and define the cost limitations. The proposed amendments also delete outdated rules regarding the funding distribution process.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on November 20, 1995. Interested persons may submit written or oral comments by contacting Laurie C. Phelan, Department of Economic Development, Workforce Development Division, 150 Des Moines Street, Des Moines, Iowa 50309; telephone number (515)281-9040.

A public hearing to receive comments about the proposed amendments will be held at 1:30 p.m. on November 20, 1995, at the above address in the Workforce Development Administrative Center, Room 136. Individuals interested in providing comments at the hearing should contact Laurie C. Phelan by 4 p.m. on November 13, 1995, to be placed on the hearing agenda.

These amendments are intended to implement 1995 Iowa Acts, House File 512.

The following amendments are proposed.

ITEM 1. Amend rule 261—17.2(75GA, HF512) as follows:

261—17.2(75GA, HF512) Definitions. For purposes of this chapter, the following definitions apply:

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

"Apprenticeship program," "apprenticeship sponsor," "apprenticeable occupation," and "apprentice" are as defined in Iowa Code section 260C.44.

~~"Currently existing program" means a program that existed during the 1994 fiscal year as identified by the department of education.~~ *"Currently existing programs" means programs that operate U.S. Department of Labor (DOL) registered apprenticeship training for apprenticeable occupations.*

"High technology" means skills that are clearly identified and recognized throughout the industry as technologically up-to-date for the particular occupation.

"IDED" means the Iowa department of economic development.

"Journeyman upgrade" means journeyman training methods that are practical and use materials and aids that will directly instruct journeymen in new work processes.

"New program" means the development of DOL registered apprenticeship training program in an apprenticeable occupation not currently offered in the geographic area, including journeyman upgrading.

"Program linkages" include, but are not limited to, working in a collaborative way with the other programs in an effort to share expertise, eliminate duplication, or streamline the delivery of training.

"School-to-work initiatives" means the programs that incorporate the work-based, school-based and connecting activity components of the school-to-work opportunities Act.

"Targeted industries" means those industries that IDED has identified in the IDED's strategic plan as potential growth industries in Iowa.

ITEM 2. Rescind rule 261—17.3(75GA, HF512) and insert in lieu thereof the following **new** rules 261—17.3(75GA, HF512) to 261—17.6(75GA, HF512) as follows:

261—17.3(75GA, HF512) Request for proposal process. Funds will be made available through a request for proposal (RFP) process and grants will be awarded on a competitive basis. (Funds appropriated through this legislation will be used to fund currently existing programs.) Funding which exceeds the appropriation for 1996 will be set aside and will be used for new program development or to support currently existing programs. Proposals that are funded with new program funds will be ineligible for currently existing program funds within the same funding year. Special consideration will be given to those new programs that focus on IDED-identified targeted industries in Iowa.

17.3(1) Time frame for submittal. Proposals may be submitted by the deadline established in the RFP.

17.3(2) Length of program funding. Proposals will be funded for a maximum of three fiscal years based on the availability of funding. The time frame will be detailed in the RFP. Following fiscal year 1999, currently existing program funds and new programs funds will be pooled into one funding stream. All funds will be accessed through a competitive RFP.

17.3(3) Required inclusions in the proposal. The IDED, in consultation with the department of education, will determine the required elements of the proposal which will be published in the RFP. Required inclusions may include, but are not limited to, description of the program design and goals, proposed budget, signatures of project collaborators verifying coordination and collaboration efforts, and signature of authorized official.

project collaborators verifying coordination and collaboration efforts, and signature of authorized official.

17.3(4) Review criteria. Proposals will be reviewed as set forth in subrule 17.3(5) based upon the following criteria:

a. Statement of need. The proposal must contain a statement of need, including how the program addresses the needs of the geographic area. Up to 25 points may be awarded for this category.

b. Program design. The proposal must include a detailed description of the program, including the linkages that will be made with, but not limited to, workforce development centers, nontraditional employment for women projects, and school-to-work initiatives, and the combination and collaboration that will take place among entities involved in the program (i.e., Bureau of Apprenticeship Training [BAT]). Up to 35 points may be awarded in this area. An additional 5 points may be awarded for new programs that are developed around targeted industries.

c. Budget. A detailed budget as prescribed in the RFP may be included in the proposal. Requests for funding equipment will be limited to 20 percent of the recipient's total budget and IDED will retain the title to all equipment purchased with high technology apprenticeship funds and such equipment is recoverable at the close of the program. Up to 15 points may be awarded for this category.

d. High technology program. The proposal must clearly state what methods were used to determine the program is "technologically up-to-date." Up to 10 points may be awarded for this category.

e. Experience of program operator. The proposal must include a description of the experience of the program operator. Up to 10 points may be awarded for this category.

17.3(5) Selection process. Selection of projects to be funded will be made by the director of the IDED or the director's designee after the proposals have been scored and recommended by an evaluation team consisting of both state and local representatives.

a. Each reviewer on the evaluation team will evaluate each proposal independently for acceptability and will assign a numerical score to each proposal using the review criteria and point values listed in the request for proposal.

b. All reviewer's scores for each proposal will be averaged to obtain the final average score for the proposal.

c. A project must obtain a final average score of at least 70 out of 100 points to be considered for funding.

261—17.4(75GA, HF512) Maximum grant amounts. The IDED, in consultation with the department of education, will set maximum grant amounts and publish the limitations in the request for proposal.

261—17.5(75GA, HF512) Eligible recipients. To be eligible for receipt of funds, an entity must submit a proposal which has been approved by the U.S. DOL, the bureau of apprenticeship training and the joint apprenticeship council in the geographic area.

17.5(1) Program linkages. Programs funded with high technology apprenticeship moneys must demonstrate linkages, at a minimum, with workforce development centers, nontraditional employment for women projects, and school-to-work initiatives in the geographic area. If linkages are not made, a justification must be included with the proposal.

17.5(2) Reserved.

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

261—17.6(75GA, HF512) Allowable costs and limitations.

17.6(1) Allowable training activities. The allowable training activities under this program will include all DOL approved apprenticeship programs for apprenticeable occupations, including journeymen upgrade.

17.6(2) Cost limitations. Funds are not to be used for any indirect administrative costs. Equipment funds are limited to 20 percent of the total grant recipient budget.

ITEM 3. Renumber existing rule 261—17.4(75GA, HF512) as 17.7(75GA, HF512) and amend as follows:

261—17.4(75GA, HF512) 261—17.7(75GA, HF512) Monitoring. IDEED may perform any review or field inspections it deems necessary to ensure compliance with the program purpose.

17.7(1) *The grant recipient must make available all of its records pertaining to all matters related to this program and shall permit IDEED to utilize, monitor, examine, make excerpts or transcripts from such records, contracts, invoices, payrolls, personnel records, conditions of employment, and other data and records related to all other matters covered by this program.*

17.7(2) *When problems of compliance are noted, IDEED may require corrective action to be taken. Failure to respond to corrective action notifications may result in the implementation of 17.7(4).*

17.4(1) 17.7(3) Noncompliance. When problems are noted, IDEED shall have the authority to require that corrective action will be taken. If a recipient of program funds fails to respond to a notice of noncompliance, IDEED shall have the authority to require remedial action as provided in subrule ~~17.4(2)~~ 17.7(4).

17.4(2) 17.7(4) Remedies for noncompliance. At any time before project closeout, IDEED has the authority to determine that a program operator is not in compliance with the requirements of this program. In the event of a determination of noncompliance, IDEED has the authority to take the following remedial actions:

a. Issue a warning letter which states that further failure to comply with program requirements within a stated period of time will result in a more serious sanction.

b. Condition a future grant.

c. Direct the program operator to stop the incurring costs with said funds.

d. Require that some or all of the funds be remitted to the state.

e. Reduce the level of funds the recipient would otherwise be entitled to receive.

f. Elect not to provide future high-skilled apprenticeship program funds to the recipient until appropriate actions are taken to ensure compliance.

17.4(3) 17.7(5) Reasons for finding of noncompliance include, but are not limited to, the following: The program does not comply with applicable state or federal rules or regulations, or the program operator's use of program funds for activities is not approved by the Federal Bureau of Apprenticeship and Training.

These rules are intended to implement ~~1994 Iowa Acts, House File 2415, section 1(6)"c."~~ 1995 Iowa Acts, House File 512.

ARC 5746A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, "Controlling Pollution," Iowa Administrative Code.

This amendment establishes values to be added to modeled impacts of PM₁₀ (particulate matter with an aerometric diameter of 10 microns or less). The intent of the rule is to establish a more accurate method for assessing the impact of emissions from air contaminant sources on ambient air levels of PM₁₀.

Any person may make written suggestions or comments on the proposed rule on or before August 18, 1995. Written comments should be directed to Catharine Fitzsimons, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, fax (515)281-8895.

A public hearing will be held on August 18, 1995, at 10 a.m. in the west half of the Fifth Floor Conference Room, Henry A. Wallace Building, Des Moines, Iowa, at which time comments may be submitted orally or in writing.

Any persons who intend to attend a public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department of Natural Resources to advise the Department of any specific needs.

This rule may impact small businesses.

This rule is intended to implement Iowa Code section 455B.133.

The following amendment is proposed.

Amend 567—Chapter 22 by adding a new rule as follows:

567—22.9(455B) Background values to be used for dispersion modeling. The following values are to be added to impacts calculated by dispersion models when used for the purposes of assessing the impact of emissions from air contaminant sources:

1. For PM₁₀ (particulate matter with an aerometric diameter of 10 microns or less) the values listed in Table 1.

Table 1

	Annual Averages	24-Hour Averages
Heavily industrialized areas	37 µg/m ³	88 µg/m ³
All other areas	31 µg/m ³	62 µg/m ³

This rule is intended to implement Iowa Code section 455B.133.

ARC 5736A

ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]

Notice of Termination

Pursuant to the authority of Iowa Code sections 17A.3 and 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby terminates further rule-making proceedings under the provisions of Iowa Code section 17A.4(1)"b" for proposed rule making relating to Chapter 4, "Reporting Requirements," Iowa Administrative Code, with regard to acceptable utilization of corporate facilities by committees supporting candidate election.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 24, 1995, as ARC 5603A.

The Notice proposed to add new rules and amend a subrule to reflect the Board's interpretation of Iowa Code section 56.15 to restrict committee use of corporate items or services to corporations which make the items or services available to the general public at fair market value.

The Board is terminating the rule making initiated in ARC 5603A and will seek legislative clarification regarding complexities encountered in administering the law as codified.

ARC 5735A

ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]

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 17A.3 and 68B.32A, the Iowa Ethics and Campaign Disclosure Board proposes to amend Chapter 4, "Reporting Requirements," Iowa Administrative Code.

The proposed amendment addresses the form which may be filed by an out-of-state committee making a contribution to an Iowa candidate as an alternative to creating an Iowa committee and filing full financial disclosure in Iowa in order to make the Iowa contributions. The changes reflect statutory changes relating to this verified statement of registration (VSR) made by 1995 Iowa Acts, House File 437, to require the committee to make certain statements regarding the degree of reporting required in the jurisdiction in which they are organized. Also, the proposed amendment allows a chairperson as well as a treasurer to sign the VSR. An additional option is provided for committees in jurisdictions which would not otherwise have filings "substantially similar" to Iowa's—rather than requiring this committee to form an Iowa committee to conduct its Iowa activity, the out-of-state filing could be supplemented with the necessary additional

information, and a signed statement to that effect would be placed on file with the committee's VSR. The subrules have been reorganized in an attempt to provide a more logical flow, with necessary grammatical changes.

Any interested person may make written comments on this amendment on or before August 8, 1995. Written comments should be addressed to Kay Williams, Executive Director, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309.

This amendment is intended to implement Iowa Code section 56.5(5).

The following amendment is proposed.

Amend rule 351—4.13(56) as follows:

351—4.13(56) Out-of-state contributions. Iowa candidates' committees and other political committees may receive contributions from committees outside Iowa, and committees outside Iowa may contribute to Iowa candidates' committees and other political committees provided one of ~~two alternate~~ *the specified* procedures is followed:—

4.13(1) *Out-of-state committees may choose to comply with regular Iowa disclosure filing requirements in Iowa Code sections 56.5 and 56.6 by filing a statement of organization and periodic disclosure reports.*

4.13(2) In lieu of filing a statement of organization and regular disclosure reports as required by Iowa Code sections 56.5 and 56.6, the out-of-state committee ~~shall provide the recipient committee with~~ *may send* a verified (sworn) statement registration form (~~hereinafter referred to as registration form a "VSR"~~) ~~to accompany with the contribution, and shall also provide send a copy of the registration form to the board or county commissioner of elections. The registration VSR forms are available may be obtained from the board or county commissioners of elections. and The requested information shall contain~~ include:

- ~~a. the~~ *The* complete name, address and telephone number of the out-of-state committee;
- ~~b. the~~ *The* name, address and telephone number of the out-of-state committee treasurer and other officers;
- ~~c. the~~ *The* state or federal disclosure agency or jurisdiction under which the out-of-state committee is registered or operates;
- ~~d. the identification of any and all~~ *All* parent entities or other affiliates or sponsors of the out-of-state committee;
- ~~e. the~~ *The* purpose of the out-of-state committee;
- ~~f. the~~ *The* name, address and telephone number of an Iowa resident authorized to receive service of ~~original notice~~ on behalf of the out-of-state committee;
- ~~g. the~~ *The* name of the Iowa recipient committee;
- ~~h. the~~ *The* date and amount of the contribution, including description if the contribution is ~~in-kind in kind-;~~ and
- ~~i. An attested statement that the jurisdiction under which the out-of-state committee is registered or operates has reporting requirements which are substantially similar to those of Iowa Code chapter 56 and that the contribution is made from an account which does not accept contributions which would be in violation of Iowa Code section 56.15. This registration form must be signed by the treasurer or chairperson of the out-of-state committee.~~

A properly completed ~~registration form~~ VSR shall relieve an out-of-state committee from other disclosure filing requirements of Iowa Code chapter 56.

~~4.13(2)~~ **4.13(3)** Out-of-state committees which determine ~~they will have continuous activity in Iowa may~~

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

~~choose to comply with regular Iowa disclosure filing requirements in Iowa Code sections 56.5 and 56.6 by filing a statement of organization and periodic disclosure reports instead of filing a verified statement registration form with each contribution. They shall file reports which disclose only their expenditures to Iowa candidates' committees and other Iowa political committees and contributions received from Iowa contributors and the parent entity of the out of state committee. Reports shall not include expenditures to non Iowa candidates or contributions from non Iowa contributors other than the parent entity. that the jurisdiction under which the committee is registered or operates does not have reporting requirements which are substantially similar to those of Iowa Code chapter 56 may choose to comply by enhancing their filing in the other jurisdiction. The enhanced filing shall meet the reporting requirements of chapter 56 for the reporting period in which contributions to an Iowa candidate are made. The report shall cover a period of at least one month. An out-of-state committee choosing this option shall comply with the VSR procedures in subrule 4.13(2) and attach a signed statement that the report has been or will be enhanced to satisfy the Iowa reporting requirements.~~

This rule is intended to implement Iowa Code section 56.5(5).

ARC 5725A

HUMAN SERVICES DEPARTMENT[441]

Notice of Termination

Pursuant to Iowa Code section 249A.4, the Department of Human Services hereby terminates rule-making proceedings under the provisions of Iowa Code section 17A.4(1)"b" for proposed rule making relating to Chapter 81, "Nursing Facilities," Iowa Administrative Code.

This amendment was previously Adopted and Filed Emergency and published in the May 10, 1995, Iowa Administrative Bulletin as **ARC 5557A**. Notice of Intended Action to solicit comments on that submission was published in the May 10, 1995, Iowa Administrative Bulletin as **ARC 5556A**.

This amendment increased the maximum nursing facility payment rate effective January 1, 1995, as mandated by the Seventy-fifth General Assembly. Since the time of publication of the Notice, the Department has adopted an amendment (**ARC 5681A**, IAB 7/5/95) increasing the maximum nursing facility payment rate effective July 1, 1995. Therefore, the Department is terminating rule making on **ARC 5556A** at this time.

ARC 5726A

HUMAN SERVICES DEPARTMENT[441]

Notice of Termination

Pursuant to Iowa Code section 217.6, the Department of Human Services hereby terminates rule-making proceedings under the provisions of Iowa Code section 17A.4(1)"b" for proposed rule making relating to Chapter 108, "Licensing and Regulation of Child-Placing Agencies," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 26, 1995, as **ARC 5545A**.

The Notice proposed adding a level of service staff, life skills service workers, in child-placing agencies to provide instruction and monitoring of independent living skills for children placed in independent living arrangements. The amendments also specified the qualifications for life skills service workers and clarified that caseworker qualifications apply to all staff providing casework services and the staff training requirements apply to all service staff.

These changes were proposed in response to a request made by one facility. The Council on Human Services questioned the need for a new level of care. Discussion with several other agencies providing independent living services indicates that this is not a concern for other agencies. After further review, it was felt that caseworkers should be responsible for these functions and another level of service does not need to be established. There is also the risk that the lesser qualified life skills service workers would perform duties reserved for the caseworkers. Therefore, the Department of Human Services is terminating rule making at this time.

ARC 5737A

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.11, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (Board) gives Notice of Intended Action to amend Chapter 10, "Eligibility for Insurance," Iowa Administrative Code.

Subrule 10.1(2) requires that any application for financial responsibility coverage after July 1, 1995, will result

in financial responsibility coverage which begins on the date that the policy is issued. This subrule does not allow backdating of the financial responsibility coverage on such applications. The result of this subrule is that an owner or operator who applies for financial responsibility coverage after July 1, 1995, cannot have that coverage backdated. Therefore, if tanks have been operated and the coverage is not backdated, the site will not be eligible for remedial benefits.

Pursuant to legislation adopted by the 1995 Legislature, tanks no longer have to be upgraded by January 1, 1995, to be eligible for financial responsibility coverage. Therefore, sites which may have canceled their financial responsibility coverage or failed to renew their financial responsibility coverage because they were not upgraded will now be eligible for financial responsibility coverage again. However, due to the July 1, 1995, cutoff date for backdating insurance, if they do not reapply for insurance by July 1, 1995, they still will not be eligible for remedial benefits because of the nonbackdating provision. These amendments will allow insurance to be backdated until December 31, 1995. Therefore, owners and operators who were previously not eligible for financial responsibility coverage, but who are now eligible for coverage again, will be able to apply for that coverage and receive backdated coverage which will enable them to continue to be eligible for remedial benefits. These amendments will extend the time frame for owners and operators to become aware of the 1995 legislation and to apply for the financial responsibility coverage.

The legislation also increased the surcharge from \$400 to \$800 per tank per policy year for tanks that are not upgraded. These amendments will also implement the change as mandated by the legislation.

These amendments 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.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 8, 1995. Such written comments should be directed to the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, Administrator, 1000 Illinois Street, Suite B, Des Moines, Iowa 50314.

Persons who want to orally convey their views should contact Patrick Rounds, Administrator, Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, at (515)284-1616, on or before August 8, 1995, during regular business hours.

There will be a public hearing on August 8, 1995, at 10 a.m. in the Conference Room, Insurance Division, Sixth Floor, Lucas State Office Building, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

These amendments are also Adopted and Filed Emergency and published herein as **ARC 5738A**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code section 455G.11.

ARC 5724A

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

Iowa Code section 455G.19 provides for an environmental damage offset against remedial account benefits. Rule 591—11.5(455G) is the Board rule implementing this environmental damage offset.

This year the General Assembly passed House File 508 which was signed into law by the Governor. A portion of 1995 Iowa Acts, House File 508, repeals Iowa Code section 455G.19, thereby eliminating the environmental damage offset. Therefore, the Board intends to rescind 591—11.5(455G).

The proposed rescission 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.

Any interested person may make written suggestions or comments on this proposed rescission on or before August 8, 1995. 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 offices at 1223 East Court Avenue, Des Moines, Iowa.

The following amendment is proposed:

Rescind and reserve rule 591—11.5(455G).

ARC 5723A

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

Rule 591—11.7(455G) sets forth prioritization of remedial account claims. This rule was promulgated by the Board pursuant to the statutory authority of Iowa Code section 455G.9(5). This year the General Assembly passed House File 508 which was signed into law by the Governor. A portion of 1995 Iowa Acts, House File 508, repeals Iowa Code section 455G.9(5) thereby eliminating the Board's authority to prioritize remedial account claims. Therefore, the Board intends to rescind rule 591—11.7(455G).

The proposed rescission 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.

Any interested person may make written suggestions or comments on this proposed rescission on or before August 8, 1995. 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 offices at 1223 East Court Avenue, Des Moines, Iowa.

The following amendment is proposed:

Rescind rule 591—11.7(455G).

ARC 5743A

**PROFESSIONAL LICENSURE
DIVISION[645]**

BOARD OF CHIROPRACTIC 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 Chiropractic Examiners hereby gives Notice of Intended Action to amend Chapter 40, "Chiropractic Examiners," Iowa Administrative Code.

The proposed amendment changes the continuing education hours required from 36 hours to 60 hours per biennium. This increases the amount of reinstatement hours required to coincide with the 60-hour requirement and the amount of hours required of a new licensee licensed in the first half of the biennium to coincide with the new 60-hour requirement.

Any interested person may make written comments on the proposed amendments on or before August 8, 1995, addressed to Carol J. Barnhill, Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

Also, there will be a public hearing on August 8, 1995, from 9 a.m. to 11 a.m. in the Fourth Floor Conference Room, Side 1, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give names and addresses for the record and to confine their remarks to the subject of the amendments.

These amendments are intended to implement Iowa Code chapter 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 40.62(1) as follows:

40.62(1) Each person licensed to practice chiropractic in this state shall complete during the biennium ending in an odd-numbered year a minimum of ~~36~~ **60** hours of continuing education.

ITEM 2. Amend subrule 40.62(6) as follows:

40.62(6) If a new license holder is licensed during the first year of the biennial continuing education period, the license holder is only required to complete ~~48~~ **30** hours of continuing education for renewal. If a new license holder is licensed during the second year of the biennial continuing education period, the license holder will be exempt from meeting the continuing education requirements for the first license renewal. The new license holder will be required to obtain ~~36~~ **60** hours of continuing education for the second license renewal.

ITEM 3. Amend subrule **40.70(2)**, paragraph "b," as follows:

b. Completion of a total number of accredited continuing education hours substantially equivalent under these rules computed by multiplying ~~48~~ **30** by the number of years a certificate of exemption shall have been in effect for the applicant. Hours need not exceed 90 hours

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

for reinstatement, if obtained within the past two years, except when there is a demonstrated deficiency for specialized education as determined by the board through a personal interview with the applicant; or

ITEM 4. Amend subrule 40.73(1), paragraph "d," as follows:

d. Provide evidence of completion of 18 30 hours of continuing education for each lapsed year. Hours need not exceed 90 hours if obtained within the past two years, except when there is a demonstrated deficiency for specialized education as determined by the board through a personal interview.

(1) and (2) No change.

ARC 5742A

PROFESSIONAL LICENSURE
DIVISION[645]

BOARD OF MORTUARY SCIENCE EXAMINERS

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby gives Notice of Intended Action to amend Chapter 101, "Board of Mortuary Science Examiners," Iowa Administrative Code.

The proposed amendment adds language that continuing education providers are required to state on continuing education literature.

Any interested person may make written comments on the proposed amendments on or before August 8, 1995, addressed to Harriett L. Miller, Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The proposed amendment is intended to implement Iowa Code chapter 272C.

The following amendment is proposed.

Amend 101.103(1) by adding the following new paragraph:

The provider shall state on all continuing education literature: "(Provider's name) is an Iowa Board of Mortuary Science Examiners approved provider #_____. This program is approved for ___ hours of continuing funeral director education."

ARC 5741A

PUBLIC HEALTH
DEPARTMENT[641]

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 135.11(5), the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 25, "State Plumbing Code," Iowa Administrative Code, and adopt in lieu thereof a new Chapter 25 with the same title.

These rules adopt the Uniform Plumbing Code, 1994 Edition, as published by the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789, with amendments, as the State Plumbing Code. The rules implement the provisions of Iowa Code chapter 104B to maintain equal plumbing requirements as the State Building Code and include a section mandating cross connection programs in cities of 15,000 population and greater.

An ad hoc advisory group was convened consisting of plumbing inspectors, building officials, plumbing contractors, union trainers, and other interested parties.

The Iowa Department of Public Health (IDPH) has for several years used the Uniform Plumbing Code (UPC) as the basis for the Iowa State Plumbing Code (ISPC). A revised UPC is published every three years and the IDPH revises Chapter 25 when the revised UPC is available. The UPC was reorganized between 1991 and 1994 with extensive reordering and renumbering of the sections. Significant changes are also proposed in the amendments adopted by the IDPH. The changes in Chapter 25 are reviewed below:

In rule 641—25.1(135), administrative elements of the UPC were formerly in an unnumbered section and are now in Chapter 1 of the 1994 UPC. Some provisions regarding testing of plumbing that were in Chapter 3 of the 1991 UPC are now in Chapter 1 of the 1994 UPC; these provisions are being retained. Chapter 12 of the 1994 UPC regulates fuel gas piping. To eliminate duplication and to avoid some problems with the provisions of Chapter 12, the IDPH will not include Chapter 12 and will instead refer to the Fire Marshal's rule regarding the construction and installation of fuel gas piping. Chapter 13 is a new chapter in the 1994 UPC on Medical Gas Piping. This area is not usually regulated by the plumbing authority.

In rule 641—25.2(135), editorial changes were made to clarify when a property outside a city is subject to the ISPC.

Rule 641—25.3(135) was added to require compliance with the Iowa Fire Marshal's rules regarding fuel gas piping.

The following rules are renumbered.

641—25.5(135) Amendments to the Uniform Plumbing Code

Reference changes and new rules:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

25.5(1) Definitions are all in section 202 in the 1994 UPC. The 1991 UPC references were sections 102, 103 and 120. Deleted are old 25.4(2) and (3).

Old 25.4(19), new 25.5(2) — Referred to 1991 UPC section 909, now 1994 UPC 410.5.

New 25.5(3), 1994 UPC section 603.3 — The UPC requires the installation of a reduced pressure principle backflow preventer on postmix soft drink machines. There are practical problems with locating these devices in many facilities. The rule relaxes the requirement to a stainless steel dual check valve with an atmospheric opening.

Old 25.4(21), new 25.5(4) — Referred to 1991 UPC section 1004, now 1994 UPC section 604.1 (see also new 25.5(6)).

Old 25.4(5), new 25.5(5) — Referred to 1991 UPC section 203, now 1994 UPC 604.2 (see also new 25.5(8)).

Old 25.4(21), new 25.5(6) — Referred to 1991 UPC section 1004, now 1994 UPC sections 604.11 and 604.12.

Old 25.4(7), new 25.5(7) — Referred to 1991 UPC section 401, now 1994 UPC section 701.1.

Old 25.4(5), new 25.5(8) — Referred to 1991 UPC section 203, now 1994 UPC section 701.1.

Old 25.4(9), new 25.5(9) — Referred to 1991 UPC section 409, now 1994 UPC section 710.1.

Old 25.4(6), new 25.5(10) — Referred to 1991 UPC section 209, now 1994 UPC section 710.6.

Old 25.4(23), new 25.5(11) — Referred to 1991 UPC section 1105, now 1994 UPC section 717.0.

Old 25.4(25), new 25.5(12) — Referred to 1991 UPC section 1107, now 1994 UPC section 719.7. The language has been modified to require a cleanout in every stack and to remove the specific dimension in the old rule.

Old 25.4(16), new 25.5(13) — Referred to 1991 UPC section 608, now 1994 UPC section 807.4.

Old 25.4(12), new 25.5(14) — Referred to 1991 UPC section 503, now 1994 UPC section 903.1.

Old 25.4(13), new 25.5(15) — Referred to 1991 UPC section 504, now 1994 UPC section 904.1.

New 25.5(16), 1994 UPC section 906.7 — Changes the requirement for a roof penetration for a vent system from a minimum of two inches to a minimum of three inches.

Old 25.4(14), new 25.5(17) — Referred to 1991 UPC section 507, now 1994 UPC section 907.3.

New 25.5(18), 1994 UPC section 908.1 — Changed the section to permit horizontal wet venting in some circumstances.

Old 25.4(18), new 25.5(19) — Referred to 1991 UPC section 702, now 1994 UPC section 1002.2. 1994 UPC language limiting vent distances to water closets was retained.

641—25.6(135) — References to UPC sections are updated to the 1994 edition and other references to standards have been updated to the most current issue.

Deletions:

Old 25.4(4), 1991 UPC section 201, 1994 UPC section 301.2. This subrule required IDPH approval for any new materials or methods. This was rarely used. With the deletion, the administrative authority is empowered to make the decisions.

Old 25.4(8), 1991 UPC section 407, 1994 UPC section 708. The subrule allowed plumbers to lay horizontal drainage piping at a slope less than ¼ inch per foot for 4-inch and larger pipe, and allowed the administrative authority to approve pipe slopes less than 1/8 inch per foot. The deletion means that the administrative authority

must approve slopes of less than ¼ inch per foot and that slopes of less than 1/8 inch per foot are not permitted.

Old 25.4(9), 1991 UPC section 409, 1994 UPC section 710.10. The subrule added an exception that allowed some sumps in single-family residences not to be airtight and separately vented. The exception was deleted. All sumps constructed after the effective date of the rules will be required to be airtight and vented.

Old 25.4(10), 1991 UPC Table 4-3, 1994 UPC Table 7-5. The subrule allowed 1½-inch vents for water closets. Two-inch vents will now be required.

Old 25.4(11), 1991 UPC section 502, 1994 UPC sections 902.1 and 902.3. The subrule allowed certain basement fixtures to be installed without a vent on the drainage line. In new construction, the fixtures will be required to be vented.

Old 25.4(15), 1991 UPC section 604, 1994 UPC section 804.3. The subrule allowed a clothes washer in the basement of a one- or two-family dwelling to discharge over a floor drain. In new construction, a standpipe will need to be plumbed to the drainage system.

Old 25.4(17), 1991 UPC section 613, 1994 UPC section 908.4. The subrule gave examples of permitted wet venting installations. Deletion of the subrule and the adoption of new 25.5(18) should allow more options to builders.

Old 25.4(20), 1991 UPC section 1003. This subrule is no longer necessary.

Old 25.4(22), 1991 UPC section 1008, 1994 section 609.1. The subrule required water service piping be buried at least five feet where feasible. The UPC language states that water service piping shall be at least 12 inches below average frost depth.

Old 25.4(24), 1991 UPC section 1106, 1994 UPC section 718.1. Same as old 25.4(8) above.

Old 25.4(26) and 25.4(27), 1991 UPC sections 1305 and 1306, 1994 sections 505.3 and 506.2. The subrules allowed use of a combination temperature and pressure relief valve on gas- and oil-fired water heaters. New wording in the 1994 UPC makes these amendments unnecessary.

Any interested person may attend a public hearing to be conducted on August 9, 1995, at 1 p.m., in the Lucas State Office Building, Fourth Floor Conference Room, or make written comments concerning the proposed rules not later than August 10, 1995, addressed to Michael Mag-nant, Iowa Department of Public Health, Lucas State Of- fice Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

These rules are intended to implement Iowa Code sec- tion 135.11(5).

Rescind 641—Chapter 25 and insert in lieu thereof the following new chapter:

CHAPTER 25
STATE PLUMBING CODE

641—25.1(135) Adoption. Sections of Chapter 1 listed below, Chapters 2 to 11, Chapter 14, and Appendix D of the Uniform Plumbing Code, 1994 Edition, as published by the International Association of Plumbing and Me- chanical Officials, 20001 South Walnut Drive, Walnut, California 91789-2825, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 135.11(5).

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- 101.3 101.4.1.1 with subsections 101.4.1.2
- 101.4.1.3 101.5.1 101.5.2
- 101.5.3 103.5.3.3 103.8

Local ordinances or rules and regulations may provide for higher but not lower standards than those found in the state plumbing code. Local ordinances or rules and regulations shall be consistent with Iowa Code section 364.3(3).

641—25.2(135) Applicability. The provisions of this code are applicable to the plumbing in buildings or on premises within cities and to plumbing in a building or on a premise located outside the corporate limits of any city if the building or premises is served by an individual connection to a municipally owned water distribution system or wastewater collection system.

641—25.3(135) Fuel gas piping. Fuel gas piping shall comply with 661—Chapter 5, Iowa Administrative Code.

641—25.4(104B) Minimum toilet facilities. The following table shall be used to determine the minimum number of plumbing fixtures which shall be installed for public use in places of assembly, restaurants, pubs and lounges constructed after the effective date of these rules. Additions to or adding seating capacity in these types of occupancies shall require the installation of additional fixtures based upon the added number of occupants unless it can be shown that the present facilities comply for the total number of occupants including the additional occupants.

All water closets installed pursuant to this rule shall be water-efficient water closets which use 3½ gallons of water or less per flush.

MINIMUM PLUMBING FIXTURES

Type of Building or Occupancy	Water Closets (Fixtures per occupants)		Urinals** (Fixtures per occupants)	Lavatories (Fixtures per occupants)	
	Male	Female		Male	Female
Places of Assembly for Public Use, including but not limited to Theaters, Auditoriums, and Convention Halls	1:1-100	3:1-50	1:1-100	1:1-200	1:1-200
	2:101-200	4 51-100	2 101-200	2:201-400	2:201-400
	3:201-400	8:101-200 11:201-400	3:201-400 4 401-600	3:401-750	3 401-750
	Over 400, add 1 fixture for each additional 500 males and 2 for each additional 300 females		Over 600, add 1 fixture for each additional 500 males.	Over 750, add 1 fixture for each additional 500 persons.	
Restaurants, Pubs and Lounges*	1:1-50	1:1-50	1:1-150	1:1-150	1 1-150
	2:51-150	2:51-150	Over 150, add 1 fixture for each additional 150 males	2:151-200	2 151-200
	3:151-300	3:151-300		3:201-400	3 201-400
	Over 300, add 1 fixture for each additional 200 persons			Over 400, add 1 fixture for each additional 400 persons.	

*Restrooms in restaurants which have occupancies of 50 or less comply with these requirements if they have one water closet and one lavatory.

**Urinal requirements apply only to male-only rest rooms.

1. The division of occupancy is to be based upon one-half being male and one-half being female. The number of occupants shall be determined by use and the occupancy class of the state building code or the local building code which is in effect.

2. The number of fixtures may be graduated within the group. Example: 8:101-200

- 4 fixtures are required for 100 persons.
- 5 fixtures are required for 101-125 persons.
- 6 fixtures are required for 126-150 persons.
- 7 fixtures are required for 151-175 persons.
- 8 fixtures are required for 176-200 persons.

3. Accessibility for the physically disabled shall be provided as required by Division VII of the state building code section 104B.1.

641—25.5(135) Amendments to the Uniform Plumbing Code.

25.5(1) Section 202. Delete the definition for "Administrative authority" and insert in lieu thereof the following:

Administrative authority — The administrative authority is an individual, board, department, or agency employed by a city, county or other political subdivision of the state who is authorized by local ordinance to administer and enforce the provisions of the plumbing code as adopted.

Add definitions:

Building storm drain — A building (house) storm drain is a building drain used for conveying rainwater, surface water, groundwater, or other similar discharge exclusive of sewage and industrial waste to a building storm sewer or a combined building sewer.

Building storm sewer — A building (house) storm sewer is a building sewer which conveys the discharge of a building storm drain to a public storm sewer, combined sewer or other point of discharge.

Storm sewer — A storm sewer is a sewer for conveying rainwater, surface water, condensate, cooling water, or similar liquid wastes, exclusive of sewage and industrial waste.

Subsoil drain — A subsoil drain is a drain which receives only subsurface or seepage water and conveys it to a place of disposal.

25.5(2) Section 410.5. Delete the paragraph beginning "Non-metallic shower subpans..." and insert in lieu thereof the following:

Shower subpans or linings constructed of asphalt impregnated roofing felt shall not be permitted.

25.5(3) Section 603.3. Replace "listed reduced pressure principle backflow preventer" with "stainless steel dual check valve with an atmospheric opening" in subsection 603.3.12.

25.5(4) Section 604.1. Delete the second and third sentences of the section and insert in lieu thereof the following:

Asbestos-cement, CPVC, PB, PE, or PVC water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building. CPVC and PB water pipe and tubing manufactured to recognized standards may be used for hot and cold water distribution systems within a building.

Add a note to the end of the section:

NOTE: The use of plastic water supply pipe above grade inside certain licensed care facilities is prohibited by the rules of the Iowa department of inspections and appeals 481—subrules 60.11(4) and 61.11(4), Iowa Administrative Code.

25.5(5) Section 604.2. Delete the section and insert in lieu thereof the following:

604.2 Copper tube for water piping shall have a weight of not less than Type M copper tubing.

EXCEPTION: Copper tube for underground water piping shall have a weight of not less than Type K copper tubing.

25.5(6) Add new sections 604.11 and 604.12:

604.11 Insert fittings and crimp rings for PB pipe and tubing shall comply with the requirements of ASTM F1380-92.

604.12 PB pipe and tubing for underground installation shall comply with the requirements of AWWA C902-88.

25.5(7) Section 701.1. Add this sentence after the first sentence in subsection 701.1.2:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

No horizontal branch shall exceed 25 feet in developed length.

25.5(8) Section 701.1. Delete subsections 701.1.4 and 701.1.5 and insert in lieu thereof:

701.1.4 Copper tube for underground drainage and vent piping shall have a weight of not less than that of copper drainage tube Type L.

701.1.5 Copper tube for aboveground drainage and vent piping shall have a weight of not less than that of copper drainage tubing Type M.

EXCEPTION: Type DWV may be used in one- and two-family dwellings.

25.5(9) Section 710.1. Add an exception to the end of the section :

EXCEPTION: The requirements of 710.1 shall apply only when it is determined necessary by the administrative authority based on local conditions.

25.5(10) Section 710.6. Add these sentences to the end of the section:

When backwater valves are required by section 710.1, they shall consist of manually operated valves. Approved valves which are automatic in operation as described in this section may also be used but are not required.

25.5(11) Section 717.0. Add this sentence to the end of the section:

The minimum diameter for a building sewer shall be four inches.

25.5(12) Add a new section 719.7:

719.7 A cleanout shall be provided in each stack.

25.5(13) Section 807.4. Delete the section and insert in lieu thereof the following:

807.4 No domestic dishwashing machine shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher air gap fitting on the discharge side of the dishwashing machine, or by looping the discharge line of the dishwasher as high as possible near the flood level of the kitchen sink where the waste disposer is connected. Listed air gap fittings shall be installed with the flood level (FL) marking at or above the flood level of the sink or drainboard, whichever is higher.

25.5(14) Section 903.1. Add this sentence after the first sentence in subsection 903.1.2:

No horizontal branch shall exceed 25 feet in developed length.

25.5(15) Section 904.1. Delete the second sentence of the section and the exception and insert in lieu thereof the following:

Each building shall have a vent stack or main vent equal in size or larger than the building sewer. The vent stack or main vent shall extend through the roof undiminished in size.

EXCEPTION: In single-family dwellings, a three-inch vent stack or main vent is permitted.

25.5(16) Section 906.7. Change "two (2) inches (50.8 mm)" to "three (3) inches (76.2 mm)."

25.5(17) Add a new section 907.3:

907.3 A vent stack or a main vent shall be installed with a soil or waste stack whenever back vents, relief vents or other branch vents are required in two or more branch intervals or stories.

25.5(18) Section 908.1. Delete "vertical" in the first sentence of the section.

25.5(19) Section 1002.2. Delete Table 10-1 and insert in lieu thereof:

TABLE 10-1
Horizontal Distance of Trap Arms
(Except for water closets and similar fixtures)*

Trap Arm Size		Distance Trap to Vent	
Inches	Millimeters	Feet	Meters
1¼	31.8	5	1.52
1½	38.1	6	1.83
2	50.8	8	2.44
3	76.2	12	3.66
4 & larger	102.6 and larger	12	3.66

Slope one-fourth (¼) inch per foot (20.9 mm/m)

*The developed length between the trap of a water closet or similar fixture (measured from the top of the closet ring [closet flange] to the inner edge of the vent) and its vent shall not exceed six (6) feet (1.8 m).

25.5(20) Appendices. Except as provided in 25.1(135), the appendices in the Uniform Plumbing Code are not approved as part of the Iowa state plumbing code; however, those other than I (private sewage disposal) may be used as a point of reference when circumstances warrant. Iowa Administrative Code 567—Chapter 69 is the standard to follow for private sewage disposal.

641—25.6(135) Backflow prevention with containment. Cities of 15,000 population or greater shall enact a backflow prevention program with containment by January 1, 1996. The minimum requirements for a program are given in 25.6(1) through 25.6(5). These requirements are in addition to the applicable requirements of subsection 603 of the Uniform Plumbing Code, 1994 Edition.

25.6(1) Definitions. The following definitions are added to those in Chapter 2 and section 603 of the Uniform Plumbing Code, 1994 Edition, or are modified from those definitions for the purposes of 25.6(135) only.

a. Administrative authority. The administrative authority for this rule is the city council and its designees.

b. Approved backflow prevention assembly for containment. A backflow prevention assembly which is listed by the University of Southern California-Foundation for Cross Connection Control and Hydraulic Research as having met the requirements of ANSI-AWWA Standard C510-92, "Double Check Valve Backflow-Prevention Assemblies," or ANSI-AWWA Standard C511-92, "Reduced-Pressure Principle Backflow-Prevention Assemblies," for containment. The listing shall include the limitations of use based on the degree of hazard. The backflow prevention assembly must also be listed by the International Association of Plumbing and Mechanical Officials.

c. Approved backflow prevention assembly for containment in a fire protection system. A backflow prevention assembly to be used in a fire protection system which meets the requirements of Factory Mutual Research Corporation (FM) and Underwriters Laboratory (UL) in addition to the requirements of 25.6(1)"a."

d. Containment. Containment is a method of backflow prevention which requires a backflow prevention assembly on certain water services. Containment requires that the backflow prevention assembly be installed on the water service as close to the public water supply main as is practical.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

e. Customer. The owner, operator or occupant of a building or property which has a water service from a public water system, or the owner or operator of a private water system which has a water service from a public water system.

f. Degree of hazard. The rating of a cross connection or a water service which indicates if it has the potential to cause contamination (high hazard) or pollution (low hazard).

g. Water service. Depending on the context, water service is the physical connection between a public water system and a customer's building, property or private water system, or the act of providing potable water to a customer.

25.6(2) Proposed water service.

a. No person shall install, or cause to have installed, a water service to a building, property or private water system if it is found that contamination or pollution of the public water supply could occur unless the water service is protected by an approved backflow prevention assembly for containment.

b. The administrative authority shall require the submission of plans, specifications and other information deemed necessary for a building, property or private water system to which a water service is proposed. The administrative authority shall review the information submitted to determine if cross connections will exist and the degree of hazard.

c. The owner of a building, property or private water system shall install, or cause to have installed, an approved backflow prevention assembly for containment as directed by the administrative authority before water service is initiated.

d. Reconstruction of an existing water service shall be treated as a proposed water service for the purposes of 641—25.6(135).

25.6(3) Existing water services.

a. The administrative authority shall publish the standards which it uses to determine the degree of hazard for a water service. These shall be consistent with standards published by the Iowa department of public health.

b. Each customer shall survey the activities and processes which receive water from the water service and shall report to the administrative authority if cross connections exist and the degree of hazard.

c. The administrative authority may inspect the plumbing of any building, property and private water system which has a water service to determine if cross connections exist and the degree of hazard.

d. If, based on information provided through 25.6(3)"b" and "c," the administrative authority determines that a water service may contaminate the public water supply, the administrative authority shall require that the customer install the appropriate backflow prevention assembly for containment.

e. If a customer refuses to install a backflow prevention assembly for containment when it is required by the administrative authority, the administrative authority may order that water service to the customer be discontinued until an appropriate backflow prevention assembly is installed.

25.6(4) Backflow prevention assemblies for containment.

a. Backflow prevention assemblies for containment shall be installed immediately following the water meter or as close to that location as deemed practical by the administrative authority.

b. A water service determined to present a high hazard shall be protected by an air gap or an approved reduced pressure principle backflow prevention assembly.

c. A water service determined to present a low hazard shall be protected by an approved double check valve assembly or as in 25.6(5)"b."

d. A water service to a fire protection system shall be protected from backflow in accordance with the recommendations of American Water Works Association Manual M14. Where backflow prevention is required for a fire protection system, an approved backflow prevention assembly for containment in a fire protection system shall be used.

25.6(5) Backflow incidents.

a. The customer shall immediately notify the agency providing water service when the customer becomes aware that backflow has occurred in the building, property or private water system receiving water service.

b. The administrative authority may order that a water service be temporarily shut off when a backflow occurs in a customer's building, property or private water system.

These rules are intended to implement Iowa Code section 135.11(5).

ARC 5744A**SECRETARY OF STATE[721]****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 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 4, "Forms," Iowa Administrative Code.

The proposed amendments update existing forms and add one new one. Most of the changes are made in response to legislative changes.

A new form has been added to report to absentee voters that their voter registration records will be changed to reflect the party affiliation of the ballot they have requested for the primary election. Iowa Code section 53.2, as amended by 1995 Iowa Acts, House File 494, section 15, now requires that the registration record be changed automatically if an application for an absentee ballot indicates a political party other than the one indicated on the voter's record. Form 3-H has been added to notify the voter that the record has been changed. The form includes instruction to the voter to correct the action if the voter believes the change was made in error. Form 1-C, which was formerly sent to absentee voters to use to record a change or declaration of party affiliation has been repealed.

Affidavits by candidates have been changed to comply with Iowa Code sections 43.18, 43.67, 44.3(2), 45.3, 277.4, and 376.4, as amended by 1994 Iowa Acts, chapter 1180, sections 4, 6, 9, 11, 42 and 55, which add a warning to candidates reminding them that being con-

SECRETARY OF STATE[721](cont'd)

victed of "infamous crimes" can disqualify them from holding elective office. The following forms were changed: 2-A, 2-B, 2-C, 2-D, 2-M and 2-N.

Several forms have been modified to reflect the change in Iowa Code section 39.3(7), as amended by 1994 Iowa Acts, chapter 1169, section 64, which replaces the phrase "qualified elector" with "registered voter." The following forms were changed to include the new term: 1-A, 1-G, 1-H, 2-P, 3-B, and 3-G.

Write-in votes for candidates who received less than 2 percent of the votes cast for an office may now be reported on county abstracts under the heading "Scattering." Form 1-L has been amended to reflect this change made in Iowa Code section 50.24, as amended by 1995 Iowa Acts, House File 494, section 10.

The retention period for voter registration records has been amended to permit the destruction of records 22 months after the last general election following the cancellation of the registration record, Iowa Code section 48A.32, created by 1994 Iowa Acts, chapter 1169, section 33. This change is reflected in the modification of Form 5-D. This form has also been amended to add the abstract of votes to the list of documents to be kept after each election.

Any interested person may make written suggestions or comments on the proposed amendments on or before Tuesday, August 8, 1995. Written comments should be sent to the Director of Elections, Office of the Secretary of State, Second Floor, Hoover State Office Building, Des Moines, Iowa 50319-0138, fax (515)242-5953. Anyone who wishes to comment orally may telephone the Elections Division at (515)281-5865 or visit the office on the second floor of the Hoover Building.

There will be a public hearing Tuesday, August 8, 1995, at 1:30 p.m. at the office of the Secretary of State, Second Floor, Hoover State Office Building. People may comment orally or in writing. Everyone who speaks at the hearing will be asked to give names and addresses for the record, and to confine remarks to the subject of the rule. Anyone who wishes to attend the hearing should contact the Elections Division no later than 4 p.m. Monday, August 7.

This rule is intended to implement Iowa Code sections 43.13; 43.14; 43.18; 43.42; 43.43; 43.61; 43.67; 43.88; 44.3; 44.3(2); 45.1; 45.3; 45.3(2); 46.20; 48A.4; 48A.32; 49.104(2); 49.104(3); 49.104(6); 49.65; 49.77; 49.79; 49.80; 49.81; 49.81(4); 49.90; 49.91; 50.3; 50.4; 50.5; 50.9; 50.10; 50.12; 50.19; 50.24, as amended by 1995 Iowa Acts, House File 494, section 10; 50.26; 50.28; 51.11; 52.23; 52.35; 52.38; 53.13; 53.19; 53.2, as amended by 1995 Iowa Acts, House File 494, section 15; 53.21; 53.22; 53.23(4); 53.25; 53.26; 53.30; 53.31; 53.40; 53.46(2); 54.5; 56.2(5); 260C.15(2); 277.4; 278.2; 331.306; 362.4; and 376.4.

The following amendments are proposed.

ITEM 1. Amend rule 721—4.3(17A) as follows:

721—4.3(17A) Election forms.

Section 1.	Election Day and Canvass Forms
Form Number	Description
1-A (Rev. -93 95)	Voter's Declaration of Eligibility
1-B	Repealed (combined with 1-A)
1-C (Rev. -90)	Change or Declaration of Party Affiliation Repealed (See Form 3-H)

1-D (Rev -90)	Notice to Voter of Rejection of Absentee or Special Ballot (Reserved)
1-E	Oath for Officer or Clerk of Election
1-F (Rev -90)	Statement to Person Casting a Special Ballot
1-G (Rev -90 95)	Envelope for Special Ballot
1-H (Rev -90 95)	Affidavit of Voter Requesting Assistance
1-I (Rev -90 95)	Declaration of Intent to Serve as Election Observer (Public Measure Elections)
1-J (Rev -90 95)	Ballot Record and Receipt
1-K (Rev -90)	County Abstract of Votes
1-L (Rev -90 95)	Accreditation Form — Pollwatchers for Political Parties (Challenging Committees)
1-M (93)	Accreditation Form — Observers for Political Parties (To Witness the Counting of Ballots)
1-N (93)	
Section 2	Nomination Documents and Forms
Form Number	Description
2-A (Rev. -93 94)	Affidavit by Candidate — Primary Election
2-B (Rev. -93 94)	Affidavit by Candidate — Nominations by Political Parties
2-C (Rev. -93 94)	Affidavit by Candidate — Nominations by Nonparty Political Organizations
2-D (Rev -93 94)	Affidavit by Candidate — Nonpartisan Nominations
2-E (Rev -93)	Nomination Paper — For U S Senator, U S Representative & Statewide Offices
2-F (Rev -93)	Nomination Paper — For State Senator
2-G (Rev. -93)	Nomination Paper — For State Representative
2-H (Rev. -93)	Nomination Paper — For Nonpartisan Nominations and Nonparty Political Organizations
2-I (Rev. -93)	Certificate of Nomination by Nonparty Political Organization — Chapter 44
2-J (Rev. -93)	Nomination Petition for the Office of Electors for President and Vice President of the United States
2-K (Rev -93)	Nomination Paper for County Office
2-L (Rev. -93 95)	Nomination by Convention — Certificate of Nomination by Political Party — Chapter 43
2-M (Rev. -93 94)	Affidavit by Candidate — School and City Elections
2-N (93 Rev. -94)	Affidavit by Candidate — City Elections — Chapter 44
2-O (93)	Nomination Petition — Merged Area Schools
2-P (93 Rev. -95)	Petition Requesting Election
2-Q (93)	Judicial Declaration of Candidacy
2-R (93)	Certificate of Candidates for Presidential Electors
2-S (93)	Nomination Petition — Governor and Lieutenant Governor — Chapter 45
Section 3.	Absentee Voting Forms
Form Number	Description
3-A (Rev -90 95)	Application for Absentee Ballot
3-B (Rev. -90 95)	Absent Voter's Affidavit
3-C (Rev -90)	Affidavit for Voter Who Did Not Receive Absent Voter's Ballot
3-D (Rev. -90)	Absentee Ballot Carrier Envelope
3-E (93)	Statement of Voter — Lost Absentee Ballot
3-F (93)	Log for Absentee Ballot Delivery Team
3-G (93 Rev. -95)	Challenge of Absentee Voter
3-H (95)	Statement to Voter of Change or Declaration of Party Affiliation

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Section 4.	Armed Forces and Overseas Absentee Voting
Form Number	Description
4-A (Rev.-90)	Armed Forces or Overseas Ballot — Delivery Envelope
4-B (Rev.-90)	Armed Forces or Overseas Ballot — Return Carrier Envelope
4-C (Rev.-90)	Armed Forces or Overseas Ballot — Affidavit Envelope
4-D (93)	Proxy Absentee Ballot Request
Section 5.	Administrative Forms
Form Number	Description
5-A	Repealed
5-B (93)	Certificate of Test — Central Count Tabulating Equipment
5-C (93)	Certificate of Test — Precinct Count Tabulating Equipment
5-D (93 Rev.-95)	Election Document Retention Record

NOTICE — USURY

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

June 1, 1994 — June 30, 1994	9.00%
July 1, 1994 — July 31, 1994	9.25%
August 1, 1994 — August 31, 1994	9.00%
September 1, 1994 — September 30, 1994	9.25%
October 1, 1994 — October 31, 1994	9.25%
November 1, 1994 — November 30, 1994	9.50%
December 1, 1994 — December 31, 1994	9.75%
January 1, 1995 — January 31, 1995	10.00%
February 1, 1995 — February 28, 1995	9.75%
March 1, 1995 — March 31, 1995	9.75%
April 1, 1995 — April 30, 1995	9.50%
May 1, 1995 — May 31, 1995	9.50%
June 1, 1995 — June 30, 1995	9.00%
July 1, 1995 — July 31, 1995	8.75%

ITEM 2. Delete the implementation clause following 721—4.3(17A) and insert in lieu thereof the following:

This rule is intended to implement Iowa Code sections 43.13; 43.14; 43.18; 43.42; 43.43; 43.61; 43.67; 43.88; 44.3; 44.3(2); 45.1; 45.3; 45.3(2); 46.20; 48A.4; 48A.32; 49.104(2); 49.104(3); 49.104(6); 49.65; 49.77; 49.79; 49.80; 49.81; 49.81(4); 49.90; 49.91; 50.3; 50.4; 50.5; 50.9; 50.10; 50.12; 50.19; 50.24, as amended by 1995 Iowa Acts, House File 494, section 10; 50.26; 50.28; 51.11; 52.23; 52.35; 52.38; 53.13; 53.19; 53.2, as amended by 1995 Iowa Acts, House File 494, section 15; 53.21; 53.22; 53.23(4); 53.25; 53.26; 53.30; 53.31; 53.40; 53.46(2); 54.5; 56.2(5); 260C.15(2); 277.4; 278.2; 331.306; 362.4; and 376.4.

ARC 5732A

ECONOMIC DEVELOPMENT,
IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 17, "High Technology Apprenticeship Program," Iowa Administrative Code.

The amendments change the dates necessary for the continuation of the existing apprenticeship program under Iowa Code section 260C.44. As mandated in 1995 Iowa Acts, House File 512, section 1(6)"c," the fiscal year 1996 allocation will be distributed under the currently existing high technology programs.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because the amendments do not substantively alter the existing rules. The amendments update references to the appropriate implementing legislation, 1995 Iowa Acts, House File 512, section 1(6)"c."

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments, 35 days after publication, should be waived and the amendments be made effective on June 26, 1995. These amendments confer a benefit on the public by expediting the continuation of the apprenticeship program for fiscal year 1996 with funding disbursed to the community colleges on a formula basis. The emergency filing will avoid interruption of services to program participants.

The agency is taking the following steps to notify potentially affected parties of the effective date of the amendments: publishing the amendments 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.

The IDED Board adopted these amendments on June 22, 1995.

These amendments are intended to implement 1995 Iowa Acts, House File 512, section 1(6)"c."

These amendments became effective June 26, 1995.

The following amendments are adopted.

ITEM 1. Amend rule 261—17.1(75GA, HF2415) as follows:

261—17.1 (75GA, HF2415 76GA, HF512) Purpose. The program is a work-based learning concept designed to help develop Iowa's skilled work force and serve as one part of a broader effort to improve the transition from school to work. *Because the development of a skilled work force is a critical element of Iowa's overall economic development efforts, the department of economic development board shall determine how annual funds are allocated for these programs. The program will support multistate coordination to accomplish these goals.* High technology skills are emphasized to help ensure that individuals are adequately prepared for the high skilled jobs today and in the future. Apprenticeship programs ensure a level of uniformity to the training that individuals receive, which provides an indirect protective measure to the public who utilizes the structures, products, and services that apprentices and graduates build, make, and provide.

ITEM 2. Amend the statutory reference in rules 261—17.2 to 17.4 as follows: (~~75GA, HF2415~~ 76GA, HF512).

ITEM 3. Amend the implementation clause for 261—Chapter 17 as follows:

These rules are intended to implement ~~1994 Iowa Acts, House File 2415, section 1(6)"c."~~ 1995 Iowa Acts, House File 512, section 1(6)"c."

[Filed Emergency 6/26/95, effective 6/26/95]
[Published 7/19/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/95.

ARC 5738A

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

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 455G.4(3) and 455G.11, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (Board) hereby adopts amendments to Chapter 10, "Eligibility for Insurance," Iowa Administrative Code.

Subrule 10.1(2) requires that any application for financial responsibility coverage after July 1, 1995, will result in financial responsibility coverage which begins on the date that the policy is issued. This subrule does not allow backdating of the financial responsibility coverage on such applications. The result of this subrule is that an owner or operator who applies for financial responsibility coverage after July 1, 1995, cannot have that coverage backdated. Therefore, if tanks have been operated and the coverage is not backdated, the site will not be eligible for remedial benefits.

Pursuant to legislation adopted by the 1995 Legislature, tanks no longer have to be upgraded by January 1, 1995, to be eligible for financial responsibility coverage. Therefore, sites which may have canceled their financial responsibility coverage or failed to renew their financial responsibility coverage because they were not upgraded, will now be eligible for financial responsibility coverage again. However, due to the July 1, 1995, cutoff date for backdating insurance, if they do not reapply for insurance by July 1, 1995, they still will not be eligible for remedial benefits because of the nonbackdating provision. This amendment will allow insurance to be backdated until December 31, 1995. Therefore, owners and operators who were previously not eligible for financial responsibility coverage, but who are now eligible for coverage again, will be able to apply for that coverage and receive backdated coverage which will enable them to continue to be eligible for remedial benefits. This amendment will extend the time frame for owners and operators to become aware of the 1995 legislation and to apply for the financial responsibility coverage.

The legislation also increased the surcharge from \$400 to \$800 per tank per policy year for tanks that are not upgraded. This amendment will also implement the change as mandated by the legislation.

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

The Board finds, pursuant to Iowa Code section 17A.4(2), that notice and public participation are impracticable and contrary to the public interest because persons subject to the legislative changes need to receive the backdating ability made available by the amendments in order to receive the benefits provided by the legislative changes.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Board has determined that these amendments confer a benefit upon these eligible claimants who are not yet upgraded. By adopting these amendments immediately upon filing and without the delay associated with public comment, these claimants will have a better opportunity to obtain insurance and eventually upgrade their UST systems in time to meet the statutory deadline of December 22, 1998. Without the benefit conferred by these amendments, this class of claimants may not have the ability to become insured due to the existing July 1, 1995, backdating deadline.

These amendments are also published herein under Notice of Intended Action as **ARC 5737A** to allow for public comment.

These amendments became effective on June 28, 1995.

These amendments are intended to implement Iowa Code section 455G.11.

The following amendments are adopted.

ITEM 1. Amend paragraph 10.1(2)"i" to read as follows:

i. If there has been a failure to demonstrate financial responsibility coverage or if there has been a lapse in financial responsibility coverage since October 26, 1990, any application for financial responsibility coverage after ~~July 1, 1995~~ *December 31, 1995*, acceptable to the UST board or its representative, will result in financial responsibility coverage which begins on the date the policy is issued. There shall be no backdating of financial responsibility coverage for such applications.

ITEM 2. Amend paragraph 10.1(6)"a" to read as follows:

a. Owners who have not complied with upgrade or replacement requirements as noted in 591—Chapter 10 shall pay a surcharge of ~~\$400~~ *\$800* per tank per policy year until such time that the tank fully meets upgrade or replacement requirements as noted herein, or the tank has been permanently taken out of service in accordance with rules promulgated by the DNR. The surcharge is fully earned and shall not be refunded, even if an upgrade takes place during the policy term.

ITEM 3. Amend paragraph 10.1(6)"d" to read as follows:

d. Failure to meet the ~~January 1, 1995~~ *December 22, 1998*, upgrade or replacement date will subject the owner/operator to cancellation of insurance coverage.

[Filed Emergency 6/28/95, effective 6/28/95]
[Published 7/19/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/95.

ARC 5739A**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of 1995 Iowa Acts, Senate File 93, section 10, the Iowa Department of Public Safety hereby amends Chapter 8, "Criminal Justice Information System," Iowa Administrative Code.

These amendments establish procedures and prescribe forms to be used with the new Iowa Sex Offender Registry. The Registry was established by 1995 Iowa Acts, Senate File 93. Additional items are included in these amendments to coordinate the numbering of divisions and rules within Chapter 8. The existing Chapter 8 contains rules dealing with the administration of the Iowa On-Line Warrants and Articles (I.O.W.A.) System. A Notice of Intended Action published in the Iowa Administrative Bulletin of March 1, 1995, as **ARC 5461A** proposed the designation of the I.O.W.A. System rules as Division I of Chapter 8 and the creation of Division II containing rules regarding criminal intelligence information. To maintain consistency with the Notice of Intended Action and to reduce possible confusion, the rules concerning the Iowa Sex Offender Registry are being placed in a new Division III of Chapter 8. Since the rules concerning criminal intelligence information have not yet been adopted, Division II is being created here and reserved for future use.

Pursuant to Iowa Code subsection 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments is impracticable due to statutory requirements which affect sex offenders and criminal justice agencies as of July 1, 1995. These requirements are in place as of July 1; the amendments adopted here are needed to establish procedures for carrying out the statutory obligations. These amendments and additional rules proposed for the operation of the Iowa Sex Offender Registry will be included in a Notice of Intended Action which will be issued at a later time. Notice and public participation will be provided for at that time.

Pursuant to Iowa Code subparagraph 17A.5(2)"b"(2), the Department finds that a public benefit would be conferred by prompt implementation of these rules and therefore waives the normal waiting period prior to the effective date of the amendment of 35 days after publication.

These amendments became effective upon filing on July 1, 1995.

These amendments are intended to implement 1995 Iowa Acts, Senate File 93.

The following amendments are adopted.

ITEM 1. Amend the title of **661—Chapter 8** as follows:

**CHAPTER 8
CRIMINAL JUSTICE INFORMATION SYSTEM**

ITEM 2. Amend **661—Chapter 8** by designating existing rules **8.1(17A)** to **8.101(692)** as Division I, "I.O.W.A. System." Reserve rules **8.102** to **8.199** for future use.

ITEM 3. Amend **661—Chapter 8** by creating a new Division II with rules **8.200** to **8.300**, which is to be reserved for future use.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 4. Amend 661—Chapter 8 by adding the following new division:

DIVISION III
IOWA SEX OFFENDER REGISTRY

661—8.301(76GA,SF93) Sex offender registry established. The Iowa sex offender registry, as authorized by 1995 Iowa Acts, Senate File 93, is hereby established in the division of criminal investigation.

661—8.302(76GA,SF93) Definitions. The following definitions apply to rules 661—8.301(76GA,SF93) to 661—8.399.

8.302(1) "Criminal offense against a minor" means violations of any of the following sections of the Code of Iowa or equivalent laws of the United States or of any other state, if committed against a minor:

a. Kidnapping, except kidnapping in the third degree by a parent: violations of Iowa Code section 710.2, 710.3, or 710.4; also, violation of section 706.1 (Iowa Code, 1975), 706.2 (Iowa Code, 1975), or 706.3 (Iowa Code, 1975).

b. False imprisonment of a minor, except where committed by parent of the minor: violations of Iowa Code section 710.7, except where the offender is a parent of the victim.

c. Any indictable offense involving sexual conduct directed toward a minor:

(1) Any violation of the following Iowa Code sections, subsections, and paragraphs: 709.3(2), 709.4(2)"b," 709.4(2)"c," 709.8, 709.12, or 709.14.

(2) Any violation of the following Iowa Code sections with a minor victim: 709.2, 709.3, 709.4, 709.9, 709.15, 709.16, or 726.2; also, violations of section 698.1 (Iowa Code, 1975), 704.1 (Iowa Code, 1975), or 705.2 (Iowa Code, 1975).

d. Solicitation of a minor to engage in an illegal sex act: any violation of Iowa Code section 709A.6.

e. Use of a minor in a sexual performance: any violation of Iowa Code section 728.12(1).

f. Solicitation of a minor to practice prostitution: any violation of Iowa Code section 725.3(2).

g. Dissemination or exhibition of obscene materials to minors:

(1) Any violation of Iowa Code section 728.2 or 728.15.

(2) Any violation of Iowa Code section 728.4 if delivery is to a minor.

h. Admitting minors to premises where obscene material is prohibited: any violation of Iowa Code section 728.3.

i. An attempt to commit sexual abuse of a minor: any violation of Iowa Code section 709.11; also, violations of section 698.4 (Iowa Code, 1975).

8.302(2) "Offender" means a person who is required to register with the Iowa sex offender registry.

8.302(3) "Registrant" means a person who is currently registered with the Iowa sex offender registry.

661—8.303(76GA,SF93) Forms and procedures. The following forms and procedures are prescribed for use with the Iowa sex offender registry. Supplies of blank forms may be obtained by contacting the Iowa sex offender registry at the division of criminal investigation.

8.303(1) Notification. Form DCI-144, "Notification of Registration Requirement," which notifies offenders of their responsibility to register with the Iowa sex offender

registry shall be provided to persons identified as being required to register. Failure to provide an offender with Form DCI-144 does not relieve the offender of responsibility to register with the Iowa sex offender registry.

8.303(2) Registration. Form DCI-145, "Sex Offender Registration," shall be completed by persons required to register with the Iowa sex offender registry and submitted to the sheriff of the county in which the person will be residing. A completed copy of Form DCI-145 shall be submitted by the offender to the sheriff of the county of residence each time the offender's place of residence changes within ten days of the change of residence. The original of each completed Form DCI-145 shall be forwarded to the division of criminal investigation by the registering agency and shall be accompanied by a current photograph and fingerprints of the offender.

8.303(3) Annual verification. Form DCI-146, "Annual Verification of Address," shall be mailed by the division of criminal investigation to each offender currently registered on the Iowa sex offender registry to the last address known to the registry during the twelfth month after receipt of the latest completed copy of either Form DCI-145 or 146 on record for the offender and shall be returned by the offender to the division of criminal investigation within ten days of receipt. Form DCI-146 shall be mailed to the offender in an envelope clearly stating that it is to be returned to the division of criminal investigation if the addressee no longer resides at the address indicated and that Iowa law prohibits its being forwarded.

EXCEPTION: Registrants who are required to complete Form DCI-147, "Quarterly Verification of Address," are not required to complete Form DCI-146.

8.303(4) Quarterly verification. Form DCI-147, "Quarterly Verification of Address," shall be mailed by the division of criminal investigation to each offender currently registered on the Iowa sex offender registry, who is a sexually violent predator as defined in Public Law 103-322, to the last address known to the registry during the third month after receipt of the latest completed copy of either Form DCI-145, DCI-146, or DCI-147 on record for the offender. Form DCI-147 shall be returned by the offender to the division of criminal investigation within ten days of receipt. Form DCI-147 shall be mailed to the offender in an envelope clearly stating that it is to be returned to the division of criminal investigation if the addressee no longer resides at the address indicated and that Iowa law prohibits its being forwarded.

8.303(5) Application for determination. Form DCI-148, "Application for Determination," shall be completed by a registrant to initiate a request that the division of criminal investigation review whether one or more offenses of which the registrant has been convicted require registration with the Iowa sex offender registry or whether the time period during which the registrant is required to register has expired. A registrant who submits a completed copy of form DCI-148 for review shall provide with it copies of any sentencing or adjudicatory orders related to each offense for which a determination of whether registration is required is being requested.

8.303(6) Determination. Form DCI-149, "Decision of Determination," shall be used by the division of criminal investigation to notify a registrant who has submitted a request for determination (Form DCI-148) of the results of that review. A completed Form DCI-149 shall be mailed to any registrant who has filed a completed Form DCI-148 within 90 days of the receipt by the division of criminal investigation of the completed Form DCI-148.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

8.303(7) Request for information. Form DCI-150, "Request for Registry Information," shall be used to request information about whether a specific person is registered with the Iowa sex offender registry. A person requesting information about whether a specific individual is registered with the Iowa sex offender registry shall submit a completed copy of Form DCI-150 to a sheriff. A separate form shall be submitted for each person about whom information is being requested.

661—8.304(76GA,SF93) Release of information.

8.304(1) Community notification for public protection. A criminal justice agency wishing to make community notification regarding the identity and location of a specific registrant shall make a request for authorization for community notification to the division of criminal investigation, indicating the name, address, and sex offender registry number of the subject about whom authorization for community notification is being requested, along with a statement of the reasons for requesting such authorization. The request may be sent to the division of criminal investigation by mail or via the Iowa on-line warrants and articles (I.O.W.A.) system. Community notification may be made only after authorization has been received from the division of criminal investigation. The division of criminal investigation may authorize community notification regarding a registrant without having received a request for authorization of community notification from another criminal justice agency.

8.304(2) Release of information in response to individual request. A sheriff who receives a completed Form DCI-150 shall inquire of the division of criminal investigation about whether the person about whom information was requested is registered with the Iowa sex offender

registry. If the division of criminal investigation notifies the sheriff that the person about whom inquiry is made is not on the registry, the sheriff shall so notify the person who submitted the request. If the division of criminal investigation notifies the sheriff that the subject about whom inquiry was made is a registrant with the Iowa sex offender registry, the sheriff shall notify the person making the inquiry that the subject about whom the inquiry was made is a registrant and shall provide the requester with the following information: name of registrant, address of registrant, age of registrant, and physical description of registrant. No additional information may be released in response to an individual request for information.

EXCEPTION: The division of criminal investigation may release additional information regarding a registrant to personnel of criminal justice agencies or to personnel of government agencies conducting confidential background investigations.

8.304(3) Confidential records. Completed forms filled out pursuant to rules 8.301(76GA,SF93) to 8.399 are confidential records which may not be released to the public.

EXCEPTION: Completed copies of Form DCI-150 are public records only if so authorized by the person completing the form.

661—8.305 to 8.399 Reserved.

These rules are intended to implement 1995 Iowa Acts, Senate File 93.

[Filed Emergency 6/29/95, effective 7/1/95]
[Published 7/19/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/95.

ARC 5733A

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 2, "Operating and Granting Policies," Chapter 4, "Project Support for Organizations," Chapter 6, "Operational Support Grants to Major Arts Organizations," Chapter 7, "Arts To Go Artist Roster," Chapter 8, "Arts To Go Presenter Program," Chapter 11, "Artists in the Schools/Communities Residency Roster," Chapter 12, "Artists in Schools/Communities Program," Chapter 13, "Area Education Agencies," Chapter 14, "Professional Development Residency Program," Chapter 21, "Artist Project Grant Program," Chapter 23, "Art in State Buildings," and Chapter 25, "Operational Support Grants for Midsize Arts Organizations." In addition, the Arts Division hereby rescinds existing Chapter 5, "Minigrants for Organizations," and adopts a new Chapter 5, "Minigrants"; adopts a new Chapter 10, "Youth Arts Opportunities Residency Program"; adopts a new Chapter 24, "Artist Locator Program"; rescinds existing Chapter 18, "Iowa Artist Source Book Program," and adopts a new Chapter 18, "Artist Directory"; and rescinds existing Chapter 22, "Artist Minigrant Program," and Chapter 30, "Arts Education Minigrants for Organizations," and reserves these chapters for future use.

Notice of Intended Action was published as **ARC 5482A** in the March 15, 1995, Iowa Administrative Bulletin. The Arts Division adopted these amendments on April 19, 1995.

The adopted amendments reflect changes in programs due to constituent, panel, and board input, as well as in response to new federally funded program initiatives.

A public hearing to receive comments concerning these amendments was held on April 6, 1995, with no oral or written comments received and no changes made to the Notice of Intended Action.

These amendments will become effective on August 23, 1995.

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 amendments is being omitted. These amendments are identical to those published under Notice as **ARC 5482A**, IAB 3/15/95.

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ARC 5727A

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 hereby adopts amendments to 261—Chapters 1 to 100, Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 5569A** on May 10, 1995. The IDEB Board adopted the amendments on June 22, 1995.

The amendments rescind administrative rules for programs which are no longer in effect, update the description of the organization of the Department, and reorganize the rules under the divisions assigned responsibility for program administration.

These amendments are identical to those published as Notice of Intended Action.

These amendments will become effective on August 23, 1995.

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

The following amendments are adopted.

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 [Chapters 1 to 100] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 5569A**, IAB 5/10/95.

[Filed 6/26/95, effective 8/23/95]

[Published 7/19/95]

[For replacement pages for IAC, see IAC Supplement 7/19/95.]

ARC 5728A

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 22, "Community Economic Betterment Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 5568A** on May 10, 1995. The IDEB Board adopted the amendments on June 22, 1995.

The amendments modify the composition of the CEBA project review committee and permit businesses requesting assistance in meeting regulatory requirements to apply for comprehensive management assistance and entrepreneurial development funds.

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A public hearing was held on May 30, 1995. One comment concerning the proposed amendments was received from the public. The commenter supported the use of CEBA funds to assist businesses in meeting regulatory requirements. The final rules incorporate several changes to the proposed rules requested by the Administrative Rules Review Committee: In rule 261—22.3(15) the word "will" was replaced with "shall," "must" in the last sentence was changed to "shall," and the phrase "if formed" was deleted. Each of these revisions reflect the intent that the appointment of a CEBA review committee is mandatory, not discretionary.

These amendments are intended to implement Iowa Code sections 15.315 to 15.325.

These amendments will become effective on August 23, 1995.

The following amendments are adopted.

ITEM 1. Amend 261—22.3(15) as follows:

261—22.3(15) Board and committee. The chairperson of the board ~~may~~ shall appoint a five-member project review committee to review applications requesting CEBA funding. The committee shall, ~~if formed,~~ be composed of five board members, ~~two~~ one of whom shall be either the board chairperson ~~and~~ or the vice chairperson. The director shall be a nonvoting ex officio member of an active committee. A quorum of three committee members is necessary for taking action and at least three members ~~must~~ shall concur before making recommendations to the board.

ITEM 2. Amend subrule 22.10(1) as follows:

22.10(1) Eligible applicants. Application for comprehensive management assistance is limited to:

a. ~~businesses~~ *Businesses* that have either previously received a CEBA award or have a CEBA application under current review by the department; ~~or~~

b. *Businesses requesting assistance in meeting the regulatory requirements of other government agencies.*

[Filed 6/26/95, effective 8/23/95]

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ARC 5729A

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 a new Chapter 30*, "Entrepreneurs with Disabilities Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 5486A** on March 15, 1995. In addition, these amendments were Adopted and

*Renumbered as Chapter 56 in **ARC 5727A** herein.

Filed Emergency in the Iowa Administrative Bulletin on March 15, 1995, as **ARC 5485A**. The IDED Board adopted the new chapter on June 22, 1995.

The rules are for the purpose of creating the Entrepreneurs with Disabilities Program which provides technical assistance, business development grants, and financial assistance grants to qualified lowans with disabilities.

A public hearing was held on April 4, 1995. No comments concerning the proposed rules were received from the public. The following revisions were made to the proposed rules:

1. In rule 261—30.2(75GA, ch1199) the definitions of "technical assistance grant" and "financial assistance grant" were revised by deleting the last sentence or portion of the sentence addressing "need."

2. In rule 261—30.3(75GA, ch1199) eligibility requirements have been changed to reflect that clients of the division of vocational rehabilitation services or department for the blind may apply for the Entrepreneurs with Disabilities Program. Eligibility will not be based on need because financial need is not a qualifying factor of either the division of vocational rehabilitation services or department for the blind when considering eligibility for services.

3. In subrule 30.4(3) the review process has been changed to provide that applications will be forwarded to the IDED program manager for review. Applications receiving a minimum score of 60 points out of a total 100 points will be eligible to pursue a technical assistance grant. If the application is for financial assistance only, a business plan will be required at the time of submission. Business plans receiving a minimum score of 75 points out of a total 100 points will be eligible to pursue a financial assistance grant. Approval of a technical assistance grant is based upon acceptance of a project plan and budget form. Approval of a financial assistance grant is based upon approval of a business plan and acceptance of a sources and uses statement form.

4. Subrule 30.4(4) was revised to exclude the minimum scoring level on each rating factor for applications requesting technical assistance.

5. In new subrule 30.4(5), a review criteria was added for the evaluation of business plans for applicants requesting financial assistance along with required submission of a sources and uses statement, and former subrule 30.4(5) was renumbered as 30.4(6).

6. Subrule 30.5(2) was revised to change the words "will receive an award letter requesting submission of a project plan and budget form to be returned to the program manager" to "will receive notification of eligibility to pursue technical or financial assistance. The letter will request submission of a project plan and budget if the applicant is pursuing technical assistance or submission of a sources and uses statement if the applicant is pursuing financial assistance to be returned to the program manager."

7. Subrules 30.5(3) and 30.6(3) were revised to change the words "award letter" to "notification letter".

These rules are intended to implement 1994 Iowa Acts, chapter 1199, section 28.

These rules will become effective on August 23, 1995, at which time the Emergency Adopted and Filed rules, published in the Iowa Administrative Bulletin as **ARC 5485A** on March 15, 1995, are hereby rescinded.

The following new chapter is adopted.

Adopt the following new chapter:

**CHAPTER 30
ENTREPRENEURS WITH DISABILITIES PROGRAM**

261—30.1(75GA,ch1199) Purpose. The department of economic development works in collaboration with the department of education, division of vocational rehabilitation, and the Iowa department for the blind to administer the entrepreneurs with disabilities program. The purpose of the entrepreneurs with disabilities program is to provide technical assistance, business development grants, and financial assistance grants to qualified Iowans with disabilities.

261—30.2(75GA,ch1199) Definitions. As used in this chapter, unless the context otherwise requires:

"Business plan" means a written document which includes the following components: (1) a description of the business, (2) an organization plan including information regarding legal form of business and owner/operator qualifications, (3) a marketing plan which includes information regarding competition, location, targeted markets, product/service description, market need, promotional plan, and sales/marketing methods, (4) a financial plan including information relative to fixed assets owned or needed, working capital needs, a two-year cash flow projection, a two-year projected profit and loss statement, and a personal budget, and (5) other information deemed necessary by the IDED for a clearer understanding of the business plan.

"Client" means an individual who is an active client of the department of education, division of vocational rehabilitation, or the Iowa department for the blind.

"Consultant" means a person or organization providing specific business technical assistance.

"Counselor" means a designated case counselor working for the department of education, division of vocational rehabilitation or the Iowa department for the blind.

"DVR/IDB" means the Iowa department of education, division of vocational rehabilitation, and the Iowa department for the blind.

"Financial assistance grant" means moneys awarded to an applicant based upon a sources and uses statement form. These moneys may be used for, but are not limited to, equipment purchases and working capital. Working capital may include, but is not limited to, design and printing of marketing materials, advertising, rent (up to six months), direct mail postage costs, raw materials, inventory, insurance, and other start-up, expansion or acquisition costs. Financial assistance grants shall not exceed 50 percent of the financial package (up to \$15,000) required to start up, expand or acquire a business. The administrator of the DVR or IDB will reserve the authority to waive the 50 percent or \$15,000 criteria in individual circumstances.

"Follow-up technical assistance" means grant moneys provided on behalf of an applicant to hire consultant(s) for a specified number of hours to provide business technical assistance subsequent to the start-up, expansion or acquisition of business.

"IDED" means the Iowa department of economic development.

"Program manager" means the designated manager of the entrepreneurs with disabilities program for the Iowa department of economic development.

"Project plan and budget form" means a form that identifies specific steps in the business planning process, the consultant(s) who will provide such service, budgetary

guidelines, and a timeline. Project plan and budget forms are provided to an applicant by IDED following evaluation and scoring of an application for the entrepreneurs with disabilities program.

"Sources and uses statement forms" means a form that defines the specific financial needs for business start-up, expansion, or acquisition. Sources and uses statement forms are provided to an applicant by IDED following evaluation and scoring of an application for the entrepreneurs with disabilities program and the submission and review by IDED of a business plan.

"Technical assistance grant" means moneys awarded on behalf of an applicant to hire consultants to assist an applicant with specialized technical assistance such as an introductory business orientation workshop, market analysis, marketing plans, engineering, legal, computer services, financial packaging, or follow-up technical assistance. These moneys may not be used to subsidize business operations and are based upon the project plan and budget form. Technical assistance grants shall not exceed \$10,000 per client unless authorized by the administrator of the DVR or IDB.

261—30.3(75GA,ch1199) Eligibility requirements. Clients of the division of vocational rehabilitation services or department for the blind may apply for the entrepreneurs with disabilities program.

261—30.4(75GA,ch1199) Application procedure.

30.4(1) Application. Application materials for the entrepreneurs with disabilities program are available from the division of vocational rehabilitation, Iowa department for the blind, and Iowa department of economic development.

30.4(2) Submittal. Completed applications shall be submitted to the DVR or the IDB counselor.

30.4(3) Review. Applications will be forwarded to the IDED program manager for review. Applications receiving a minimum score of 60 points out of a total of 100 points will be eligible to pursue a technical assistance grant or a financial assistance grant. If the application is for financial assistance only, a business plan will be required at the time of submission of the application. Business plans receiving a minimum score of 75 points out of a total of 100 points will be eligible to pursue a financial assistance grant. Approval of a technical assistance grant is based upon acceptance of a project plan and budget form. Approval of a financial assistance grant is based upon acceptance of a business plan and a sources and uses statement form. A decision on all applications and forms will generally be issued within 30 days of submission with notification by letter to the applicant and the DVR or the IDB counselor.

30.4(4) Applications for technical assistance—evaluation factors. Applications for the entrepreneurs with disabilities program will be reviewed and evaluated using a 100-point system, based upon the following criteria:

a. Descriptive and organization information 0 - 30 points. Does the applicant have education, skills, and work experience relevant to the proposed business venture? Does the applicant document previous management or accounting experience? Is the applicant clear as to the nature of the business?

b. Market information 0 - 30 points. Does the application indicate a clear understanding of potential customer groups and how to reach them? Does the application show sufficient knowledge of products/services, competi-

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tion, and marketing methods? Does the applicant understand the critical issue of location?

c. Financial information 0 - 30 points. Does the application demonstrate an understanding of how to estimate sales potential? Does the applicant indicate knowledge of estimated capital requirements for business start-up, expansion or acquisition?

d. Creditworthiness 0 - 10 points. Does the applicant's past credit history demonstrate responsible behavior? Awards may not be made if the applicant has a credit history showing delinquent credit obligations including, but not limited to, unpaid income tax, delinquent child support obligations, or defaulted student loans.

30.4(5) Applications for financial assistance — evaluation factors for business plans. Applications for financial assistance from the entrepreneurs with disabilities program will be reviewed and evaluated using a 100-point system, based upon the following criteria:

a. Feasibility 0 - 25 points possible. Feasibility will be considered based upon the overall business plan. Rating factors for this criterion include, but are not limited to: market analysis, financial projections, initial capitalization, management, and historic data relative to similar businesses. A minimum of 15 points is required for this rating factor.

b. Market plan 0 - 25 points possible. Does the business plan contain sufficient information to demonstrate that the applicant fully understands who its customers will be and how to reach them? Is there adequate information about competition, market need, location, sales/marketing methods and a product/service description? Is a promotional plan included in the business plan? A minimum of 15 points is required for this rating factor.

c. Financial plan 0 - 25 points possible. Does the business plan contain a two-year cash flow projection and profit and loss projection? Is there an itemized listing of fixed asset, working capital and other start-up, expansion or acquisition needs, including detailed descriptions of equipment to be purchased? Is there a clear statement regarding the composure of the anticipated financial package? Has the applicant provided a personal financial statement along with a detailed personal monthly budget? A minimum of 15 points is required for this rating factor.

d. Organizational information 0 - 25 points possible. Does the business plan document sufficient education and work experience relevant to the proposed business? Does the business plan demonstrate adequate management experience by the principal party(ies)? A minimum of 15 points is required for this rating factor.

30.4(6) Appeal of application evaluation. If an application is denied based upon the assignment of inadequate evaluation score, an applicant may appeal the decision to the department of education, division of vocational rehabilitation, or the Iowa department for the blind. An appeal shall be consistent with the department of education, division of vocational rehabilitation, and Iowa department for the blind appeal processes.

261—30.5(75GA, ch1199) Award of technical assistance grants.

30.5(1) Awards. Technical assistance grants may be awarded up to \$10,000 per applicant. Technical assistance grants shall be used for specialized technical assistance provided by a qualified consultant. Specialized technical assistance may include, but is not limited to, market analysis, marketing plans, engineering, legal, computer services, preliminary business plan develop-

ment, financial packaging, and follow-up technical assistance following business start-up, expansion, or acquisition. Technical assistance grant applicants will be eligible for an additional 10 to 20 consulting hours of follow-up technical assistance when the business is started, expanded, or acquired.

30.5(2) Award process. Upon approval of the application by the IDED program manager, generally within 30 days, an applicant will receive notification of eligibility to pursue technical or financial assistance. The letter will request submission of a project plan and budget if the applicant is pursuing technical assistance or submission of a sources and uses statement if the applicant is pursuing financial assistance, to be returned to the program manager.

30.5(3) Approval of project plan and budget. A project plan and budget form will accompany notification letters. The project plan and budget form will require an applicant to identify specific steps in the business planning process, who will be involved in each step of the process, budgetary guidelines, and a timeline. The completed project plan and budget form must be signed by the applicant and submitted to the IDED program manager for approval. Upon approval, copies will be forwarded to the DVR or the IDB counselor for ratification.

30.5(4) Technical assistance grant contracts. IDED shall negotiate contracts with qualified business consultants for delivery of services to an applicant. The contracts shall state hourly fees for services, type of service to be provided and a timeline for delivery of services. Authorization for payment will be made by the DVR or the IDB counselor based upon the negotiated rate as noted in the project plan and budget form.

30.5(5) Consultants. Applicants will be provided a list of qualified business consultants by the IDED program manager. The selection of consultant(s) shall be the responsibility of the applicant.

30.5(6) Case management. The IDED program manager will commit a specific number of hours of direct consultation to each applicant to ensure the delivery of quality services from the selected consultant and the development of a comprehensive business plan.

261—30.6(75GA, ch1199) Financial assistance grants.

30.6(1) Grant awards. Financial assistance grants may be awarded for up to 50 percent (not to exceed \$15,000) of the equipment or working capital needed to start, expand, or acquire a business as defined in the sources and uses statement form. The remaining 50 percent of equipment or working capital needed to start, expand, or acquire a business shall be provided by an applicant through conventional financing or other sources. Working capital may include, but is not limited to, design and printing of marketing materials, advertising, rent (up to six months), direct mail postage, raw materials, inventory, insurance (up to six months), and other start-up, expansion, or acquisition costs. It is a goal of the program that program funds assist an applicant in also securing financing from a commercial or private source.

30.6(2) Approval of sources and uses form. The sources and uses form will define specific financial needs for business start-up, expansion, or acquisition. Sources and uses forms shall be provided to an applicant by the IDED program manager following evaluation of the application for the entrepreneurs with disabilities program and the submission and review of a business plan. Completed sources and uses forms shall be submitted to the

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

IDED program manager and the DVR or the IDB counselor. The IDED program manager, the DVR or the IDB counselor, and client will meet to review the sources and uses form. Generally, this process shall be completed within 30 days from submission. Upon approval by the IDED program manager, copies will be forwarded to the DVR or the IDB counselor for ratification.

30.6(3) Award process. Upon approval of the sources and uses statement form by the IDED program manager, an applicant shall be sent a notification letter from the program manager which shall state the amount and conditions of the award.

30.6(4) Financial assistance grant contracts. Contracts for financial assistance grants shall be the responsibility of the division of vocational rehabilitation or Iowa department for the blind and will be consistent with authorized use of Title I, vocational rehabilitation funds.

261—30.7(75GA, ch1199) Monitoring. The program manager reserves the right to monitor the consultants' records to ensure compliance with the terms of the contract.

[Filed 6/26/95, effective 8/23/95]
[Published 7/19/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/95.

ARC 5745A**SECRETARY OF STATE[721]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State adopts an amendment to Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 24, 1995, as **ARC 5607A**. A public hearing was scheduled for June 13, 1995; however, no one came. The Secretary of State adopted these rules on June 29, 1995.

Iowa Code section 49.77(3) requires the Secretary of State to prescribe acceptable forms of identification to be used at the polls. These rules describe the circumstances under which a person may be required to provide identification documents. They clarify procedures for precinct election officials to follow in accepting change of address notices from people who are not listed in the election register including permission to use lists of all registered voters in the county to verify the person's registration in the county. These lists were once specifically allowed as a resource for precinct officials, but they are no longer mentioned in the Code. Use of these lists will reduce the possibilities for confusion and potential vote fraud. Precinct officials may also telephone the auditor for verification of registration or use remote computer terminals to check the voter registration files. Precinct officials shall ask a person whose registration cannot be verified to cast a special ballot.

These rules require identification documents to be valid and to include the photograph and signature of the person.

Driver's licenses, nonoperator's identification cards and student identification cards are acceptable forms of identification, if they meet the other qualifications. A person who has been asked for identification and who does not provide it must cast a special ballot.

There are no changes as a result of public comments (all were supportive) and this amendment is identical to that published under Notice of Intended Action.

These rules are intended to implement Iowa Code section 49.77(3).

These rules will become effective August 23, 1995.

The following rules are adopted.

Amend 721—Chapter 21 by adding the following **new** rules:

721—21.3(49) Voter identification documents.

21.3(1) A precinct election official may require identification from any person whom the official does not know.

21.3(2) Precinct election officials shall require identification under the following circumstances:

a. From any person offering to vote whose name does not appear on the election register as an active voter.

b. From any person offering to vote whose name is not on the election register and who wants to report a change of address from one precinct to another within the same county.

21.3(3) The identification document must currently be valid and must show a color photograph and the signature of the cardholder. Acceptable forms include:

a. Driver's license.

b. Nonoperator's identification card issued by driver services division of the department of transportation.

c. Student identification card.

21.3(4) A person who has been requested to provide identification and does not provide it shall vote only by special ballot pursuant to Iowa Code section 49.81.

721—21.4(49) Changes of address at the polls. An Iowa voter who has moved from one precinct to another in the county where the person is registered to vote may report a change of address at the polls on election day.

21.4(1) To qualify to vote in the election being held that day the voter shall:

a. Go to the polling place for the precinct where the voter lives on election day.

b. Complete a registration by mail form showing the person's current address in the precinct.

c. Present proof of identity as required by rule 21.3(49).

21.4(2) The officials shall require a person who is reporting a change of address at the polls to cast a special ballot if the person's registration in the county cannot be verified. Registration may be verified by:

a. Telephoning the office of the county commissioner of elections, or

b. Consulting a printed list of all registered voters who are qualified to vote in the county for the election being held that day, or

c. Consulting the county's voter registration records by use of a computer.

[Filed 6/30/95, effective 8/23/95]
[Published 7/19/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/95.

ARC 5734A**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on June 27, 1995, adopted amendments to Chapter 480, "Abandoned Vehicles," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the May 10, 1995, Iowa Administrative Bulletin as **ARC 5558A**.

The amendments increase the reimbursement for vehicle towing from \$35 to \$50 and the reimbursement for vehicle storage from \$3 per day to \$5 per day. These amendments assist law enforcement agencies to meet the increased charges for towing and storing abandoned vehicles. Another amendment updates an office title.

These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code section 321.89.

These amendments will become effective August 23, 1995.

The following amendments are adopted:

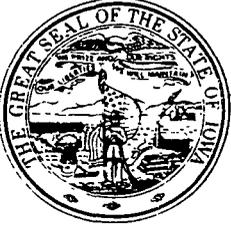
ITEM 1. Amend rule 761—480.2(321) by deleting the words "Office of Vehicle Registration" and inserting in lieu thereof the words "Office of Vehicle Services".

ITEM 2. Amend subrule 480.3(2), paragraphs "a" and "c," as follows:

- a. Towing— ~~\$35~~ \$50 per vehicle.
- c. Storage— ~~\$3~~ \$5 per day, not to exceed 45 days per vehicle.

[Filed 6/28/95, effective 8/23/95]
[Published 7/19/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/19/95.



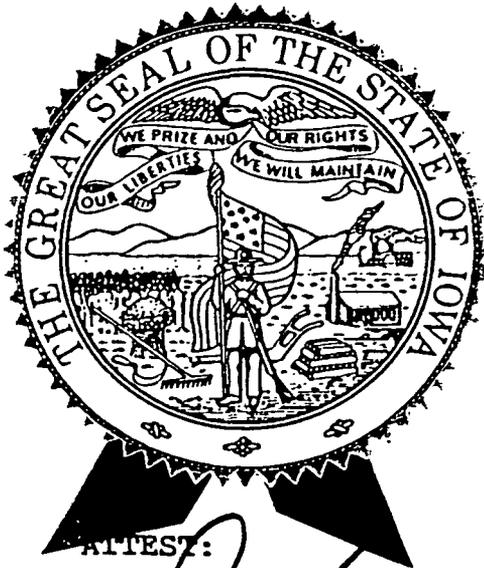
State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER 55

- WHEREAS, the Iowa Law Enforcement Academy Council was created through House File 260 enacted by the Sixty-second Iowa General Assembly, now Chapter 80B of the Code, 1995; and
- WHEREAS, the Council is comprised of individuals knowledgeable in the field of law enforcement and has been established as a policy-making body for the Law Enforcement Academy; and
- WHEREAS, drug investigations and narcotics enforcement is a priority of law enforcement in this state and with this administration; and
- WHEREAS, the United States Drug Enforcement Administration of the United States Department of Justice has in the past provided and continues to provide valuable assistance to the state in training law enforcement officials in Iowa.
- NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in me by the Constitution and laws of the State of Iowa, do hereby appoint the resident agent-in-charge of the Des Moines office of the United States Drug Enforcement Administration as an ex-officio, non-voting member of the Iowa Law Enforcement Academy Council effective with the date of this order and to expire on April 30, 1999.

This Executive Order shall become effective immediately upon its execution. Copies shall be provided to the Director of the Iowa Law Enforcement Academy and to the resident agent-in-charge of the Des Moines office of the United States Drug Enforcement Administration.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this *22nd* day of June in the year of our Lord one thousand nine hundred ninety-five.

Wm E Branster
GOVERNOR

ATTEST:

Paul D. Pate
SECRETARY OF STATE

* SUMMARY OF DECISIONS

THE SUPREME COURT OF IOWA

FILED JUNE 21, 1995

Note: Copies of these opinions may be obtained from the Supreme Court Clerk, State Capitol Building, Des Moines, Iowa, 50319, (515) 281-5911, for a fee of \$.40 per page.

No. 95-339. **BOARD OF PROFESSIONAL ETHICS AND CONDUCT
v. SIKMA.**

On review of the report of the Grievance Commission. **LICENSE SUSPENDED.** Considered by McGiverin, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by McGiverin, C.J. (12 pages \$4.80)

This attorney disciplinary proceeding involves the conduct of attorney Robert L. Sikma in his handling of his business relationship with a client, Rashelle Katseres. Sikma had drafted a will for Katseres in which she specifically mentioned disposition of \$120,000 in treasury bonds and was handling a worker's compensation case for her. Sikma was recruited by Andrew Armstrong to become chairman and CEO of Morningstar Communications. Sikma and Katseres eventually discussed Morningstar. Katseres asked him why he had not told her before about this "good deal." Sikma responded he did not feel it was appropriate to approach clients with business proposals but left the impression he had invested money in the company and thought it was a good investment. On further inquiry, Sikma referred Katseres to Armstrong, told her he could not counsel her on this matter, and indicated she should consult another advisor, broker or lawyer. Katseres subsequently invested \$20,000 in the company and loaned it another \$2,000. When asked to co-sign a line of credit for Morningstar, Katseres demanded Sikma make an "additional" personal investment and personally guarantee the line of credit. Sikma agreed, but Katseres did not co-sign. Sikma later made his first investment in Morningstar. The company went bankrupt, and both Katseres and Sikma lost their investments. The ethics board filed a complaint against Sikma before the grievance commission. The grievance commission found Sikma violated disciplinary rules against knowingly using client confidences for the lawyer's benefit unless the client consents after full disclosure and against entering into a business relationship with a client who has adverse interests without full disclosure. The commission recommended Sikma's license be suspended for three months. The matter is now before the court for our de novo review. **OPINION HOLDS:** I. We agree the Board met its burden of proving the disciplinary violations. We also agree Sikma failed to meet his burden of showing full disclosure. Sikma did not explain how being CEO and legal advisor for Morningstar would affect his professional judgment or why independent counsel would benefit Katseres. II. Because we believe Sikma, who has no prior disciplinary record, did not deliberately solicit Katseres' investment but instead exercised poor judgment in involving both himself and Katseres in Morningstar, we suspend Sikma's license to practice law indefinitely with no possibility of reinstatement for a period of three months.

No. 94-108. STATE ex rel. BLACKWELL v. BLACKWELL.

Appeal from the Iowa District Court for Polk County, Robert A. Hutchison, Judge. **DECISION OF COURT OF APPEALS AND JUDGMENT OF DISTRICT COURT AFFIRMED.** Considered by McGiverin, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by McGiverin, C.J.

(7 pages \$2.80)

Lloyd Blackwell appealed from the district court's decision overruling his motion to quash a mandatory income withholding order which enforced a judgment for child support he owed the State of Iowa. Blackwell argued the district court erred in refusing to grant his motion because the income withholding was ordered to satisfy his past support obligations to a child of whom his paternity has recently been disestablished. The court of appeals affirmed by operation of law. We granted further review. **OPINION HOLDS:** We hold the district court does not have the authority to cancel Blackwell's accrued child support obligations established by a prior judgment. Lloyd was given notice and an opportunity to contest his paternity. He failed to respond before the DHS order for reimbursement and future support was entered, thereby choosing to assume the responsibilities of the minor child. As a result, Lloyd must pay the State the present unpaid amount of child support accrued under the original judgment up until March 8, 1989, the date the dissolution decree disestablished his paternity. The court of appeals decision and district court ruling are affirmed.

No. 94-511. STATE v. NANCE.

Appeal from the Iowa District Court for Scott County, Edward B. de Silva, Judge. **REVERSED AND REMANDED.** Considered by Harris, P.J., and Carter, Snell, Andreasen, and Temus, JJ. Opinion by Andreasen, J. (11 pages \$4.40)

Joann Powell died as a result of a single gunshot to her head. The defendant, August Nance, was charged and convicted of murder in the first degree and willful injury. Nance admitted he shot Joann, but claimed the shooting was accidental. On appeal he urges the trial court erred in admitting hearsay evidence, in admitting irrelevant gang related evidence, and in failing to grant his motion for a judgment of acquittal. **OPINION HOLDS:** I. Prior to trial the State notified Nance that it intended to offer evidence of statements made by Joann regarding the sale of drugs and her fear of Nance under the residual hearsay exception of Iowa Rule of Evidence 804. Although the court found the hearsay statements were offered as a material fact, it made no findings as to other determinations required under rule 804(b)(5). The court abused its discretion in allowing the testimony relating to Joann's fears of Nance. We reject the State's claims that we may affirm on grounds the testimony was either not hearsay or admissible as state of mind evidence under rule 803(3). II. At retrial the State may use prior statements for impeachment purposes if inconsistent with Willie Shorter's testimony. III. The State called a detective who identified an exhibit as gang notes he had found in Nance's apartment. The probative value of the exhibit was substantially outweighed by the danger of unfair prejudice and its admission was error. IV. There was ample circumstantial evidence to support the submission of the criminal charges.

No. 94-1176. STATE v. BLAKLEY.

Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis, Judge. **REVERSED AND REMANDED WITH DIRECTIONS.** Considered by McGiverin, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by Lavorato, J. (10 pages \$4.00)

In this discretionary review, we must decide whether the district court correctly held the State's motion to amend sentence to include restitution was untimely under Iowa Code section 910.3 (1993) because it was filed some nine months after sentencing. **OPINION HOLDS:** I. The language of section 910.3 that "the county attorney shall provide a statement of pecuniary damages incurred . . . no later than thirty days after sentencing" refers only to the filing of a statement of pecuniary damages incurred by the victim *up to the time of sentencing*. Other language in section 910.3 clearly contemplates that in cases where the victim incurs pecuniary damages after the time of sentencing, (1) the State may file a motion to amend sentence more than thirty days after sentencing, and (2) the court will issue supplemental restitution orders for pecuniary damages the victim incurs after the time of sentencing. II. In any event, the thirty-day language is not jurisdictional. III. Blakley waived any requirement that the State put on its whole case at the hearing on the State's motion to amend sentence. IV. We remand for a hearing on Blakley's objection that the University of Iowa Hospitals is not a victim.

No. 94-455. STATE v. DAWDY.

Appeal from the Iowa District Court for Woodbury County, Gary E. Wenell, Judge. **AFFIRMED.** Considered by Larson, P.J., and Carter, Lavorato, Neuman, and Andreasen, JJ. Opinion by Lavorato, J. (10 pages \$4.00)

The defendant, Eugene Luverne Dawdy, appeals from his conviction for failure to affix drug tax stamps. On appeal, Dawdy challenges the district court's ruling denying his motion to suppress contraband evidence officers seized after his car was stopped. Dawdy claims the officer who stopped his car had no reasonable and articulable suspicion of criminal activity justifying the stop. **OPINION HOLDS:** I. We assume without deciding that the stop was invalid. II. Even though an initial arrest is unlawful, a defendant has no right to resist the arrest. Dawdy resisted arrest and thereby provided probable cause and an independent ground for a second arrest. The search of his person was valid as a search incident to that arrest. When the officers searched Dawdy's person, they found a large wad of cash. The district court correctly denied Dawdy's motion to suppress this evidence. III. Because Dawdy was an occupant of a car, the officers could lawfully search the passenger compartment of the car, which uncovered a gram weight scale. The district court correctly denied Dawdy's motion to suppress this evidence. IV. We agree with the Eighth Circuit Court of Appeals that the officers' seizure of a pouch found near the car, having apparently fallen to the ground only a short time earlier, did not violate Dawdy's Fourth Amendment rights. V. Under the totality of the circumstances, probable cause and exigent circumstances justified the officers' search of the car trunk under the automobile exception to the Fourth Amendment. When the officers opened the trunk, they found the amphetamine. The district court correctly denied Dawdy's motion to suppress this evidence. VI. Because we conclude the district court correctly denied Dawdy's motion to suppress all evidence seized following the stop of his vehicle, we affirm the district court's judgment of conviction and sentence.

No. 94-979. **IN THE MATTER OF PROPERTY SEIZED FROM
HICKMAN.**

Appeal from the Iowa District Court for Warren County, William Jov and Peter A. Keller, Judges. **AFFIRMED.** Considered by McGiverin, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by Harris, J. (3 pages S1.20)

While Brian J. Pritchard was incarcerated in a county jail the State seized his automobile and \$2774 of his cash. Pritchard thereafter demanded that this property be returned. There was a forfeiture hearing at which Pritchard was allowed to appear pro se and testify. The property was ordered forfeited. Pritchard later challenged the forfeiture order, arguing it was void because under Iowa rule of civil procedure 13 he was entitled to appointment of a guardian ad litem and none had been appointed. **OPINION HOLDS:** Pritchard does not fall under the protection of rule 13 because the in rem forfeiture judgment was not entered against him. Rule 13, by its clear terms, is limited to judgments "against a party." Pritchard was not a party and is thus not entitled to claim the benefits of rule 13. We therefore affirm the trial court.

No. 93-1940. **GARTON v. GARTON.**

Appeal from the Iowa District Court for Lucas County, Peter A. Keller, Judge. **AFFIRMED.** Considered by Larson, P.J., and Lavorato, Neuman, Snell, and Ternus, JJ. Opinion by Neuman, J. (12 pages S4.80)

This is a dispute among creditors over their right to claim some portion of defendant Richard Garton's inheritance. Cynthia Garton, Richard's former wife, petitioned for a creditor's bill lien to enforce her judgment for unpaid spousal and child support. Cynthia's mother, Alice Cockrell, filed a creditor's lien bill the next day based on a \$30,000 judgment she had earlier obtained against Richard. Ruling by way of summary judgment, the district court found that Cynthia and Alice's liens against Richard's beneficial interest were inferior to claims already established in the proceeds by Richard's other creditors, defendants George R. Haydon, Jr. and Security State Bank. Cynthia and Alice appeal. **OPINION HOLDS:** I. Iowa Code section 642.1 (1991) grants judgment creditors the right to garnish an executor "for money due from decedent." We find unpersuasive Cynthia and Alice's bare assertion that their creditor's bill liens so perfected their claims as to grant them priority over Haydon's judgment as a matter of law. The "priority by execution" rule applicable in the real property context applies equally in the case of perfected executions on personalty. II. The trial court correctly ruled that no proof of fraudulent conveyance exists and thus Security Bank's assignment takes priority over Cynthia's subsequent filing as a matter of law. III. Nothing in the language of section 642.24 suggests that a court must review every garnishment order in light of other possible garnishment actions which might seek to enforce the debtor's unsatisfied child support obligations. We affirm the judgment of the district court which granted priority to the claims of Haydon and Security Bank over the petitions for creditor's bill liens filed by Cynthia and Alice.

No. 94-709. GRANT v. LAURIE.

Appeal from the Iowa District Court for Hancock County, John S. Mackey, Judge. **AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.** Considered by Harris, P.J., and Carter, Snell, Andreasen, and Ternus, JJ. Opinion by Harris, J. (4 pages S1.60)

Plaintiffs (the Grants) are parents and representatives of Michael Grant who was killed when struck by an automobile driven by Raymond Laurie. Laurie was convicted of involuntary manslaughter and sentenced to incarceration. While Laurie was in prison the Grants brought this wrongful death suit against him and others. Charles H. Levad had been appointed at public expense to represent Laurie in the criminal proceeding. Levad was thereafter required to continue his representation of Laurie in this tort suit. The question presented in this case is whether fees incurred by an attorney appointed as guardian ad litem pursuant to rule 13 can be taxed as costs to the successful party. **OPINION HOLDS:** I. There was no error in assessing Levad's guardian-ad-litem fees against the Grants. Levad's fees are recoverable costs. Iowa Code section 625.5 imposes costs on a successful plaintiff when they are not recoverable against an unsuccessful defendant. II. However, it was error to allow \$2391.66 as costs in the tort suit because a portion thereof represents a private appeal to successfully challenge the fee allowance. The case must be remanded for entry of a judgment fixing Levad's guardian-ad-litem fee at \$1849.88. Tax costs on appeal one-half to the Grants and one-half to Laurie.

No. 93-942. IN RE MARRIAGE OF MCGONIGLE.

Appeal from the Iowa District Court for Dubuque County, Peter Van Metre, Judge: **AFFIRMED.** Considered by McGiverin, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by Harris, J. (3 pages S1.20)

Mark Allen McGonigle, a penitentiary prisoner faced with a dissolution-of-marriage proceeding, petitioned for appointment of a guardian ad litem pursuant to Iowa rule of civil procedure 13. The district court granted the motion, provided McGonigle would pay the fees for the requested services. Unwilling or unable to pay, McGonigle then filed a motion to represent himself and a motion to be transported to attend trial. He did attend trial and testified. Thereafter the district court entered a decree dissolving the marriage. On appeal McGonigle seeks reversal of the decree and again asks that, on remand, a guardian ad litem be appointed to represent him. **OPINION HOLDS:** Rule 13 is intended to bring before the court, through one acting as an officer of the court, the vicarious presence of one who for some reason is unable to attend a civil trial or present a defense. McGonigle's appearance and participation in the trial satisfied everything intended for him by rule 13. There was no error.

94-334. McLAUGHLIN v. STATE.

On review from the Iowa Court of Appeals. Appeal from the Iowa District Court for Muscatine County, Edward B. de Silva, Judge. **DECISION OF COURT OF APPEALS AND JUDGMENT OF DISTRICT COURT AFFIRMED IN PART AND REVERSED IN PART.** Considered by McGiverin, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by Larson, J. (6 pages \$2.40)

This postconviction action by Richard McLaughlin challenges his conviction of several counts of sexual offenses. He claims his trial lawyer was ineffective in failing to: (1) secure his presence during the meeting in which the district court considered a note from the jury; and (2) object to the supplemental instruction given by the district court. The district court rejected his postconviction application, but the court of appeals reversed. We granted the State's application for further review. **OPINION HOLDS:** The jury note in effect asked the judge to clarify matters involving the evidence about which the jury was apparently confused. The court, by the supplemental instruction, identified and restated evidence that was a part of the State's case. This amounted to a comment on specific evidence. We conclude the State failed to rebut the presumption. The State showed a lack of prejudice as to other counts, which involved separate acts against separate victims. We reverse as to Counts III, V, and VI and in all other respects affirm the judgments of the district court. We remand for a new trial on Counts III, V, and VI.

94-398. IOWA REALTY v. BOOMSMA'S, INC.

Appeal from the Iowa District Court for Marion County, Dale B. Hagen, Judge. **REVERSED AND REMANDED.** Considered by Harris, P.J., and Carter, Snell, Andreasen, and Ternus, JJ. Opinion by Carter, J. (5 pages \$ 2.00)

The defendant, Boomsma's, Inc., the seller of a building and adjacent parcels of commercial real estate in Pella, Iowa, appeals from a judgment awarding a broker's commission on that sale to plaintiff, Iowa Realty of Pella. Boomsma's urges that there was no enforceable agreement to pay a commission to Iowa Realty with respect to this transaction. **OPINION HOLDS:** We are convinced that the letter agreement was not intended to be a listing agreement but was, rather, a clause protecting the broker's right to a commission beyond the period of the initial listing. The language of Iowa Real Estate Commission Rule 1.19 clearly provides that such a clause is not enforceable unless there is a provision in the original listing contract establishing a definite protection period. There was no evidence of any such provision, written or oral, in the original listing contract. We reverse and remand the case for a judgment dismissing Iowa Realty's petition.

No. 94-790. WILD v. BURESH.

Appeal from the Iowa District Court for Jones County, William L. Thomas, Judge. **AFFIRMED.** Considered by McGiverin, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by Larson, J. (5 pages S2.00)

The question in the present case is whether a notice of right of first refusal sent by certified mail, return receipt requested, is sufficient under Iowa Code section 654.16A(5) (1993) or whether the notice must be sent by *restricted* certified mail. The Bureshes, who had obtained title to the property pursuant to a sheriff's deed, proposed to sell the property. This triggered the provisions of section 654.16A(2), which provides the mortgagor is entitled to notice of right of first refusal. The Bureshes mailed the notice by certified mail to the Wilds, return receipt requested. They did not specify restricted delivery. The notice and receipt were delivered to the Wilds residence and signed by someone the Wilds allegedly did not know. The Wilds did not reply within the ten-day limit set forth in section 654.16A(4), and the land was sold. The Wilds filed petitions to set aside the land transfers, and the district court granted summary judgment in favor of the Bureshes in a consolidated action. The Wilds have appealed. **OPINION HOLDS:** Section 654.16A(5) authorizes service by mere certified mail and the Bureshes complied with that requirement. There is no issue of material fact, and the district court therefore properly entered summary judgment. The Bureshes waived their present due process challenge by failing to raise it below. We affirm the district court judgment.

No. 94-1500. STATE v. SHAFFER.

Appeal from the Iowa District Court for Dallas County, David L. Christianson and Richard D. Morr, Judges. **AFFIRMED.** Considered by Harris, P.J., and Carter, Snell, Andreasen, and Ternus, JJ. Opinion by Carter, J. (5 pages S 2.00)

Defendant, Marcia L. Shaffer, appeals from a judgment convicting her of maliciously administering poison to an animal in violation of Iowa Code section 717.1 (1993). Shaffer was severely angered when her former boyfriend married another woman. She threatened to poison that woman's dog. Ultimately, the evidence reflects, Shaffer mixed antifreeze with hamburger, unlawfully entered upon the dog owner's property, and left the poisoned mixture in the vicinity of the dog's kennel. The dog died from eating the mixture. Shaffer's primary defense and her sole argument on appeal is the contention that the killing of a dog not wearing a license tag required by law is legally justified under Iowa Code section 351.26 (1993). **OPINION HOLDS:** The means employed to kill the dog was itself a criminal offense separately punishable without regard to whether an animal was killed. We conclude that section 351.26 did not provide defendant with a legal privilege to commit the acts on which her conviction rested.

No. 94-151. MORGAN v. AMERICAN FAMILY MUT. INS. CO.

Appeal from the Iowa District Court for Linn County, David M. Remley, Judge. **REVERSED AND REMANDED.** Considered by Harris, P.J., and Carter, Snell, Andreasen, and Ternus, JJ. Opinion by Andreasen, J. (16 pages S6.40)

The insureds, the Morgans, brought suit against the insurer, American Family, alleging breach of contract and bad faith denial of their claim for uninsured motorist benefits. The evidence indicated the Morgans' daughter, Penny, was involved in an automobile accident with a negligent driver. As a result of the accident, the daughter struck her head on the dashboard of the Morgans' vehicle. This dispute concerns American Family's failure to pay benefits for medical treatment allegedly associated with this blow to the head. The jury found American Family failed to pay the benefits in bad faith and determined the amount of compensatory and punitive damages. The State of Iowa, on behalf of the Civil Reparations Trust Fund, intervened for a statutory portion of the award of punitive damages. The trial court entered judgment on the jury's verdict. American Family appeals and the Morgans cross-appeal. **OPINION HOLDS:** I. American Family had an objectively reasonable basis to deny the claim at the time of the denial as a matter of law. Penny did not seek medical treatment at the time of the accident and denied being unconscious or dazed. Her first claim for injury was seventeen months after the accident, and the insurer's expert opined that Penny's seizures were not caused by the accident. The claim was "fairly debatable." The trial court erred in not granting American Family's motion for a directed verdict on the bad faith claim. Because the bad faith claim should not have been submitted to the jury, we need not address the other issues raised on appeal relating to it or to the award of punitive damages on the claim. II. Each of the Morgans' theories as to why the contractual limitations provision should not apply to them was either resolved against them by the jury or should not have been submitted to the jury as a matter of law. The Morgans breach of contract claim is barred by the contractual limitations provision in the policy. We reverse and remand for entry of judgment consistent with this opinion.

No. 94-1744. STATE v. HESS.

Appeal from the Iowa District Court for Dubuque County, Randall J. Nigg and Richard R. Gleason, Judges. **AFFIRMED AND REMANDED.** Considered by Harris, P.J., and Carter, Snell, Andreasen, and Ternus, JJ. Opinion by Snell, J. (8 pages S3.20)

This case involves a discrepancy between an oral sentencing pronouncement and a subsequent written judgment entry. The defendant argues that due to the error in the written judgment entry, his sentence is illegal, and we must remand to the district court for a new sentencing hearing. **OPINION HOLDS:** We hold that the record unambiguously demonstrates the error was not the result of judicial intention but was merely clerical in nature. We therefore affirm and remand for the court to correct the error by issuance of an order nunc pro tunc.

No. 93-1754. STATE v. MANNA.

On review from the Iowa Court of Appeals. Appeal from the Iowa District Court for Story County, Steve Van Marel, District Associate Judge. **COURT OF APPEALS DECISION VACATED; DISTRICT COURT JUDGMENT AFFIRMED.** Considered by McGiverin, C.J., and Harris, Larson, Lavorato, and Neuman, JJ. Opinion by Lavorato, J. (6 pages \$2.40)

Officer William Sankey pulled the defendant, Douglas Manna, over during the early morning hours of April 24, 1993, and issued him a speeding citation. Manna was seated in the officer's patrol car. The trooper then asked Manna to spit out the sunflower seeds he was chewing. Manna complied, and the trooper subsequently smelled alcohol on his breath. Sankey then administered several standard field sobriety tests which Manna failed. Manna consented to a preliminary breath test (PBT). The results of the PBT and a later intoxilyzer test were above the .10 legal definition of driving while intoxicated and formed the basis for Manna's subsequent arrest and conviction for operating while intoxicated. The district court denied Manna's pretrial motion to suppress the intoxication evidence. On appeal, the court of appeals ruled that admission of that evidence violated Manna's Fourth Amendment right against unreasonable search and seizure. We granted further review. **OPINION HOLDS:** I. We agree with the State that Manna's consent to the search of his mouth was voluntary and for that reason the district court correctly denied Manna's suppression motion. II. Manna failed to preserve any alleged error on the issue of whether Sankey had a basis to invoke implied consent procedures under Iowa Code section 321J.6 (1991). We vacate the court of appeals decision and affirm the district court's judgment of conviction and sentence.

No. 94-114. IRVING v. STATE.

On review from the Iowa Court of Appeals. Appeal from the Iowa District Court for Marion County, J. W. Jordan, Judge. **DECISION OF COURT OF APPEALS VACATED; JUDGMENT OF DISTRICT COURT REVERSED AND REMANDED.** Considered by Harris, P.J., and Carter, Snell, Andreasen, and Ternus, JJ. Opinion by Snell, J. (7 pages \$2.80)

The district court ruled that Irving received ineffective assistance of counsel. It held Irving's court-appointed counsel failed to investigate the admissibility of his confession and inculpatory evidence. It also held the possibility that the confession could have been suppressed undermined its confidence in the guilty pleas. The court of appeals affirmed and the State now seeks further review. **OPINION HOLDS:** There was incriminating evidence apart from the confession which would not have been suppressed as "fruit of the poisonous tree." Irving also confessed a second time at the police station after he signed a written waiver of his *Miranda* rights. This confession was admissible. Irving avoided an habitual offender charge by pleading guilty. Consequently, we conclude there was not a reasonable probability that, but for his counsel's errors, Irving would not have pleaded guilty and would have insisted on going to trial.

No. 94-280. C-THRU CONTAINER CORP. v. MIDLAND MFG. CO.

On review from the Iowa Court of Appeals. Appeal from the Iowa District Court for Jasper County, Michael J. Streit, Judge. **DECISION OF COURT OF APPEALS AFFIRMED; JUDGMENT OF DISTRICT COURT REVERSED AND REMANDED.** Considered by Harris, P.J., and Carter, Snell, Andreasen, and Ternus, JJ. Opinion by Ternus, J. (7 pages S2.80)

Midland Manufacturing Company agreed to purchase bottle-making equipment from C-Thru Container Corporation and to make commercially acceptable bottles for C-Thru. The contract also provided that if Midland failed to manufacture the bottles, C-Thru could require Midland to pay the entire purchase price plus interest within thirty days. C-Thru never ordered any bottles from Midland, but instead purchased its bottles from another supplier at a lower price. C-Thru then notified Midland that the full purchase price plus interest was due and payable within thirty days. Midland failed to pay and C-Thru filed a petition alleging that Midland had breached the contract by being incapable of producing the bottles. Midland filed a motion for summary judgment contending that it had no obligation to manufacture bottles, and therefore did not breach the contract, because C-Thru never ordered any bottles. In resisting the motion C-Thru relied on deposition testimony that the practice in the bottle-making industry was for the bottle manufacturer to provide sample bottles to verify that it could make commercially acceptable bottles before the purchaser placed any orders. The trial court found no sample container requirement in the written contract and held that the parol evidence rule precluded consideration of any trade-usage evidence. It concluded that no genuine issue of material fact existed and granted Midland summary judgment. The court of appeals reversed the district court's ruling, concluding that evidence regarding the trade practice should have been considered. We granted Midland's application for further review. **OPINION HOLDS:** I. Under Iowa Code section 554.2202 (1993), unlike the common law, usage-of-trade evidence may be used to supplement a fully integrated agreement governed by Iowa's Uniform Commercial Code. The trade-usage evidence upon which C-Thru relies is admissible even though the agreement is not ambiguous and the evidence adds a new term to the contract. Taking this evidence in a light most favorable to C-Thru, we conclude there exists a genuine issue of fact concerning the performance required of Midland as a prerequisite to C-Thru's obligation to place an order. Therefore, summary judgment is not appropriate. We affirm the decision of the court of appeals, reverse the judgment of the district court and remand for further proceedings.

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