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IOWA ADMINISTRATIVE BULLETIN

Published Biweekly VOLUME XVIII NUMBER 6
September 13, 1995 Pages 353 to 416

CONTENTS IN THIS ISSUE

Pages 365 to 412 include **ARC 5857A** to **ARC 5884A**

ALL AGENCIES
Agency identification numbers 363
Flow chart 358
Guide to rule making 362
Publication procedures 357
Schedule for rule making 356

BANKING DIVISION[187]
COMMERCE DEPARTMENT[181]"umbrella"
Filed, General definition of bank, 8.9 **ARC 5868A** 397

CITATION OF ADMINISTRATIVE RULES 355

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
Notice, CDBG — wage criteria, 23.8(1)"d" and "e," 23.9(5)"a" **ARC 5860A** 365
Notice, Self-employment program — low income, 51.2 **ARC 5861A** 365
Notice, CEBA — wage requirements, maximum award, forgivable loan awards, float loans, 53.2, 53.5(2), 53.6, 53.7(2), 53.13 **ARC 5862A** 365
Filed, VAAPFAP, 57.2, 57.5(5), 57.6(1), 57.6(2) **ARC 5863A** 397

EDUCATION DEPARTMENT[281]
Notice, Open enrollment, 17.8(5) **ARC 5867A** ... 367
Notice, Home schooling, 31.3(1), 31.3(2), 31.4(2), 31.6(1), 31.7(4), 31.8(3), 31.9 **ARC 5866A** 367

ENVIRONMENTAL PROTECTION COMMISSION[567]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Notice, Water supply operation, 40.2, 40.5, 43.2(3), 43.3(3) **ARC 5878A** 369
Filed, Voluntary operating permit program, 20.2, 22.100, 22.200, 22.201, 22.206(2) **ARC 5875A** 398
Filed, Hazardous air pollutants, 22.5(2), 22.100, 22.103(2), 22.105(3), 22.107, 23.1 **ARC 5874A** 398
Filed Emergency, Water supply operation, 40.2, 40.5, 43.2(3), 43.3(3) **ARC 5877A** 395
Filed, Water quality, 61.2(2)"h" **ARC 5876A** 401

EXECUTIVE DEPARTMENT
Proclamation — disaster emergency 413
Proclamation of emergency — missing person 415

GENERAL SERVICES DEPARTMENT[401]
Filed, Inventory guidelines for state personal and real property, 10.2, 10.3, 10.5 to 10.7 **ARC 5871A** 402

HUMAN SERVICES DEPARTMENT[441]
Notice, Medicaid elderly waiver program, 77.33, 83.22(1) **ARC 5869A** 370
Notice, Child abuse, amendments to ch 175 **ARC 5870A** 370

INSPECTIONS AND APPEALS DEPARTMENT[481]
Notice, Hospitals — pediatric services, 51.30(1)"b," 51.34 **ARC 5864A** 377
Notice, Respite care services — licensing, 59.60, 62.26, 63.50, 64.63, 65.30 **ARC 5865A** 377

INSURANCE DIVISION[191]
COMMERCE DEPARTMENT[181]"umbrella"
Notice, Actuarial opinion and memorandum, 5.34 **ARC 5873A** 378

PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Notice, Cosmetology arts and sciences examiners, 60.2(4), 60.4(4), 60.6(5), 60.8(5), 60.11(2), 61.6(12), 63.5(5), 63.12(8), 64.1(2), 64.8 **ARC 5883A** 389
Notice, Optometry examiners — prescriptions, 180.9 **ARC 5881A** 390
Notice, Optometry examiners — continuing education, 180.12, 180.13(5) **ARC 5882A** 391
Filed, Nursing home administrators, chs 140 to 143, 146 to 149 **ARC 5879A** 403

Continued on page 355

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 Public Hearings, 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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KATHLEEN BATES, Deputy Editor — (515)281-8157

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

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Fourth quarter	April 1, 1996, to June 30, 1996	$ 57.00 plus $2.85 sales tax

Single copies may be purchased for $16.00 plus $0.80 tax. Back issues may be purchased if the issues are available.

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Grimes State Office Building
Des Moines, IA 50319
Telephone: (515)281-8796

PUBLIC HEARINGS
Summarized list 359

RACING AND GAMING COMMISSION[491]
INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"
Notice, Licensing, 4.29(6), 13.9 **ARC 5859A** 391
Filed, Thoroughbred racing — locked claim box, 10.5(17) **ARC 5858A** 404

REVENUE AND FINANCE DEPARTMENT[701]
Notice, Noncompliance certificate from the child support recovery unit, 13.7, 13.16, 13.17, 30.1, 81.12, 81.13 **ARC 5880A** 392

SECRETARY OF STATE[721]
Filed, Election forms, 4.3 **ARC 5872A** 405

SUBSTANCE ABUSE COMMISSION[643]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Filed, Methadone, 3.35 **ARC 5884A** 406

TRANSPORTATION DEPARTMENT[761]
Filed, Regulations applicable to carriers, 520.1(1) **ARC 5857A** 411

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

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
8	**Friday, September 22, 1995**	**October 11, 1995**
9	**Friday, October 6, 1995**	**October 25, 1995**
10	**Friday, October 20, 1995**	**November 8, 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 1.x, 2.0, 6.0	SuperCalc
dBase	MultiMate	Symphony Document
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DCA/RFT	Office Writer	Windows Write
DIF	Paradox	Word for Windows 1.x, 2.0, 6.0
Display Write 4	Peach Text	WordPerfect 4.2, 5.x, 6.0
Enable 1.x, 2.x, 4.x	Professional Write	WordStar
Excel 3.0, 4.0, 5.0	Rich Text Format	WordStar 2000 ver 1.0, 3.0
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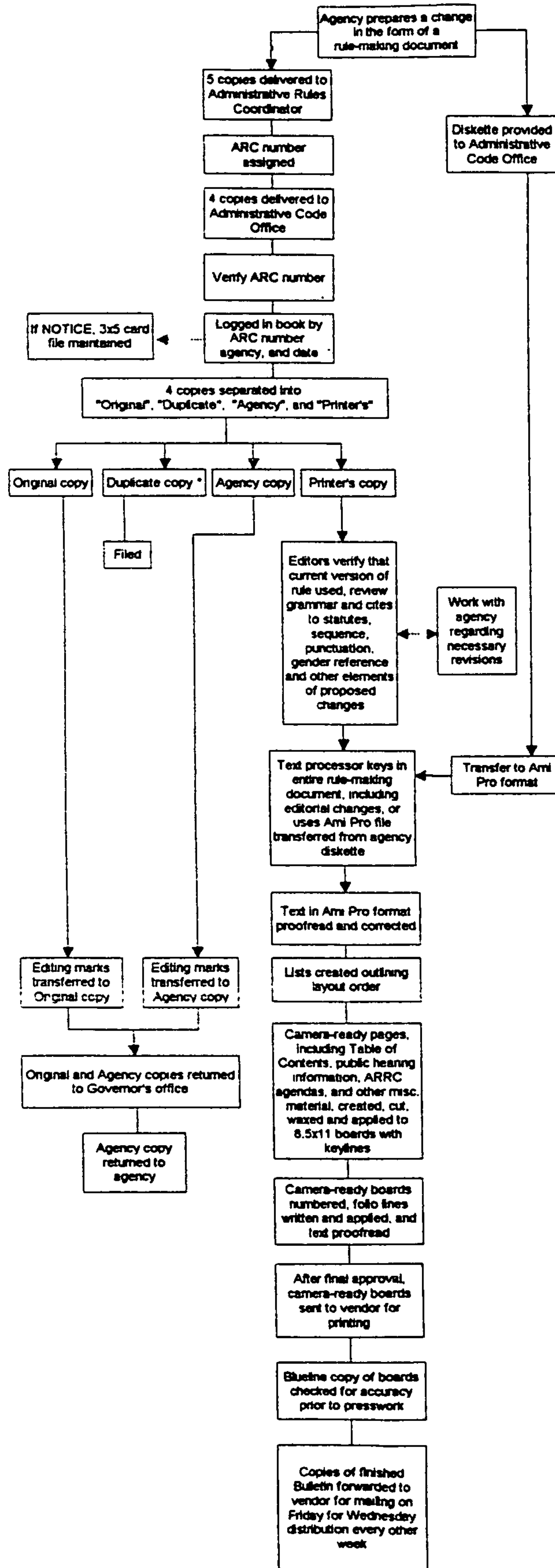
3. Submit only 3 1/2" or 5 1/4" high density MSDOS or compatible format diskettes. Please indicate on each diskette the agency name, file name, the format used for exporting, chapter or chapters of rules being amended.

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.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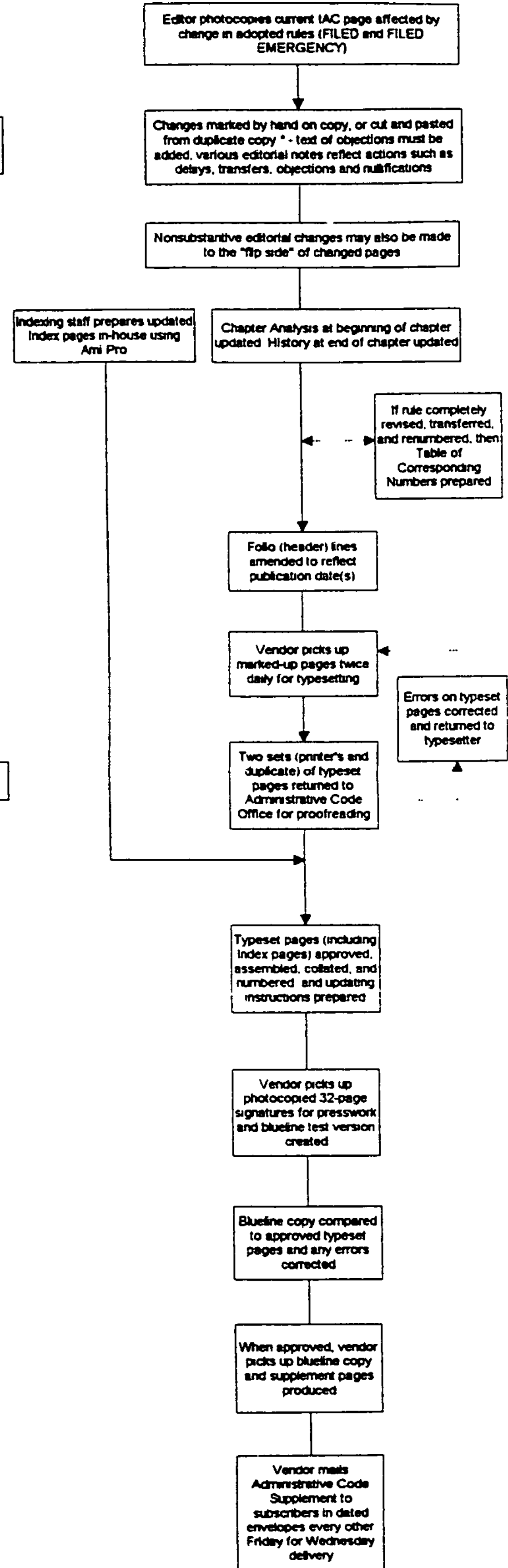
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Changes marked by hand on copy, or cut and pasted from duplicate copy * - text of objections must be added, various editorial notes reflect actions such as delays, transfers, objections and nullifications
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Indexing staff prepares updated Index pages in-house using Ami Pro
Chapter Analysis at beginning of chapter updated History at end of chapter updated
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Vendor mails Administrative Code Supplement to subscribers in dated envelopes every other Friday for Wednesday delivery

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
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.
CDBG — wage criteria, 23.8(1), 23.9(5)"a"(8), (9) IAB 9/13/95 **ARC 5860A**	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	October 6, 1995 9 a.m.
Self-employment loan program — low income, 51.2 IAB 9/13/95 **ARC 5861A**	Business Finance Conference Room 200 E. Grand Ave. Des Moines, Iowa	October 4, 1995 9 a.m.
CEBA — wage requirements, maximum award, forgivable loan awards, float loans, 53.2, 53.5(2), 53.6, 53.7(2), 53.13 IAB 9/13/95 **ARC 5862A**	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	October 6, 1995 9 a.m.
EDUCATION DEPARTMENT[281]		
Open enrollment, 17.8(5) IAB 9/13/95 **ARC 5867A**	Room 2N Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 3, 1995 9 a.m.
Home schooling, 31.3, 31.4(2), 31.6(1), 31.7(4), 31.8(3), 31.9 IAB 9/13/95 **ARC 5866A**	State Board Room — 2nd Floor Grimes State Office Bldg. Des Moines, Iowa	October 4, 1995 1 to 2 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Emissions from air contaminant sources, 22.9 IAB 8/16/95 **ARC 5803A** (See also **ARC 5746A**, IAB 7/19/95)	Conference Room, West Half Fifth Floor Wallace State Office Bldg. Des Moines, Iowa	October 18, 1995 10 a.m.
Water supply operation, 40.2, 40.5, 43.2(3)"b," 43.3(3)"b" IAB 9/13/95 **ARC 5878A** (See also **ARC 5877A** herein)	Conference Room, 4-West Wallace State Office Bldg. Des Moines, Iowa	October 3, 1995 10 a.m.
	Community Room 111 N. Main St. Denison, Iowa	October 3, 1995 3:30 p.m.
	Amana Room, Iowa Hall 6301 Kirkwood Blvd. S.W. Cedar Rapids, Iowa	October 4, 1995 1 p.m.
	Muse-Norris Conference Room NIACC 500 College Dr. Mason City, Iowa	October 5, 1995 9:30 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567](*cont'd*)

	Hearst Center for the Arts Conference Room 304 W. Seeley Blvd. Cedar Falls, Iowa	October 5, 1995 2:30 p.m.
	Community Bldg. 512 10th St. DeWitt, Iowa	October 6, 1995 1 p.m.
HUMAN SERVICES DEPARTMENT[441] Child abuse, amendments to ch 175 IAB 9/13/95 **ARC 5870A**	Conference Room — 6th Floor Iowa Bldg., Suite 600 411 Third St. S.E. Cedar Rapids, Iowa	October 5, 1995 10 a.m.
	Regional Office, Lower Level 417 E. Kanesville Blvd. Council Bluffs, Iowa	October 4, 1995 10 a.m.
	Conference Room 3 — 5th Floor Bicentennial Bldg. 428 Western Davenport, Iowa	October 4, 1995 10 a.m.
	Conference Room 100 City View Plaza 1200 University Des Moines, Iowa	October 6, 1995 9 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	October 5, 1995 10 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	October 5, 1995 10 a.m.
	Suite 624 507 7th St. Sioux City, Iowa	October 4, 1995 1 p.m.
	Conference Room 220 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	October 4, 1995 10 a.m.
INSPECTIONS AND APPEALS DEPARTMENT[481] Hospitals — pediatric services, 51.30(1)"b," 51.34 IAB 9/13/95 **ARC 5864A**	Director's Conference Room Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	October 3, 1995 1 p.m.
Respite care services — licensing, 59.60, 62.26, 63.50, 64.63, 65.30 IAB 9/13/95 **ARC 5865A**	Director's Conference Room Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	October 3, 1995 1 p.m.
NATURAL RESOURCE COMMISSION[571] Public-owned lakes—priority list of watersheds, 31.1 to 31.4 IAB 8/30/95 **ARC 5845A**	Conference Room Fourth Floor West Wallace State Office Bldg. Des Moines, Iowa	September 22, 1995 10 a.m.

NATURAL RESOURCE COMMISSION[571](*cont'd*)

State parks and recreation areas, 61.2 to 61.4 IAB 8/30/95 **ARC 5842A**	Conference Room Fourth Floor West Wallace State Office Bldg. Des Moines, Iowa	September 20, 1995 9 a.m.
Sport fishing, 81.2(2) IAB 8/30/95 **ARC 5843A**	Conference Room — 4th Floor Wallace State Office Bldg. Des Moines, Iowa	September 19, 1995 1 p.m.
	Armory Reserve Center Decorah, Iowa	September 20, 1995 7 p.m.

PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591]

Insurance renewal premiums, 10.3(5) IAB 8/30/95 **ARC 5839A** (See also **ARC 5838A**)	Conference Room — 6th Floor Lucas State Office Bldg. Des Moines, Iowa	September 19, 1995 10 a.m.
Remedial or insurance claims, 11.1(3) IAB 8/30/95 **ARC 5840A**	Conference Room — 6th Floor Lucas State Office Bldg. Des Moines, Iowa	September 19, 1995 10 a.m.
Guaranteed loan program, 12.2, 12.10 IAB 8/30/95 **ARC 5841A**	Conference Room — 6th Floor Lucas State Office Bldg. Des Moines, Iowa	September 19, 1995 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Optometry examiners — prescriptions, 180.9 IAB 9/13/95 **ARC 5881A**	Conference Room Fifth Floor, Side 2 Lucas State Office Bldg. Des Moines, Iowa	October 3, 1995 1 to 2 p.m.
Optometry examiners — continuing education, 180.12, 180.13(5) IAB 9/13/95 **ARC 5882A**	Conference Room Fifth Floor, Side 2 Lucas State Office Bldg. Des Moines, Iowa	October 3, 1995 1 to 2 p.m.

PUBLIC HEALTH DEPARTMENT[641]

Medically relevant tests to determine presence of illegal drug, ch 89 IAB 8/30/95 **ARC 5833A**	High School 20th and Ridgewood Ames, Iowa	September 19, 1995 10 to 11 a.m.
ICN Network ICN Studio — Room 326 Third Floor, East End Lucas State Office Bldg. Des Moines, Iowa	Room 232 500 Belmont Road Scott Comm. College Bettendorf, Iowa	September 19, 1995 10 to 11 a.m.
	Room 115 Trades & Industry Bldg. N.E. Iowa Comm. College Calmar, Iowa	September 19, 1995 10 to 11 a.m.
	Instructional Center 209 Southwestern Comm. College Creston, Iowa	September 19, 1995 10 to 11 a.m.
	Library Room 206 330 Ave. M Iowa Central Comm. College Fort Dodge, Iowa	September 19, 1995 10 to 11 a.m.

PUBLIC HEALTH DEPARTMENT[641](*cont'd*)

	Location	Date/Time
	Room 5 High School Rural Route 2 Glenwood, Iowa	September 19, 1995 10 to 11 a.m.
	103 North Hall University of Iowa Iowa City, Iowa	September 19, 1995 10 to 11 a.m.
	Room 806 Continuing Education Center Iowa Valley Comm. College Marshalltown, Iowa	September 19, 1995 10 to 11 a.m.
	Room 106 Activities Bldg. North Iowa Area Comm. College Mason City, Iowa	September 19, 1995 10 to 11 a.m.
	Room 107 Advanced Technology Center Indian Hills Comm. College Ottumwa, Iowa	September 19, 1995 10 to 11 a.m.
	Room 139 Northeast Iowa Comm. College Peosta, Iowa	September 19, 1995 10 to 11 a.m.
	Room 102 Student Center Northwest Iowa Comm. College Sheldon, Iowa	September 19, 1995 10 to 11 a.m.
	Room 110 Tama Hall 1501 Orange Road Hawkeye Comm. College Waterloo, Iowa	September 19, 1995 10 to 11 a.m.
	Room TH503 Trustee Hall 1015 S. Gear Ave. Southeastern Iowa Comm. College West Burlington, Iowa	September 19, 1995 10 to 11 a.m.
RACING AND GAMING COMMISSION[491] Licensing, 4.29(6), 13.9 IAB 9/13/95 **ARC 5859A**	Racing and Gaming Office Second Floor Lucas State Office Bldg. Des Moines, Iowa	October 3, 1995 9 a.m.
TRANSPORTATION DEPARTMENT[761] Holiday rest stops, 105.2, 105.4, 105.5 IAB 8/30/95 **ARC 5818A**	Commission Room 800 Lincoln Way Ames, Iowa	September 21, 1995 1 p.m. (If requested)

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]
- 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.

ARC 5860A

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 23, "Community Development Block Grant Nonentitlement Program," Iowa Administrative Code.

The proposed amendments raise the threshold wage criteria for projects awarded under the EDSA and PFSA portion of the program from 75 percent of the county wage to 90 percent of the average applicable county wage to be attained within two years after the date specified in the contract.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on October 6, 1995. Interested persons may submit written or oral comments by contacting Mike Fastenau, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4831. A public hearing to receive comments about the proposed amendments will be held on October 6, 1995, at 9 a.m. at the above address in the IDED Main Conference Room. Individuals interested in providing comments at the hearing should contact Mike Fastenau by 4 p.m. on October 5, 1995, to be placed on the hearing agenda.

These amendments are intended to implement Iowa Code section 15.108(1)"a."

The following amendments are proposed.

ITEM 1. Amend subrule **23.8(1)**, paragraphs **"d"** and **"e,"** as follows:

d. The average ~~starting~~ wage of the jobs to be created or retained by the proposed project must ~~meet~~ *equal* or exceed ~~75 percent~~ *90 percent* of the average county wage scale *by the end of the second year after the date specified in the contract*.

e. Proposed projects involving business start-ups ~~may apply for no more than $100,000~~ *must have wages which equal or exceed 75 percent of the average county wage by the end of the second year after the date of award.*

ITEM 2. Amend paragraph **23.9(5)"a"** by adding new subparagraphs **(8)** and **(9)**:

(8) The average wage of the jobs to be created or retained by the proposed project must equal or exceed 90 percent of the average county wage scale by the end of the second year after the date of award. In instances where an otherwise eligible PFSA project would include improvements to the public water or sanitary sewer system which benefit public health and safety, the director may lower this requirement to 75 percent of the average county wage.

(9) Proposed projects involving business start-ups must have wages which equal or exceed 75 percent of the average county wage by the end of the second year after the date of award.

ARC 5861A

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 51, "Self-Employment Loan Program," Iowa Administrative Code.

The proposed amendment redefines the definition of "Low income" to expand the eligible applicant base for the program.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on October 3, 1995. Interested persons may submit written or oral comments by contacting Burt Powley, Division of Business Development, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4793. A public hearing to receive comments about the proposed amendment will be held on October 4, 1995, at 9 a.m. at the above address in the Business Finance Conference Room. Individuals interested in providing comments at the hearing should contact Burt Powley by 4 p.m. on October 3, 1995, to be placed on the hearing agenda.

This amendment is intended to implement Iowa Code section 15.241.

The following amendment is proposed.

Amend rule **261—51.2(15)** by rescinding the existing definition of "Low income" and inserting in lieu thereof the following new definition:

"Low income" means an individual with an annualized household income that is equal to or less than 125 percent of the most current poverty income guidelines as published on an annual basis by the Department of Health and Human Services (DHHS).

ARC 5862A

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

The proposed amendments increase the wage requirements for CEBA projects to 100 percent of the average county wage; reduce the maximum CEBA award from $1 million to $750,000; limit forgivable loan awards to $500,000; and authorize the award of float loans for a maximum of 30 months.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on October 6, 1995. Interested persons may submit written or oral comments by contacting Mike Miller, Bureau of Business Finance, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4827. A public hearing to receive comments about the proposed amendments will be held on October 6, 1995, at 9 a.m. at the above address in the IDED Main Conference Room. Individuals interested in providing comments at the hearing should contact Mike Miller by 4 p.m. on October 5, 1995, to be placed on the hearing agenda.

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

The following amendments are proposed.

ITEM 1. Amend rule **261—53.2(15)** by adding the following <u>new</u> definition in alphabetical order:

"Float loan" means a short-term loan (maximum of 30 months) from obligated but unexpended CEBA funds.

ITEM 2. Amend subrule 53.5(2) as follows:

53.5(2) Forms of assistance. Assistance for projects may be provided in any of the following forms:

1. Principal buy-downs to reduce the principal of a business loan;
2. Interest buy-downs to reduce the interest on a business loan;
3. Forgivable loans;
4. Loans and loan guarantees, *including short-term (float) loans. Float loans may only be made for projects where the department obtains an irrevocable letter of credit from the company in an amount equal to or greater than the principal amount of the loan*;
5. Equity-like investments;
6. Cost reimbursement for technical/professional management services.

ITEM 3. Amend subrule 53.6(1) as follows:

53.6(1) General policies.

a. An applicant may submit as many different applications as it wishes at any time. However, if the department is reviewing two or more applications from the same applicant at the same time, it may ask the applicant to rank them in the order preferred by the applicant;

b. Only one applicant may apply for any given project;

c. No single project may be awarded more than ~~$1 million unless at least two thirds of the members of the board approve the award. However, this restriction will not apply after the first $10 million has been credited to the CEBA program in any given year;~~ *$750,000. This restriction does not apply to the float loan described in 53.5(2)(4)*;

d. No single project may be awarded a forgivable loan of more than $500,000;

e. ~~d.~~ No single project may be awarded more than $500,000 unless all other applicable CEBA requirements and each of the following criteria are met:

1. The business has not closed or substantially reduced its operation in one area of the state and relocated substantially the same operation in the community. This requirement does not prohibit a business from expanding its operation in the community if existing operations of a similar nature in the state are not closed or substantially reduced.

2. The business must provide and pay at least 80 percent of the cost of a standard medical and dental insurance plan for all full-time employees working at the facility in which the new investment occurred.

3. The business shall agree to pay a median wage for new full-time jobs of at least 130 percent of the average wage in the county in which the community is located.

f. ~~e.~~ No more than $100,000 may be awarded to a business start-up unless that ~~business's average wage is~~ *business pledges wages* greater than ~~85~~ *100 percent* of the *current* county average ~~and over 50 percent of the business's employees' wages are at or above the 85 percent level.~~ *, to be attained by the date specified in the contract.*

g. ~~f.~~ To be eligible for assistance the business shall provide for a preference for hiring residents of the state or the economic development area, except for out-of-state employees offered a transfer to Iowa or the economic development area.

h. ~~g.~~ All applicants for financial assistance shall comply with the requirements of 261—Chapter 80.

i. ~~h.~~ Applicants shall *agree to* meet the following wage threshold requirements *by the date specified in the contract*:

(1) Project positions must have an average ~~starting~~ wage of at least ~~85 percent~~ *100 percent* of the average county wage scale ~~or $9, whichever is lower~~.

~~(2) Fifty percent or more of the jobs to be created or retained must have an average starting wage of at least 85 percent of the average county wage scale or $9, whichever is lower.~~

(2) ~~(3)~~ If the applicant is a business start-up, project positions must have an average starting wage of at least 75 percent of the average county wage scale.

~~(4) The $9 wage scale referenced in this rule shall be adjusted annually by calculating the percent increase or decrease in average Iowa hourly earnings level for all production and nonproduction workers in the private sector from the month of June of the previous year to June of the current year. This report is compiled by the Iowa department of employment services.~~

j. ~~i.~~ A business receiving moneys from the department for the purpose of job creation shall make available 10 percent of the new jobs created for PROMISE JOBS program participants.

ITEM 4. Amend paragraph **53.6(2)"e"** as follows:

e. The project fails to meet the wage threshold requirements under ~~paragraph 53.6(1)"h",~~ *subrule 53.6(1),* or

ITEM 5. Amend subrule 53.7(2) as follows:

53.7(2) Relating to job creation/retention:

a. The total number of jobs to be created or retained. When rating a project, the department shall only consider those positions which meet the wage threshold requirements defined in ~~paragraph~~ *subrule* 53.6(1)~~"h."~~.

b. The quality of jobs to be created. In rating the quality of jobs, the department shall award more points to those jobs that have a higher wage scale, a lower turnover rate, are full-time, career-type positions, or have other re-

lated factors. Those applications that have *projected* average wage scales *(after two years)* which are ~~15 percent or more~~ below that of the average county wage scale shall be given an overall score of zero. Business start-ups shall be given a score of zero only if their *prospective* wage scales are 25 percent or more below that of the average county wage scale.

ITEM 6. Amend subrule 53.13(1) as follows:

53.13(1) At any time prior to or after the project expiration date, the department may, for cause, determine that a recipient is in default under the terms of their agreement. The department may determine that the recipient is in default if any of the following occur:

a. Any material representation or warranty made by the recipient in connection with the application that was incorrect in any material respect when made.

b. There is a material change in the business ownership or structure that occurs without prior written disclosure and the permission of the department.

c. There is a relocation or abandonment of the business or jobs created or retained through the project.

d. Expending CEBA funds for purposes not described in the application or authorized in the agreement.

e. Failure of the recipient to make timely payments under the terms of the agreement, note or other obligation.

f. Failure of the recipient to fulfill its job attainment obligation.

g. Failure of the recipient to comply with promised wage or benefit packages.

h. ~~g.~~ Failure to perform or comply with the terms and conditions of the agreement.

i. ~~h.~~ Failure to comply with any applicable state rules or regulations.

ITEM 7. Amend rule 261—53.13(15) by adding the following new subrule 53.13(4) and renumbering existing subrule **53.13(4)** as **53.13(5)**:

53.13(4) Penalties for failure to meet promised wage or benefit packages. If the recipient does not meet the wage or benefit package promised in the CEBA award agreement, the department may require repayment of funds proportional to the number of employees who did not meet the wage or benefit package, compared to the promised number of project positions.

ARC 5867A

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby gives Notice of Intended Action to amend Chapter 17, "Open Enrollment," Iowa Administrative Code.

The proposed amendment removes the requirement for renewing an open enrollment application, allowing approved open enrollment applications to remain in place unless the parent/guardian withdraws it. This will decrease paperwork and reduce the amount of time required to process open enrollment applications.

Any interested person may make written suggestions or comments on this proposed amendment on or before October 3, 1995. Written or oral comments should be addressed to Don Helvick, Consultant, Bureau of School Administration and Accreditation, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146, telephone (515)281-5001.

A public hearing on the proposed amendment will be held on October 3, at 9 a.m. in Room 2N, Second Floor, at the above address.

This amendment is intended to implement Iowa Code section 282.18.

The following amendment is proposed.

Rescind subrule 17.8(5) and adopt the following in lieu thereof:

17.8(5) Renewal of an open enrollment agreement. An open enrollment agreement shall remain in place unless canceled by the parent/guardian or terminated as outlined in the provisions of subrule 17.8(10).

ARC 5866A

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 299A.10, the Iowa State Board of Education hereby gives Notice of Intended Action to amend Chapter 31, "Competent Private Instruction and Dual Enrollment," Iowa Administrative Code.

The proposed amendments are based on recommendations of a home schooling task force established by the Department of Education. The proposed amendments conform licensure requirements for home schooling supervisory teachers to statute; amend contact requirements for home school assistance programs; clarify that the duties for supervisory teachers listed in the rules are to be conducted over time rather than during each supervisory visit; add nonpublic schools as agencies which may administer annual performance assessments; strike a requirement that home-schooled students be dual enrolled before applying for open enrollment; amend the qualifications required for teachers who evaluate home school portfolios; conform the list of required items in a home school portfolio to statute; provide that a professional review of a special education child's Individualized Education Plan may be accepted as a portfolio assessment for home schooling purposes; provide that the annual report

of progress from a correspondence school that is a member of an accrediting association recognized by the Secretary of the United States Department of Education may be accepted for annual assessment purposes; provide a deadline for an Area Education Agency Director of Special Education to respond when a parent of a special education student requests approval for home schooling; and update references to special education statutes and administrative rules.

Any interested person may submit written or oral comments on the proposed amendments by addressing those comments to Leland Wolf, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146, (515)281-3198, by October 4, 1995.

A public hearing on the proposed amendments will be held on October 4, 1995, from 1 to 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, at which time written or oral comment will be accepted. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. A time limit for each oral comment may be set.

These amendments are intended to implement Iowa Code chapters 299 and 299A.

The following amendments are proposed.

ITEM 1. Amend subrule 31.3(1) as follows:

31.3(1) Licensing requirements. A person who provides instruction to or instructional supervision of a student receiving competent private instruction shall be either the student's parent, guardian, or legal custodian or a person who possesses a valid Iowa teaching certificate or practitioner license ~~as a classroom teacher~~ which is appropriate to the age and grade level of the student under competent private instruction.

ITEM 2. Amend subrule **31.3(2)**, paragraph **"a,"** first unnumbered paragraph, as follows:

However, if the instruction or instructional supervision is provided by a public or accredited nonpublic school in the form of a home school assistance program, the teacher practitioner shall ~~meet~~ *have contact* with the child and the child's parent, guardian, or legal custodian at least four times per quarter during the period of instruction. *One of every two contacts shall be face-to-face with the student under competent private instruction.*

ITEM 3. Amend subrule **31.3(2)**, paragraph **"b,"** as follows:

b. Consulting with and advising the student's parent, guardian, or legal custodian with respect to *some or all of*:

ITEM 4. Amend subrule **31.4(2)**, paragraph **"c,"** as follows:

c. If a student has been administered an approved standardized test by a ~~nonaccredited school~~ *nonpublic school* during the academic school year for which testing is required, and the administration of the test has met the terms or protocol of the test publisher, the results may be submitted to the resident district *and the department of education* in original form by either the test administrator or the parent, guardian, or legal custodian of the child being tested, in satisfaction of the annual assessment option. The submitted test results shall be accompanied by a certification statement signed by the test administrator to the effect that the publisher's protocol or terms required for test administration have been met.

ITEM 5. Amend subrule 31.6(1) as follows:

31.6(1) The parent, guardian, or legal custodian of a child receiving competent private instruction may request open enrollment to another public school district by following the procedures of the open enrollment law, Iowa Code section 282.18. ~~However, before applying for open enrollment, the parent, guardian, or legal custodian of a child of compulsory attendance age who is receiving competent private instruction shall timely request dual enrollment from the district of residence of the child.~~

ITEM 6. Amend subrule **31.7(4)**, paragraphs **"a"** and **"b,"** as follows:

a. Portfolio evaluators. ~~The evaluator shall receive training in portfolio assessment prior to assessing any child's portfolio for the purpose of fulfilling the law. Evidence of the training shall be attached to reports filed with the district of residence of the child and the department of education.~~

A single ~~trained~~ evaluator shall be designated by each parent, guardian, or custodian who has selected the portfolio evaluation option for annual assessment. The evaluator so identified *shall be approved by the superintendent of the local school district or the superintendent's designee, and* shall hold a valid Iowa practitioner license or teacher certificate appropriate to the ages and grade levels of the children whose portfolios are being assessed. ~~For purposes of assessing subject matter content areas, the evaluator shall either hold a license as specified below or obtain review of the content areas for which the portfolio evaluator does not hold an endorsement by a person who holds a valid Iowa practitioner license or teacher certificate with endorsements as required below. In each case where the designated portfolio evaluator obtains review of the student's portfolio by another licensed teacher, the teacher who performs the review shall sign the portfolio evaluator's narrative report and indicate the reviewer's folder number prior to the submission of the report to the district of residence and the department of education.~~

For children whose grade level of study is any of grades 1 through 5, the portfolio evaluator ~~or reviewer selected by the evaluator~~ shall hold a *valid Iowa* license as an elementary ~~classroom teacher~~ *practitioner or an elementary endorsement*.

For children whose grade level of study is in any of grades 6 through 9, the portfolio evaluator ~~or reviewer selected by the evaluator~~ shall hold a *valid Iowa* license as either an elementary ~~classroom teacher~~ or a secondary ~~classroom teacher, subject to the limitation below~~ *practitioner or hold either an elementary or a secondary endorsement*. For children whose grade level of study is in any of grades 10 through 12, the portfolio evaluator ~~or reviewer selected by the evaluator~~ shall hold a *valid Iowa* license as a secondary ~~teacher~~ *practitioner or hold a secondary endorsement*.

~~The holder of a secondary license shall only personally evaluate or review the portfolio content areas for which the evaluator holds a subject matter endorsement.~~

A ~~trained~~ portfolio evaluator may not evaluate the portfolios of more than 25 students per year without permission of the director of the department of education.

b. Contents of portfolio. The child's portfolio shall contain evidence of academic progress ~~as required below~~ in the minimum curriculum areas of reading, language arts, and mathematics if the child under private instruction is in grade levels 1 through 5. For children in grade levels 6 through 12, the portfolio shall contain evidence ~~as~~

~~required below~~ in the minimum curriculum areas of reading, language arts, mathematics, science, and social studies.

For each curriculum area, the portfolio shall include a book of lesson plans, a diary, or other written record indicating the subject matter taught and activities in which the child has been engaged, ~~supplied by the parent, guardian, or legal custodian providing the private instruction~~ *and an outline of the curriculum used by the child.* The portfolio may also include a list of, a reference to, or material from the textbooks and resource materials used by the student in each subject area.

The portfolio shall also include copies of tests or other formal and informal assessment instruments used to measure student progress over the current academic year *if given*, a copy of the baseline test, and the most recent assessment report of the student's annual progress.

For each subject area to be evaluated, the portfolio shall include examples of the student's work, and may include self-assessments by the student~~, as follows:~~ .

ITEM 7. Amend subrule **31.7(4)**, paragraph **"b,"** by deleting subparagraphs **(1)** to **(5)**.

ITEM 8. Amend subrule **31.7(4)** by adding new paragraphs **"c"** and **"d,"** as follows:

c. For a child identified as requiring special education who is subject to the annual assessment requirement and who participates in special education instructional services under an individualized education plan (IEP), the department may accept as an alternative to the baseline test and annual assessment either an annual diagnostic assessment specified in and carried out as a requirement of the IEP or a copy of the written report of an IEP review conducted during an annual special education staffing specified in the IEP. If the diagnostic assessment or written report indicates the child has made progress toward the IEP goals, the child shall be deemed to have made adequate progress for the purpose of annual assessment.

d. For a child subject to annual assessment who is enrolled as a student of a correspondence school which is a member of a national or regional accrediting association which is recognized by the United States Secretary of Education and accredited for elementary and secondary education, the department may accept as an alternative assessment the annual report of progress sent by the correspondence school to the child's parents, if the annual report of progress includes a listing of subjects taken and grades received. A passing grade in all content areas for which annual assessment is required shall be deemed evidence of adequate progress for the purpose of annual assessment.

ITEM 9. Amend subrule **31.8(3)** by striking the last paragraph, which reads:

~~Pursuant to subrule 31.7(4), paragraph "a," a trained portfolio evaluator may perform assessments only in areas for which the evaluator holds a valid endorsement.~~

ITEM 10. Amend rule **281—31.9(299A)**, second and third unnumbered paragraphs, as follows:

The request for approval for placement under Competent Private Instruction by the parent or guardian may be presented to the special education director at any time during the calendar year. If the special education director denies approval *or if no written decision has been rendered within 30 calendar days*, that decision *or the absence thereof* is subject to review by an impartial administrative law judge under provisions of 20 U.S.C. Section 1401 et seq., federal regulations adopted thereunder, and Iowa Code section 256B.6 and rules adopted thereunder found at 281—~~41.32~~ *41.112*(17A,256B,*290*) et seq.

If a parent, guardian, or legal custodian of a child requiring special education provides private instruction without the approval of the director of special education, the director may either request an impartial hearing before an administrative law judge under the rules of special education, 281—~~41.32~~ *41.112*(17A,~~281~~*256B*,290), or notify the secretary of the child's district of residence for referral of the matter to the county attorney pursuant to Iowa Code section ~~281.6~~ *256B.6*, incorporating chapter 299.

ARC 5878A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission proposes to amend Chapter 40, "Scope of Division—Definitions—Forms—Rules of Practice," and Chapter 43, "Water Supplies—Design and Operation," Iowa Administrative Code.

The proposed amendments revise the existing rules for the assessment of fees for water supply operation. The proposed fee structure is anticipated to generate funds originally authorized by 1994 Iowa Acts, Senate File 2314, section 48, and amended by 1995 Iowa Acts, House File 553, section 34. The reason for these amendments is to set forth the legislated fee structure for water supply operation.

Any interested person may submit written suggestions or comments on the proposed amendments through October 20, 1995. Such written materials should be submitted to Michael K. Anderson, P.E., Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034.

Persons are also invited to present oral or written comments at any of the six public hearings which will be held:

October 3, 1995 10 a.m.	4-West Conference Room Wallace State Office Building 900 East Grand Ave. Des Moines, Iowa 50319-0034
October 3, 1995 3:30 p.m.	Denison Community Room 111 North Main Street Denison, IA 51442
October 4, 1995 1 p.m.	Amana Room, Iowa Hall 6301 Kirkwood Blvd. SW Cedar Rapids, IA 52406

ENVIRONMENTAL PROTECTION COMMISSION[567](*cont'd*)

October 5, 1995 9:30 a.m.	NIACC—Muse-Norris Conference Room 500 College Drive Mason City, IA 50401
October 5, 1995 2:30 p.m.	Hearst Center for the Arts Conference Room 304 West Seeley Blvd. Cedar Falls, IA 50613
October 6, 1995 1 p.m.	DeWitt Community Building 512 10th Street DeWitt, IA 52742

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 and advise of specific needs.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 5877A**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapter 455B, Division III, Part 1, and 1994 Iowa Acts, Senate File 2314, section 48, as amended by 1995 Iowa Acts, House File 553, section 34.

ARC 5869A

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," and Chapter 83, "Medicaid Waiver Services," appearing in the Iowa Administrative Code.

These amendments implement the following changes in the Medicaid Elderly Waiver program:

1. Eleven new counties are added to the waiver: Boone, Cass, Cedar, Cherokee, Dallas, Emmet, Fremont, Grundy, Jones, Lee, and Washington.

2. Medical equipment and sickroom supply dealers are added as providers of home-delivered meals. This will enable them to provide liquid supplements under the waiver.

3. Hospitals, Community Action Agencies, nursing facilities, and Medicare-certified home health agencies are added as providers of nutritional counseling.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before October 4, 1995.

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

The following amendments are proposed.

ITEM 1. Amend rule 441—77.33(249A) as follows:

Amend subrule **77.33(8)** by adding the following new paragraph "g":

g. Medical equipment and supply dealers certified to participate in the Medicaid program.

Amend subrule 77.33(12) as follows:

77.33(12) Nutritional counseling. ~~Licensed dietitians approved by an area agency on aging~~ *The following providers* may provide nutritional counseling~~.~~ *by a licensed dietitian:*

a. Hospitals enrolled as Medicaid providers.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

d. Home health agencies certified by Medicare.

e. Licensed dietitians approved by an area agency on aging.

ITEM 2. Amend subrule **83.22(1)**, paragraph **"b,"** as follows:

b. A resident of one of the following counties:

Adair	Des Moines	Kossuth
Appanoose	Dickinson	*Lee*
Black Hawk	Dubuque	Linn
Boone	*Emmet*	Muscatine
Bremer	Fayette	Page
Buena Vista	Franklin	Plymouth
Butler	*Fremont*	Pocahontas
Calhoun	Greene	Polk
Cass	*Grundy*	Pottawattamie
Cedar	Guthrie	Ringgold
Cerro Gordo	Hamilton	Scott
Cherokee	Hancock	Story
Chickasaw	Hardin	Van Buren
Clarke	Howard	*Washington*
Clay	Jackson	Winneshiek
Clinton	Jasper	Woodbury
Decatur	Johnson	Worth
Delaware	*Jones*	Wright
Dallas	Keokuk	

ARC 5870A

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend

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

Chapter 175, "Abuse of Children," appearing in the Iowa Administrative Code.

These amendments implement the child abuse assessment pilot projects as mandated by the Seventy-sixth General Assembly. The pilot projects are an assessment-based approach to respond to child abuse reports in a more flexible, helpful manner while continuing to safeguard children at risk of abuse but engaging families in a more positive way.

Over the past several years legislators who were addressing the child protection provisions determined that the protective services program, especially that aspect referred to as child protective investigations, required a review and evaluation. This led to the establishment of the Child Protection Task Force charged with reviewing federal and state laws, regulations and policies regarding child protection, including the use and function of the child abuse registry.

Members of the Child Protection Task Force had heard criticisms of the child protective investigations system from both persons being investigated and persons initiating investigations. A key recommendation of the Task Force was the creation of pilot projects in which the Department would respond to reports of child maltreatment with an assessment-based approach, accompanied by radical changes in the use of the child abuse registry. This proposal was put forth by the Department because child protective staff with experience in conducting investigations have long recognized the difficulty presented by their own program in adopting the same approach for each incident of child abuse reported. This "one size fits all" approach fails to distinguish between minor, isolated incidents of maltreatment and those forms which are significant, dangerous, or repetitive.

1995 Iowa Acts, Senate File 208, unanimously passed in both the House and the Senate, charges the Department to select pilot areas of the state in which to initiate a new, more flexible approach in responding to maltreatment allegations. Key components of the legislation and these amendments are as follows:

• The Department's response to a report of child abuse will be determined by each unique situation and will be driven by an assessment of the child's safety and the family functioning. There is no requirement to observe the child within 24 hours of receipt of the report. Workers are given 72 hours to initiate the assessment. Workers are given 21 calendar days to complete the summary, rather than 10 working days to complete the report.

• Only maltreatment which is significant will result in placement on the child abuse registry.

• All case information will be maintained, either as open or closed assessment service files. There is no provision for purging files.

• Far greater emphasis will be placed upon a strength-based assessment of the family where a full assessment is necessary. Less emphasis will be placed on the isolated incident reported.

• There will be greater reliance on identification of nontraditional services or supports for children and families.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before October 4, 1995.

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

Cedar Rapids - October 5, 1995 Cedar Rapids Regional Office Sixth Floor Conference Room Iowa Building - Suite 600 411 Third St. S. E. Cedar Rapids, Iowa 52401	10 a.m.
Council Bluffs - October 4, 1995 Council Bluffs Regional Office Lower Level 417 E. Kanesville Boulevard Council Bluffs, Iowa 51501	10 a.m.
Davenport - October 4, 1995 Davenport Area Office Bicentennial Building - Fifth Floor Conference Room 3 428 Western Davenport, Iowa 52801	10 a.m.
Des Moines - October 6, 1995 Des Moines Regional Office City View Plaza Conference Room 100 1200 University Des Moines, Iowa 50314	9 a.m.
Mason City - October 5, 1995 Mason City Area Office Mohawk Square, Liberty Room 22 North Georgia Avenue Mason City, Iowa 50401	10 a.m.
Ottumwa - October 5, 1995 Ottumwa Area Office Conference Room 3 120 East Main Ottumwa, Iowa 52501	10 a.m.
Sioux City - October 4, 1995 Sioux City Regional Office Suite 624 507 7th Street Sioux City, Iowa 51101	1 p.m.
Waterloo - October 4, 1995 Waterloo Regional Office Pinecrest Office Building Conference Room 220 1407 Independence Avenue Waterloo, Iowa 50703	10 a.m.

These amendments are intended to implement Iowa Code chapter 235A and Iowa Code sections 232.67 to 232.77 as amended by 1995 Iowa Acts, Senate File 208, sections 4 and 5.

The following amendments are proposed.

ITEM 1. Amend 441—Chapter 175 by creating a <u>new</u> Division I, "Child Abuse," with rules **441—175.1(232,235A)** to **441—175.12(232,235A)**.

ITEM 2. Amend **441—Chapter 175**, Preamble to Division I, as follows:

PREAMBLE

The purpose of this ~~chapter~~ *division* is to implement requirements established in the Iowa Code which charge the department of human services with accepting reports of child abuse, investigating those reports and taking necessary steps to ensure a reported child's safety. Protection is provided through encouraging the reporting of suspected cases of abuse, conducting a thorough and prompt investigation of the reports, and providing rehabilitative services to abused children and their families. This ~~chapter~~ *division* also implements requirements to establish and maintain a central abuse registry and to identify those entities with access to child abuse information.

ITEM 3. Reserve rules **175.13** to **175.20**.

ITEM 4. Amend **441—Chapter 175** by adding the following new Division II:

DIVISION II

CHILD ABUSE ASSESSMENT PILOT PROJECTS

PREAMBLE

The purpose of this division is to implement an assessment-based approach to allegations of child abuse. The department shall select five areas of the state, which are at least as large in size as a departmental county cluster, to pilot a response to child abuse reports which emphasizes child safety and engagement of a family in services, where necessary. The assessment-based approach recognizes that child protection and strong families are the responsibility of not only the family itself, but also of the larger community (including formal and informal service networks). It is the department's legal mandate to respond to reports of child abuse. The assessment approach shall allow the department to develop divergent strategies when responding to child abuse reports, adjusting its response according to the severity of abuse, to the functioning of the family, and to the resources available within the child's and family's community.

441—175.21(232, 235A) Definitions.

"Abusive incident or condition" shall mean a description of the injury or risk of injury or harm incurred by a child due to the acts or omissions of a person responsible for the care of the child as a result of any of the following:

1. Any nonaccidental physical injury, or injury which is at variance with the history given of it.

2. Any mental injury to a child's intellectual or psychological capacity, as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional.

3. A sexual offense with or to a child pursuant to Iowa Code chapter 709 or Iowa Code section 726.2 or section 728.12, subsection 1.

4. Failure to provide for the adequate food, shelter, clothing or other care necessary for the child's health and welfare when financially able to do so or when offered financial or other reasonable means to do so.

5. Allowing, permitting, or encouraging a child to engage in acts prohibited pursuant to Iowa Code section 725.1, child prostitution.

6. An illegal drug is present in the child's body.

"Adequate food, shelter, clothing or other care" shall mean that food, shelter, clothing or other care which, if not provided, would constitute a denial of critical care.

"Assessment" shall mean the process by which the department carries out its legal mandate in the pilot areas of the state to address the safety of the child and family functioning, engage the family in services if needed, enhance family strengths and address needs in a culturally sensitive manner.

"Assessment intake" shall mean the process by which the department receives reports of child abuse.

"Assessment report" shall mean a verbal or written statement made to the department by a person who suspects that child abuse has occurred.

"Denial of critical care" is the failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing or other care necessary for the child's health and welfare when financially able to do so, or when offered financial or other reasonable means to do so, and shall mean any of the following:

1. Failure to provide adequate food and nutrition to the extent that there is danger of the child suffering harm, injury or death.

2. Failure to provide adequate shelter to the extent that there is danger of the child suffering harm, injury or death.

3. Failure to provide adequate clothing to the extent that there is danger of the child suffering harm, injury or death.

4. Failure to provide adequate health care to the extent that there is danger of the child suffering serious harm, injury or death. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child and shall not be placed on the child abuse registry. However, a court may order that medical service be provided where the child's health requires it.

5. Failure to provide the mental health care necessary to adequately treat an observable and substantial impairment in the child's ability to function.

6. Gross failure to meet the emotional needs of the child necessary for normal development.

7. Failure to provide for the proper supervision of the child to the extent that there is danger of the child suffering harm, injury or death, and which a reasonable and prudent person would exercise under similar facts and circumstances.

8. Failure to respond to the infant's life-threatening conditions (also known as withholding medically indicated treatment) by providing treatment (including appropriate nutrition, hydration and medication) which in the treating physician's reasonable medical judgment will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's reasonable medical judgment any of the following circumstances apply: the infant is chronically and irreversibly comatose; the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; the provision of the treatment would be virtually futile in terms of the survival of the infant and the

treatment itself under the circumstances would be inhumane.

"Department" shall mean the department of human services.

"Facility providing care to a child" shall mean any public or private facility, including an institution, hospital, health care facility, intermediate care facility for mentally retarded, residential care facility for mentally retarded, or skilled nursing facility, group home, mental health facility, residential treatment facility, shelter care facility, detention facility, or child care facility which includes licensed day care centers, all registered family and group day care homes and licensed family foster homes. A public or private school is not a facility providing care to a child, unless it provides overnight care. Public facilities which are operated by the department of human services are assessed by the department of inspections and appeals.

"Harm" shall mean an emotional or nonphysical injury which has a deleterious effect upon a child.

"Illegal drug" shall mean cocaine, heroin, amphetamine, methamphetamine or other illegal drugs, including marijuana, or combinations or derivatives of illegal drugs which were not prescribed by a health practitioner.

"Immediate threat" shall mean conditions which, if no response were made, would be more likely than not to result in significant harm, injury or death to a child.

"Infant," as used in the definition of "Denial of critical care," numbered paragraph "8," shall mean an infant less than one year of age or an infant older than one year of age who has been hospitalized continuously since birth, who was born extremely prematurely, or who has a long-term disability.

"Nonaccidental physical injury" shall mean an injury which was the natural and probable result of a caretaker's actions which the caretaker could have reasonably foreseen, or which a reasonable person could have foreseen in similar circumstances, or which resulted from an act administered for the specific purpose of causing an injury.

"Physical injury" shall mean damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition or damage to any bodily tissue which results in the death of the person who has sustained the damage.

"Pilot project sites" shall mean those areas of the state which the department has selected to develop an assessment-based approach to child abuse reports. The pilot project sites shall initiate the assessment-based approach no later than January 15, 1996, and shall assist in evaluating the success and difficulties encountered in developing an assessment-based approach to child abuse reports. The pilot project sites shall be located within each departmental region and shall represent both urban and rural areas. The counties designated as pilot project sites are as follows: Adair, Adams, Clarke, Black Hawk, Cherokee, Decatur, Hardin, Jasper, Jones, Linn, Lyon, Marion, Marshall, Plymouth, Ringgold, Sioux, Union, Wayne, and Woodbury.

"Preponderance of evidence" shall mean evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

"Proper supervision" shall mean that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall the person place a child in a situation that may endanger the child's life or health, or cruelly or unduly confine the child. Dangerous operation of a motor vehicle is a failure to provide proper supervision when the person responsible for the care of a child is driving recklessly, or driving while intoxicated with the child in the motor vehicle. The failure to restrain a child in a motor vehicle does not, by itself, constitute a cause to assess a child abuse report.

"Reporter" shall mean the person making a verbal or written statement to the department, alleging child abuse.

"Subject of a report" means any of the following:

1. A child named in a report as having been abused, or the child's attorney or guardian ad litem.

2. A parent or the attorney for the parent of a child named in a report as having been abused.

3. A guardian or legal custodian, or that person's attorney, of a child named in a report as having been abused.

4. A person or the attorney for the person named in a report as having abused a child.

441—175.22(232) Receipt of report. Reports of suspected child abuse shall be received by pilot assessment county departments or by the central abuse registry. Any report made to the department which alleges child abuse as defined in Iowa Code section 232.68 shall be accepted for assessment. Intake information which does not meet the legal definition of child abuse may be referred for services. If a report does not meet the legal definition of child abuse, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

441—175.23(232) Sources of report.

175.23(1) Mandatory reporters. Any person meeting the criteria of a mandatory reporter is required to make an oral report of the suspected child abuse to the department within 24 hours of becoming aware of the abusive incident and make a written report to the department within 48 hours following the oral report. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

175.23(2) Others required to report. In addition to mandatory reporters which are so designated by the Iowa Code, there are other classifications of persons who are required, either by administrative rule or department policy, to report suspected child abuse when this is a duty identified through the person's employment. Others required to report include:

a. Income maintenance workers.

b. Certified adoption investigators.

175.23(3) Permissive reporters. Any person who suspects child abuse may make an oral or written report, or both, to the department. Mandatory reporters may report as permissive reporters when they suspect abuse of a child outside the scope of their professions. A permissive reporter may remain anonymous and is not required by law to report abuse.

441—175.24(232) Child abuse assessment intake. The primary purpose of intake is to obtain available and pertinent information regarding an allegation of child abuse. In order for an intake call to result in an assessment, the report must include some information to indicate all of the following. The abusive incident or condition:

1. Occurred to a child.

2. Was caused by acts or omissions of a person responsible for the care of a child.

3. Falls within the definition of child abuse.

Only mandatory reporters or the person making the report may be contacted during the intake process to expand upon or to clarify information in the report. Any contact with subjects of the report or with nonmandatory reporters, other than the original reporter, automatically causes the case to be opened for child abuse assessment services. If it is believed that the report fails to constitute an allegation of child abuse, the report shall be rejected for child abuse assessment.

441—175.25(232) Child abuse assessment process. An assessment shall be initiated within 72 hours following receipt of a report. The primary purpose in conducting an assessment is to protect the safety of the child named in the report. The secondary purpose of the assessment is to engage the child's family in services to enhance family strengths and to address needs, where this is necessary and desired. In instances where there is an immediate threat to the child, reasonable efforts shall be made to observe the child named in the report within one hour of receipt of the report. Professional judgment shall dictate assurance of safety for the child. In situations which do not involve immediate threat, contact shall be made within 72 hours.

There are four possible responses by the department when conducting a child abuse assessment as follows. If the assessment worker has concerns about a child's safety or a family's functioning, the worker shall conduct a more intensive assessment until those concerns are addressed.

175.25(1) Level one assessment. A level one assessment may occur following direct contact with the child, family members, or others, and it is determined that the report is false or entirely without merit. In this circumstance, the assessment worker shall offer additional contacts and assessment services to the child and family. If these services are declined, the worker may, with supervisory approval, close the case, complete the written summary, and send appropriate written notifications.

175.25(2) Level two assessment. A level two assessment may occur when a mandatory reporter indicates that the abusive incident or condition is minor in nature, that the child and family are currently receiving some type of service that relates to the protection and safety of the child, and that department intervention is not warranted or necessary. A level two assessment may also occur when a mandatory reporter indicates that an abusive incident or condition occurred in the past, that the abusive incident or condition did not require medical or mental health care, that the child and family are currently receiving some type of service that relates to the protection and safety of the child, and that department intervention is not warranted or necessary. In either of these circumstances, the assessment worker shall contact the family and discuss the report, offering additional contacts and assessment services to the child and family. If these services are declined, the worker may, with supervisory approval, close the case, complete the written summary, and send appropriate written notifications.

175.25(3) Level three assessment. A level three assessment shall occur when the abusive incident or condition is not likely to be considered significant or when, although an abusive incident or condition has not occurred, the child is at risk for an abusive incident or condition and the family may not be receiving required or desired interventions to improve the child and family functioning. In this circumstance, the assessment worker shall observe and interview the child and family members, identifying any family members not included in the assessment process and providing the rationale for not including them. The assessment worker shall, with input and assistance from the family, conduct a complete assessment of the family's strengths and needs and complete a written summary which includes a suggested plan of action. Appropriate written notifications shall be sent.

175.25(4) Level four assessment. A level four assessment shall occur when the abusive incident or condition is considered to be significant and when, following the completion of the assessment, the incident is placed on the child abuse registry. For incidents which are being placed on the child abuse registry, it shall be determined, by a preponderance of the evidence, that the abusive incident or condition occurred, to whom it occurred, and the identity of the person responsible for the abusive incident or condition. The assessment worker shall address why the incident warrants placement on the child abuse registry as a significant incident.

Any of the following may be an indicator of a significant injury or risk of injury:

a. The case was referred for juvenile or criminal court action.

b. In the opinion of a health practitioner or mental health professional, the injury to the child required or should have required medical or mental health treatment.

c. The department determines in a subsequent assessment that the child suffered significant injury or was placed at great risk of significant injury due to the acts or omissions of the same person responsible for the care of the child.

d. An allegation which meets the definition of "abusive incident or condition" occurs in a facility providing care to a child, if the abusive incident or condition violates licensing or regulatory policies.

e. An abusive incident or condition occurs to a child who is currently adjudicated or whose adjudication is pending as a child in need of assistance petition.

A level four assessment shall include an observation and interview by the assessment worker of the child and family members, identifying any family members not included in the assessment process and providing the rationale for not including them. The assessment worker shall, with input and assistance from the family, conduct a complete assessment of the family's strengths and needs and complete a written summary which includes a suggested plan of action. Appropriate written notifications shall be sent.

441—175.26(232) Completion of a written summary. When an assessment is completed, the assessment worker shall complete a written summary within 21 calendar days from the receipt of the report. In most instances, the summary shall be developed in conjunction with the child and family being assessed. All summaries shall include the following:

175.26(1) Information about the report. The summary shall include information about the report which caused the assessment to be initiated. For assessment cases in which an abusive incident or condition occurred, there shall be a description of the child's condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of the person alleged to be responsible for the injury or risk to the child. For assessment cases in which the injury or risk of injury to the

child was significant, the summary shall also indicate that the type of abuse, the name of the child who was injured or placed at risk of injury, and the name of the person responsible for the child's injury or risk of injury shall be placed on the child abuse registry.

175.26(2) An assessment of the family's strengths and needs. The summary shall include an assessment of the child's safety and the family's functioning. For assessment cases in which the child, family and worker identify unmet needs, the summary shall identify the strengths and needs of the child and of the child's parent, home, family and community. It shall include a suggested plan of action to meet identified needs and to build on existing strengths. This portion of the written summary may be used as part of the child's case permanency plan for assessment cases in which ongoing services will be provided by the department.

441—175.27(232) Contact with juvenile court or the county attorney. The assessment worker may orally contact juvenile court or the county attorney, or both, as circumstances warrant. The assessment worker shall contact the juvenile court or the county attorney, or both, and provide a copy of the written assessment summary to the juvenile court, the county attorney, or both, when any of the following occur:

175.27(1) County attorney's assistance necessary. The worker requires the court's or the county attorney's assistance to complete the assessment process.

175.27(2) Court's protection needed. The worker believes that the child requires the court's protection as a result of the abusive incident or condition.

175.27(3) Child adjudicated. The child is currently adjudicated or pending adjudication under a child in need of assistance petition or a delinquency petition. Assessment cases in which the department must secure juvenile court or county attorney intervention in order to assist in completing the assessment; or assessment cases in which the department must contact the juvenile court or the county attorney due to a current or pending petition shall not automatically result in placement on the child abuse registry. However, the contact shall be evaluated as an indicator that an abusive incident or condition was significant.

441—175.28(232) Consultation with health practitioners or mental health professionals. The assessment worker may contact a health practitioner or a mental health professional as circumstances warrant and shall contact a health practitioner or a mental health professional when the worker requires the assistance of the health practitioner or mental health professional in order to complete the assessment process or when the worker requires the opinion or advice of the health practitioner or mental health professional in order to determine if the child requires or should have required medical, health or mental health care as a result of an abusive incident or condition.

Assessment cases in which the worker requires the assistance of the health practitioner or mental health professional to complete the assessment process shall not automatically result in a founded conclusion; however, the assistance shall be evaluated as an indicator that an abusive incident or condition was significant.

441—175.29(232) Consultation with law enforcement. The assessment worker may contact law enforcement as warranted and shall contact law enforcement when the worker believes that:

1. The abusive incident or condition may require a criminal investigation and subsequent prosecution.
2. The child must be separated from the person responsible for the abusive incident or condition.
3. Contact by the assessment worker with the family will result in a volatile and dangerous response by the child or family members.

441—175.30(232) Information shared with law enforcement. When the department is jointly conducting a child abuse assessment with law enforcement personnel, the department may share information gathered during the assessment process when an assessment is conducted in conjunction with a criminal investigation or if the worker anticipates that the abusive incident or condition is significant.

441—175.31(232) Completion of required correspondence.

175.31(1) Notification to parents that an assessment is taking place. Written notice shall be provided to the parents of a child who is the subject of an assessment within five working days of commencing an assessment unless the assessment is completed within that time frame. Both custodial and noncustodial parents shall be notified, if their whereabouts are known. If it is believed that notification will result in danger to the child or others, an emergency order to prohibit parental notification shall be sought from juvenile court.

175.31(2) Notification of completion of assessment and right to request correction. Written notice shall be provided to all subjects of a child abuse assessment and to the mandatory reporter who made the report which indicates that the assessment is completed. Both custodial and noncustodial parents shall be notified if their whereabouts are known. The notice shall contain information concerning the subject's rights to request correction and appeal rights. The subject may request correction of the information contained within the written assessment summary if the subject disagrees with the information. The subject may appeal the content of the written summary only if the request for correction of the written summary is denied. If the assessment results in placement on the child abuse registry, the notice shall indicate the type of abuse, name of the child and name of the person responsible for the abusive incident or condition.

441—175.32(232,235A) Case records. The assessment case record shall contain report information, the written summary and any related correspondence or information which pertains to the report or to the child and family. The name of the person who made the report shall not be disclosed to the subjects of the report or their attorneys. The written summary shall have two sections.

The first section shall contain information which pertains to the child abuse allegation, and for cases in which an abusive incident or condition occurred, a description of the child's condition, identification of the injury or risk to which the child was exposed and the identity of any person alleged to be responsible for the injury or risk to the child. Subjects of the report and their attorneys have access to that information which is contained within the first section of the written summary, including, where applicable, confirmation of placement on the child abuse registry for abusive incidents or conditions which are considered to be significant.

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

The second section of the written summary shall contain information which identifies the strengths and needs of the child, of the child's parent, home, family and community and, where appropriate, a suggested plan of action which is developed in conjunction with the family. The second section of the written summary shall be available to those family members who participated in the assessment of child and family function, strengths, needs, and the development of a suggested plan of action to meet identified needs, if applicable. Release of any information contained within the second section of the written summary shall be accomplished only when the parent or guardian approves the release as provided through Iowa Code chapter 217, except for founded reports which are governed under Iowa Code section 235A.15.

441—175.33(232,235A) Child protection centers. The department may contract with designated child protection centers for assistance in conducting child abuse assessments. When a child who is the subject of an assessment is interviewed by staff at a child protection center, that interview may be used in conjunction with an interview conducted by the assessment worker. Written reports developed by the child protection center shall be provided to the assessment worker and may be included in the assessment case file. Video or audio records are considered to be part of the assessment process and shall be maintained by the child protection center under the same confidentiality provisions of Iowa Code chapter 217 and 441—Chapter 9.

441—175.34(232) Department-operated facilities. When an allegation of child abuse occurs at a department-operated facility, the allegation shall be referred to the department of inspections and appeals for investigation or assessment.

441—175.35(232,235A) Jurisdiction of assessments. Assessment personnel serving the county in which the child's home is located have primary responsibility for completing the child abuse assessment. Circumstances in which the department shall conduct an assessment when another state is involved include the following:

175.35(1) Child resides in Iowa but incident occurred in another state. When the child who is the subject of a report of abuse physically resides in Iowa, but has allegedly been abused in another state, the worker shall do all of the following:

a. Obtain available information from the reporter.

b. Make an oral report to the office of the other state's protective services agency and request assistance from the other state in completing the assessment.

c. Complete the assessment with assistance, as available, of the other state.

175.35(2) Child resides in another state, but is present within Iowa. When the child who is the subject of a report of abuse is a legal resident of another state, but is present within Iowa, the worker receiving the report shall do all of the following:

a. Act to ensure the safety of the child.

b. Contact the child's state of legal residency to coordinate the assessment of the report.

c. Commence an assessment if the state of legal residency declines to conduct an investigation.

175.35(3) Child resides in another state and perpetrator resides in Iowa. When the child who is the subject of a report of abuse resides in another state and the perpetrator resides in Iowa, the worker receiving the report shall do all of the following:

a. Contact the state where the child resides and offer assistance to that state in its completion of a child abuse assessment. This assistance shall include an offer to interview the person allegedly responsible for the abuse and any other relevant source of information.

b. Commence an assessment if the child's state of legal residency declines to conduct an investigation.

441—175.36(235A) Multidisciplinary teams. Multidisciplinary teams shall be developed in county or multicounty areas in which more than 50 child abuse reports are received annually. These teams may be used as an advisory group to assist the department in conducting assessments. Multidisciplinary teams consist of professionals practicing in the disciplines of medicine, public health, mental health, social work, child development, education, law, juvenile probation, law enforcement, nursing, and substance abuse counseling. Members of multidisciplinary teams shall maintain confidentiality of cases in which they provide consultation. Rejected intakes shall not be shared with multidisciplinary teams since they are not considered to be child abuse information. During the course of an assessment, information regarding the initial child abuse report and information related to the child and family functioning may be shared with the multidisciplinary team. When the multidisciplinary team is created, all team members shall execute an agreement, filed with the central abuse registry, which specifies:

175.36(1) Consultation. The team shall be consulted solely for the purpose of assisting the department in the assessment, diagnosis and treatment of child abuse cases.

175.36(2) Redissemination. No team member shall redisseminate child abuse information obtained through the multidisciplinary team. This shall not preclude redissemination of information as authorized by Iowa Code section 235A.17 when an individual team member has received information as a result of another authorized access provision of the Iowa Code.

175.36(3) Department not bound. The department shall consider the recommendation of the team in a specific child abuse case but shall not, in any way, be bound by the recommendation.

175.36(4) Confidentiality provisions. Any written report or document produced by the team pertaining to an assessment case shall be made a part of the file for the case and shall be subject to all confidentiality provisions of 441—Chapter 9, unless the assessment results in placement on the child abuse registry in which case the written report or document shall be subject to all confidentiality provisions of Iowa Code chapter 235A.

175.36(5) Written records. Any written records maintained by the team which identify an individual assessment case shall be destroyed when the agreement lapses.

175.36(6) Compensation. Consultation team members shall serve without compensation.

175.36(7) Withdrawal from contract. Any party to the agreement may withdraw with or without cause upon the giving of 30 days' notice.

175.36(8) Expiration date. The date on which the agreement will expire shall be included.

441—175.37(232) Community education. The department shall conduct a continuing publicity and educational program for the personnel of the department, mandatory

reporters, and the general public to encourage recognition and reporting of suspected child abuse, to improve the quality of reports made to the department, and to inform the community about the assessment-based approach to child abuse reports.

These rules are intended to implement Iowa Code chapter 235A and Iowa Code sections 232.67 to 232.77 as amended by 1995 Iowa Acts, Senate File 208, sections 4 and 5.

ARC 5864A

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 135B.7, the Department of Inspections and Appeals gives Notice of Intended Action to amend Chapter 51, "Hospitals," Iowa Administrative Code.

These amendments update rules to reflect current standards of practice relating to pediatric services in hospitals. The amendments also clarify that the training program required of emergency room staff shall cover emergency care for infants and children.

Interested persons may make written comments or suggestions on the proposed amendments on or before October 3, 1995. Written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; fax (515)242-5022.

A public hearing will be held on October 3, 1995, at 1 p.m. in the Sixth Floor Director's Conference Room, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

These amendments are intended to implement Iowa Code chapter 135B.

The following amendments are proposed.

ITEM 1. Amend subrule **51.30(1)**, paragraph "b," as follows:

b. The policies provide for a planned, formal training program required of all personnel providing patient care in the emergency service. *This program shall cover emergency care for patients of all ages.*

ITEM 2. Rescind rule 481—51.34(135B) and insert in lieu thereof the following new rule:

481—51.34(135B) Pediatric services.

51.34(1) All general or specialized hospitals providing pediatric care shall be properly organized and equipped to provide appropriate accommodations for children. The supervision of the pediatric area shall be under the direction of a qualified registered nurse.

51.34(2) Written policies and procedures shall be implemented governing pediatric services that are consistent with the needs of the child and resources of the hospital. Policies and procedures shall be developed in consultation with and the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

a. Pediatric services under the medical direction of a qualified doctor of medicine or osteopathy.

b. Delineation of the privileges and qualifications of individuals authorized to provide pediatric services as set out in the hospital's medical staff bylaws.

c. The qualifications of nursing personnel and continuing education required, including care in the event of emergency situations.

d. Adequate staffing and equipment for pediatric services including ancillary services. Staff participating in the care of pediatric patients shall have an interest in pediatrics and shall have specialized education appropriate to their profession for the care of pediatric patients.

e. Ancillary services for pediatric patients shall be available and include, but are not limited to, pharmaceutical care, laboratory services, respiratory therapy, physical therapy and speech therapy.

f. Ongoing quality assessment.

g. Written protocol for transfer of pediatric patients in the event the hospital does not have capability to provide care for these patients.

Reference sources to guide hospitals in the development of policies and procedures are American Academy of Pediatrics' 1994 Policy Reference Guide and policy statements which are published on a monthly basis in "Pediatrics" and "Pediatric Dosage Handbook," Third Edition, American Pharmaceutical Association.

51.34(3) There shall be proper facilities and procedures for the isolation of pediatric patients with communicable diseases.

ARC 5865A

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 135C.14, the Department of Inspections and Appeals proposes to amend Chapter 59, "Skilled Nursing Facilities"; Chapter 62, "Residential Care Facilities for Persons with Mental Illness (RCF/PMI)"; Chapter 63, "Residential Care Facilities for the Mentally Retarded"; Chapter 64, "Intermediate Care Facilities for the Mentally Retarded"; and Chapter 65, "Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI)," Iowa Administrative Code.

The amendments clarify the application of licensing requirements to respite care services provided in health care facilities.

Any interested person may make written comments or suggestions on the amendments on or before October 3, 1995. Written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083, fax (515)242-5022.

A public hearing will be held on October 3, 1995, at 1 p.m. in the Sixth Floor Director's Conference Room, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views orally or in writing.

These amendments are intended to implement Iowa Code section 135C.2(6).

The following amendments are proposed.

ITEM 1. Amend 481—Chapter 59 by adding the following new rule:

481—59.60(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A skilled care facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a skilled care facility.

59.60(1) A skilled care facility certified as a Medicare skilled nursing facility must meet all Medicare requirements including CFR 483.12, admission, transfer, and discharge rights.

59.60(2) A skilled care facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

59.60(3) Rule 481—59.45(135C), regarding involuntary discharge or transfer rights, does not apply to residents who are being cared for under a respite care contract.

59.60(4) Pursuant to rule 481—59.15(135C), the facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements under 481—59.15(135C), except the requirements under subrule 59.15(7).

59.60(5) Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

ITEM 2. Add the following as new rules **481—62.26(135C)**, **481—63.50(135C)**, **481—64.63(135C)**, and **481—65.30(135C)**:

[Insert rule no.] Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

[Insert no. (1)] A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

[Insert no. (2)] Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

[Insert no. (3)] The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

[Insert no. (4)] Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

ARC 5873A

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 505.8 and Chapter 508, the Iowa Division of Insurance hereby gives Notice of Intended Action to amend Chapter 5, "Regulation of Insurers—General Provisions," Iowa Administrative Code.

The proposed new rule establishes guidelines and standards for statements of actuarial opinions and actuary appointments and will implement accreditation standards which Iowa must promulgate to retain its status as an accredited state with the National Association of Insurance Commissioners.

Interested persons may submit written comments on or before October 3, 1995, to Kimberlee Cross, Financial Regulation Counsel, Iowa Division of Insurance, Lucas State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code chapter 508.

The following amendment is proposed.

Amend 191—Chapter 5 by adding the following new rule:

191—5.34(508) Actuarial opinion and memorandum.

5.34(1) Purpose and effective date. The purpose of this rule is to prescribe:

a. Guidelines and standards for statements of actuarial opinion which are to be submitted in accordance with

Iowa Code section 508.36 and for memoranda in support thereof;

b. Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from Iowa Code section 508.36; and

c. Rules applicable to the appointment of an appointed actuary.

5.34(2) Authority. This rule is issued pursuant to the authority vested in the commissioner of insurance under Iowa Code section 508.36. This rule will take effect for annual statements for the year 1996.

5.34(3) Scope. This rule shall apply to all life insurance companies and fraternal benefit societies doing business in this state and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this state.

This rule shall be applicable to all annual statements filed with the office of the commissioner after the effective date of this rule. Except with respect to companies which are exempted pursuant to subrule 5.34(6), a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with subrule 5.34(8), and a memorandum in support thereof in accordance with subrule 5.34(9), shall be required each year. Any company so exempted must file a statement of actuarial opinion pursuant to subrule 5.34(7).

Notwithstanding the foregoing, the commissioner may require any company otherwise exempt pursuant to this rule to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with subrules 5.34(8) and 5.34(9) if, in the opinion of the commissioner, an asset analysis is necessary with respect to the company.

5.34(4) Definitions. As used in this rule:

"Actuarial opinion" means:

1. With respect to subrules 5.34(8) to 5.34(10), the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with 5.34(8) and with presently accepted actuarial standards;

2. With respect to subrule 5.34(7), the opinion of an appointed actuary regarding the calculation of reserves and related items, in accordance with 5.34(7) and with those presently accepted actuarial standards which specifically relate to this opinion.

"Actuarial Standards Board" is the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

"Annual statement" means that statement required by Iowa Code section 508.11 to be filed annually by the company with the office of the commissioner.

"Appointed actuary" means any individual who is appointed or retained in accordance with the requirements set forth in 5.34(5)"c" to provide the actuarial opinion and supporting memorandum as required by Iowa Code section 508.36.

"Asset adequacy analysis" means an analysis that meets the standards and other requirements referred to in 5.34(5)"d." It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory.

"Commissioner" means the insurance commissioner of this state.

"Company" means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this rule.

"Non-investment grade bonds" are those designated as classes 3, 4, 5, or 6 by the NAIC Securities Valuation Office.

"Qualified actuary" means any individual who meets the requirements set forth in 5.34(5)"b."

5.34(5) General requirements.

a. Submission of statement of actuarial opinion.

(1) There is to be included on or attached to page 1 of the annual statement for each year beginning with the year in which this rule becomes effective the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with 5.34(8); provided, however, that any company exempted pursuant to 5.34(6) from submitting a statement of actuarial opinion in accordance with 5.34(8) shall include on or attach to page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with 5.34(7).

(2) If in the previous year a company provided a statement of actuarial opinion in accordance with 5.34(7), and in the current year fails the exemption criteria of 5.34(6)"c," subparagraphs (1), (2) or (5), to again provide an actuarial opinion in accordance with 5.34(7), the statement of actuarial opinion in accordance with 5.34(8) shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with 5.34(7) with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with 5.34(8).

(3) In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the commissioner may accept the statement of actuarial opinion filed by such company with the insurance supervisory regulator of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(4) Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

b. Qualified actuary. A "qualified actuary" is an individual who:

(1) Is a member in good standing of the American Academy of Actuaries;

(2) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;

(3) Is familiar with the valuation requirements applicable to life and health insurance companies;

(4) Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:

1. Violated any provision of, or any obligation imposed by, the insurance code or other law in the course of dealing as a qualified actuary;

2. Been found guilty of fraudulent or dishonest practices;

3. Demonstrated incompetency, lack of cooperation, untrustworthiness to act as a qualified actuary;

4. Submitted to the commissioner during the past five years, pursuant to this rule, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this rule including standards set by the Actuarial Standards Board;

5. Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards;

(5) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under 5.34(5)"b"(4).

c. Appointed actuary. An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by this rule, either directly by or by the authority of the board of directors through an executive officer of the company. The company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements set forth in 5.34(5)"b." Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in 5.34(5)"b." If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

d. Standards for asset adequacy analysis. The asset adequacy analysis required by this rule shall:

(1) Conform to the standards of practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this rule, which standards are to form the basis of the statement of actuarial opinion in accordance with 5.34(8);

(2) Be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

e. Liabilities to be covered.

(1) Under authority of Iowa Code section 508.36, the statement of actuarial opinion shall apply to all in-force business on the statement date regardless of when or where issued, e.g., reserves of Exhibits 8, 9, and 10, and claim liabilities in Exhibit 11, part 1, and equivalent items in the separate account statement or statements.

(2) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in Iowa Code section 508.36, the company shall establish such additional reserve.

(3) For years ending prior to December 31, 1998, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:

December 31, 1996, the additional reserve divided by three.

December 31, 1997, two times the additional reserve divided by three.

(4) Additional reserves established under 5.34(5)"e," subparagraphs (2) or (3), and deemed not necessary in subsequent years may be released. Any amounts released must be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

5.34(6) Required opinions.

a. General. In accordance with Iowa Code section 508.36, every company doing business in this state shall annually submit the opinion of an appointed actuary as provided for by this rule. The type of opinion submitted shall be determined by the provisions set forth in this subrule and shall be in accordance with the applicable provisions in this rule.

b. Company categories. For purposes of this rule, companies shall be classified as follows based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable:

(1) Category A shall consist of those companies whose admitted assets do not exceed $20 million;

(2) Category B shall consist of those companies whose admitted assets exceed $20 million but do not exceed $100 million;

(3) Category C shall consist of those companies whose admitted assets exceed $100 million but do not exceed $500 million;

(4) Category D shall consist of those companies whose admitted assets exceed $500 million.

c. Exemption eligibility tests.

(1) Any category A company that, for any year beginning with the year in which this rule becomes effective, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with 5.34(8) for the year in which these criteria are met. The ratios shown below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .10.

2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .30.

3. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50.

4. The examiner team for the National Association of Insurance Commissioners (NAIC) has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(2) Any category B company that, for any year beginning with the year in which this rule becomes effective, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with 5.34(8) for the year in which the criteria are met. The ratios shown below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .07.

2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .40.

3. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50.

4. The examiner team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(3) Any category A or category B company that meets all of the criteria set forth in 5.34(6)"c," subparagraphs (1) or (2), whichever is applicable, is exempted from submission of a statement of actuarial opinion in accordance with 5.34(8) unless the commissioner specifically indicates to the company that the exemption is not to be taken.

(4) Any category A or category B company that, for any year beginning with the year in which this rule becomes effective, is not exempted under 5.34(6)"c"(3) shall be required to submit a statement of actuarial opinion in accordance with 5.34(8) for the year for which it is not exempt.

(5) Any category C company that, after submitting an opinion in accordance with 5.34(8), meets all of the following criteria shall not be required, unless required in accordance with 5.34(6)"c"(6), to submit a statement of actuarial opinion in accordance with 5.34(8) more frequently than every third year. Any category C company which fails to meet all of the following criteria for any year shall submit a statement of actuarial opinion in accordance with 5.34(8) for that year. The ratios shown below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .05.

2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .50.

3. The ratio of the book value of the non-investment grade bonds to the sum of the capital and surplus is less than .50.

4. The examiner team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(6) Any company which is not required by this subrule to submit a statement of actuarial opinion in accordance with 5.34(8) for any year shall submit a statement of actuarial opinion in accordance with 5.34(7) for that year unless, as provided for by the second paragraph of subrule 5.34(3), the commissioner requires a statement of actuarial opinion in accordance with 5.34(8).

d. Large companies. Every category D company shall submit a statement of actuarial opinion in accordance with 5.34(8) for each year beginning with the year in which this rule becomes effective.

5.34(7) Statement of actuarial opinion not including an asset adequacy analysis.

a. General description. The statement of actuarial opinion required by this subrule shall consist of a paragraph identifying the appointed actuary and that actuary's qualifications; a regulatory authority paragraph stating that the company is exempt pursuant to this rule from submitting a statement of actuarial opinion based on an asset adequacy analysis and that the opinion, which is not based on an asset adequacy analysis, is rendered in accordance with 5.34(7); a scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the appointed actuary's opinion as required by Iowa Code section 508.36.

b. Recommended language. The following language provided is that which in typical circumstances would be included in a statement of actuarial opinion in accordance with this subrule. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses the actuary's professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in 5.34(7).

(1) The opening paragraph should indicate the appointed actuary's relationship to the company. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:

"I, [name of actuary], am [title] of [name of company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph of the actuarial opinion should contain a sentence such as:

"I, [name and title of actuary], a member of the American Academy of Actuaries, am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(2) The regulatory authority paragraph should include a statement such as the following: "Said company is exempt pursuant to rule 191 IAC 5.34(508) of the Iowa insurance division from submitting a statement of actuarial opinion based on an asset adequacy analysis. This opinion, which is not based on an asset adequacy analysis, is rendered in accordance with 5.34(7)."

(3) The scope paragraph should contain a sentence such as the following: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19___."

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

The paragraph should list items and amounts with respect to which the appointed actuary is expressing an opinion. The list should include but not necessarily be limited to:

1. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 8;

2. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 9;

3. Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in Exhibit 10;

4. Policy and contract claims—liability end of current year included in Exhibit 11, Part 1.

(4) If the appointed actuary has examined the underlying records, the scope paragraph should also include the following: "My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic records and such tests of the actuarial calculations as I considered necessary."

(5) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force prepared by the company or a third party, the scope paragraph should include a sentence such as one of the following:

"I have relied upon listings and summaries of policies and contracts and other liabilities in force prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. (See accompanying affidavit by a company officer.) In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

or

"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

The statement of the person certifying shall follow the form indicated by 5.34(7)"b"(10).

(6) The opinion paragraph should include the following:

"In my opinion the amounts carried in the balance sheet on account of the actuarial items identified above:

"1. Are computed in accordance with those presently accepted actuarial standards which specifically relate to the opinion required under this subrule;

"2. Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

"3. Meet the requirements of the insurance code and rules of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

"4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end with any exceptions as noted below;

"5. Include provision for all actuarial reserves and related statement items which ought to be established.

"The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate compliance guidelines as promulgated by the Actuarial Standards Board, which guidelines form the basis of this statement of opinion."

(7) The concluding paragraph should document the eligibility for the company to provide an opinion as provided by this subrule. It shall include the following:

"This opinion is provided in accordance with 191 IAC 5.34(7). As such it does not include an opinion regarding the adequacy of reserves and related actuarial items when considered in light of the assets which support them.

"Eligibility for 5.34(7) is confirmed as follows:

"1. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (5.34(6)"c").

"2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (5.34(6)"c").

"3. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is [insert amount], which is less than the applicable criteria of .50.

"4. To my knowledge, the NAIC examiner team has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile.

"5. To my knowledge there is not a specific request from any commissioner requiring an asset adequacy analysis opinion.

____
Signature of Appointed Actuary

____
Address of Appointed Actuary

____
Telephone Number of Appointed Actuary"

(8) If there has been any change in the actuarial assumptions from those previously employed, that change should be described in the annual statement or in a paragraph of the statement of actuarial opinion, and the reference to consistency in 5.34(7)"b"(6), numbered paragraph 4, should read as follows:

". . .with the exception of the change described on page [ ] of the annual statement (or in the preceding paragraph)."

The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this paragraph.

(9) If the appointed actuary is unable to form an opinion, the actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, the actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(10) If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force, there should be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:

"I [name of officer], [title] of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19___, prepared for and submitted to [name of appointed actuary], were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

____
Signature of the Officer of the Company or Accounting Firm

____
Address of the Officer of the Company or Accounting Firm

____
Telephone Number of the Officer of the Company or Accounting Firm"

5.34(8) Statement of actuarial opinion based on an asset adequacy analysis.

a. General description. The statement of actuarial opinion submitted in accordance with this subrule shall consist of:

(1) A paragraph identifying the appointed actuary and the actuary's qualifications (see 5.34(8)"b"(1));

(2) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis (see 5.34(8)"b"(2)), and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;

(3) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see 5.34(8)"b"(3)), supported by a statement of each such expert in the form prescribed by 5.34(8)"e";

(4) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see 5.34(8)"b"(6)).

(5) One or more additional paragraphs will be needed in individual company cases as follows:

1. If the appointed actuary considers it necessary to state a qualification of opinion;

2. If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;

3. If the appointed actuary must disclose reliance upon any portion of the assets supporting the asset valuation reserve (AVR), interest maintenance reserve (IMR) or other mandatory or voluntary statement of reserves for asset adequacy analysis;

4. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

5. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release;

6. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

b. Recommended language. The following paragraphs are to be included in the statement of actuarial opinion in accordance with this subrule. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses the actuary's professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this subrule.

(1) The opening paragraph should generally indicate the appointed actuary's relationship to the company and qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph should contain a sentence such as:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(2) The scope paragraph should include a statement such as the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19___. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis."

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

	Asset Adequacy Tested Amounts			Reserves and Liabilities	
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Exhibit 8					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability - Active					
F Disability - Disabled					
G Miscellaneous					
Total (Exhibit 8 Item 1, Page 3)					
Exhibit 9					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 9 Item 2, Page 3)					
Exhibit 10					
1 Premiums and Other Deposit Funds					
1.1 Policyholder Premiums Page 3, Line 10.1)					

	Asset Adequacy Tested Amounts			Reserves and Liabilities	
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)					
1.3 Other Contract Deposit Funds (Page 3, Line 10.3)					
2 Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)					
3 Dividend and Coupon Accumulations (Page 3, Line 5)					
Total Exhibit 10					
Exhibit 11, Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts Page 3, Line 27)					
TOTAL RESERVES					

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

IMR (Page____ Line____)

AVR (Page____ Line____)

______________________________________(c)

Notes:

(a) The additional actuarial reserves are the reserves established under subparagraphs (2) or (3) of 5.34(5)"e."

(b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in paragraph 5.34(5)"d," by means of symbols which should be defined in footnotes to the table.

(c) Allocated amount.

(3) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following:

"I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement, . . ."

or

"I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

Such a statement of reliance on other experts should be accompanied by a statement by each of such experts of the form prescribed by 5.34(8)"e."

(4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should also include the following:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary."

(5) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force or asset records prepared by the company or a third party, the reliance paragraph should include a sentence such as:

"I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

or

"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."

Such a section must be accompanied by a statement by each person relied upon of the form prescribed by 5.34(8)"e."

(6) The opinion paragraph should include the following:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

"1. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

"2. Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

"3. Meet the requirements of the insurance law and rules of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed.

"4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);

"5. Include provision for all actuarial reserves and related statement items which ought to be established.

"The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

"The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

"The following material change(s) which occurred between the date of the statement for which this opinion is

applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

"The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

____
Signature of Appointed Actuary

____
Address of Appointed Actuary

____
Telephone Number of Appointed Actuary"

c. Assumptions for new issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this subrule.

d. Adverse opinion. If the appointed actuary is unable to form an opinion, then the actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then the actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

e. Reliance on data furnished by other persons. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and asset oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:

"I, [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19___, and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

____
Signature of the Officer of the Company or Accounting Firm

____
Address of the Officer of the Company or Accounting Firm

____
Telephone Number of the Officer of the Company or Accounting Firm"

or

"I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

____
Signature of the Officer of the Company, Accounting Firm or the Security Analyst

____
Address of the Officer of the Company, Accounting Firm or the Security Analyst

____
Telephone Number of the Officer of the Company, Accounting Firm or Security Analyst"

5.34(9) Description of actuarial memorandum including an asset adequacy analysis.

a. General.

(1) In accordance with Iowa Code section 508.36, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of the opinion regarding the reserves under a 5.34(8) opinion. The memorandum shall be made available for examination by the commissioner upon request but shall be returned to the company after such examination and shall not be considered a record of the insurance division or subject to automatic filing with the commissioner.

(2) In preparing the memorandum, the appointed actuary may rely on, and include as a part of the actuary's own memorandum, memoranda, prepared and signed by other actuaries who are qualified within the meaning of 5.34(5)"b" with respect to the areas covered in such memoranda, and so state in their memoranda.

(3) If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this rule, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

(4) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to the statute governing this rule. The reviewing actuary shall not be an employee or a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this regulation for any one of the current year or the preceding three years.

b. Details of the memorandum section documenting asset adequacy analysis (5.34(8)). When an actuarial opinion under 5.34(8) is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in 5.34(8)"d" and any additional standards under this rule. It shall specify:

(1) For reserves:

1. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;

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

2. Source of liability in force;
3. Reserve method and basis;
4. Investment reserves;
5. Reinsurance arrangements.

(2) For assets:

1. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;
2. Investment and disinvestment assumptions;
3. Source of asset data;
4. Asset valuation bases.

(3) Analysis basis:

1. Methodology;
2. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed;
3. Rationale for degree of rigor in analyzing different blocks of business;
4. Criteria for determining asset adequacy;
5. Effect of federal income taxes, reinsurance and other relevant factors.

(4) Summary of results.

(5) Conclusion(s).

c. Conformity to standards of practice. The memorandum shall include a statement: "Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate standards of practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

5.34(10) Additional considerations for analysis.

a. Aggregation. For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with 5.34(8), reserves and assets may be aggregated by either of the following methods:

(1) Aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated.

(2) Aggregate the results of asset adequacy analysis of one or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one or more products or lines of business, the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:

1. Are developed using consistent economic scenarios, or
2. Are subject to mutually independent risks, i.e., the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.

In the event of any aggregation, the actuary must disclose in the actuarial opinion that such reserves were aggregated on the basis of one of the methods outlined in subparagraphs (1) or (2) above, whichever is applicable, and describe the aggregation in the supporting memorandum.

b. Selection of assets for analysis. The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in paragraph "c" of this subrule. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum.

c. Use of assets supporting the interest maintenance reserve and the asset valuation reserve. An appropriate allocation of assets in the amount of the interest maintenance reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the asset valuation reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

The amount of assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum.

d. Required interest scenarios. For the purpose of performing the asset adequacy analysis required by this rule, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:

(1) Level with no deviation;

(2) Uniformly increasing over ten years at ½ percent per year and then level;

(3) Uniformly increasing at 1 percent per year over five years and then uniformly decreasing at 1 percent per year to the original level at the end of ten years and then level;

(4) An immediate increase of 3 percent and then level;

(5) Uniformly decreasing over ten years at ½ percent per year and then level;

(6) Uniformly decreasing at 1 percent per year over five years and then uniformly increasing at 1 percent per year to the original level at the end of ten years and then level;

(7) An immediate decrease of 3 percent and then level.

For these and other scenarios which may be used, projected interest rates for a five-year treasury note need not be reduced beyond the point where the five-year treasury note yield would be at 50 percent of its initial level.

The beginning interest rates may be based on interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested or be based on an outside index, such as treasury yields, of assets of the appropriate length on a date close to the valuation date. Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest rates should be consistent for all interest rate scenarios.

e. Documentation. The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

ARC 5883A

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF COSMETOLOGY ARTS AND SCIENCES 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 157.14, the Board of Cosmetology Arts and Sciences Examiners hereby gives Notice of Intended Action to amend Chapter 60, "Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors of Cosmetology Arts and Sciences," Chapter 61, "Licensure of Salons and Schools of Cosmetology Arts and Sciences," Chapter 63, "Requirements for Salons and Schools of Cosmetology Arts and Sciences," and Chapter 64, "Cosmetology Arts and Sciences Continuing Education," Iowa Administrative Code.

The amendments add language to enable the Board to use the testing service of the National Interstate Council of State Board of Cosmetology for written examinations for cosmetology, electrology, nail technicians, and esthetics licensure. The state cosmetology examinations include theory, practical and Iowa law examinations and a passing score for each section of the examination is stated. In addition, the language for grandfathering in nail technologists and estheticians has been rescinded; monthly reporting of student hours by schools to the board office has been rescinded; language is deleted that prohibited serving a client suffering from a communicable disease or condition; the sanitation requirements for electrologists have been upgraded to coincide with sanitation requirements for all salons; the language regarding renewal of a cosmetology arts and science license has been clarified; and cosmetology schools are no longer required to report continuing education attendees to the board office but must retain this information in school files for three years.

Any interested person may make written comments on the proposed amendments on or before October 3. Written comments should be directed to Barbara Charls, Department of Public Health, Board of Cosmetology Arts and Sciences Examiners, Lucas State Office Building, Des Moines, Iowa 50319.

These amendments are intended to implement Iowa Code chapters 157 and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 60.2(4) as follows:

60.2(4) The cosmetology board examination ~~may~~ *will* consist of a practical, ~~and a~~ theory ~~test~~*, and written Iowa law examination. A score of 75 percent or greater on each section of the above-listed examinations shall be a passing score. The theory and Iowa law examinations will be formulated and provided by the National Interstate Council of State Boards of Cosmetology, Inc. (NIC) and administered by the board.*

ITEM 2. Amend subrule **60.4(4)**, introductory paragraph and paragraph **"a,"** as follows:

60.4(4) A certificate of licensure shall be issued by the department to an applicant who has passed ~~an~~ *the* examination conducted by the board determining minimum competency in the practice. ~~The board shall not be confined to any specific system or method.~~ The examination shall be consistent with the prescribed curriculum for the schools of cosmetology arts and sciences of this state. ~~and may include practical demonstrations, written and oral tests as the board deems appropriate.~~ The examination is to be ~~prepared and~~ conducted by the board. ~~so as to determine whether or not the applicant possesses the requisite skills in the profession to perform properly all the duties thereof and has sufficient knowledge of the prescribed curriculum.~~

a. An applicant who has failed *any one of the three examinations, i.e., theory, practical or Iowa law,* ~~either the theory or practical section or both~~ must be reexamined. The applicant receiving a failing grade *in any one of these examinations shall* ~~may~~ be reexamined in the ~~portion~~ *section* of the examination where the failure occurred at a regularly scheduled state board examination and obtain a passing grade *of 75 percent or greater on each section of the examination.*

ITEM 3. Rescind and reserve subrule **60.6(5)**.

ITEM 4. Rescind and reserve subrule **60.8(5)**.

ITEM 5. Amend subrule **60.11(2)**, paragraph **"a,"** as follows:

a. A demonstrator permit shall be valid for *a salon* ~~the~~ *or* person~~,~~ . *The* location, purpose and duration *shall be* stated on the permit.

ITEM 6. Amend subrule 61.6(12) as follows:

61.6(12) ~~Monthly report. Schools of cosmetology arts and sciences shall submit on or before the tenth day of each month to the cosmetology arts and sciences examiners office of the Iowa department of public health a report of the names of students enrolled, the total hours for each student previously reported, the total number of hours completed during the month for each student and the total cumulative number of hours for each student at the end of the month including student instructors.~~ Individual student hours shall be kept on file ~~in the department~~ *at the school* until the license is issued.

ITEM 7. Amend subrule 63.5(5) as follows:

63.5(5) ~~A licensee, trainee, or student shall not undertake the treatment of any diagnosed disease or knowingly serve a client suffering from a communicable disease or condition, although head~~ *Head* lice may be treated in the salon or school at the discretion of the licensed cosmetologist or instructor of cosmetology arts and sciences. Compliance with all applicable laws and rules shall be required.

ITEM 8. Amend subrule 63.12(8) as follows:

63.12(8) After each use, tweezers, clippers, and similar tools shall be disinfected ~~with 70 to 90 percent alcohol, iodophor solution, or other germicidal solution accepted by the board~~ *by complete immersion in an EPA-registered, hospital-grade, bactericidal, virucidal and fungicidal disinfectant that is mixed and used according to the manufacturer's directions, after which they should be dried and placed in a closed cabinet. All tools and implements which have come in contact with blood or body*

fluids must be disinfected by complete immersion in an EPA-registered, hospital-grade and tuberculocidal disinfectant that is mixed and used according to the manufacturer's directions. Disinfected implements must be stored in a disinfected, dry, covered container. All germicidal solutions shall be labeled.

ITEM 9. Rescind subrule 64.1(2) and insert the following new subrule in lieu thereof:

64.1(2) The license renewal period shall consist of a period of two years, from April 1 of one year to March 31 of the second year following. All licensees shall renew on a biennial basis.

a. Half of the cosmetology arts and sciences licensees shall renew for the period of April 1 of an even-numbered year to March 31 of the next even-numbered year. This group of cosmetology arts and sciences licensees shall be designated as "A's."

b. Half of the cosmetology arts and sciences licensees shall renew for the period of April 1 of an odd-numbered year to March 31 of the next odd-numbered year. This group of cosmetology arts and sciences licensees shall be designated as "B's."

c. Licensees will be notified at time of renewal whether they are licensed as an "A" or "B."

ITEM 10. Rescind rule 64.8(272C) and insert the following new rule in lieu thereof:

645—64.8(272C) Attendance record. The accredited sponsor of continuing education activities shall make a record of the Iowa licensees in attendance and retain said record for a period of three years.

ARC 5881A

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF OPTOMETRY 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 sections 147.76 and 272C.3, the Board of Optometry Examiners hereby gives Notice of Intended Action to amend Chapter 180, "Board of Optometry Examiners," Iowa Administrative Code.

The proposed amendment adds new language regarding the release of a contact lens prescription and the content of the prescription; and the release of an ophthalmic spectacle lens prescription and the content of the prescription.

A public hearing will be held on October 3, 1995, at the Lucas State Office Building, Fifth Floor Conference Room, Side 2, 1 to 2 p.m.

The proposed amendment is intended to implement Iowa Code sections 147.108, 147.109, and 272C.2.

The following amendment is proposed.

Amend 645—Chapter 180 by adding the following new rule:

645—180.9(154) Furnishing prescriptions. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet requirements as listed.

180.9(1) A contact lens prescription shall contain the following information.

a. Date of issuance.

b. Name and address of patient for whom the contact lens is prescribed.

c. Name, address, and signature of the practitioner.

d. All parameters required to duplicate properly the original contact lens.

e. A specific date of expiration, not to exceed 18 months; the quantity of lenses allowed and the number of refills allowed.

f. At the option of the prescribing practitioner, the prescription may contain fitting and material guidelines and specific instructions for use by the patient.

180.9(2) Release of contact lens prescription.

a. After the contact lenses have been adequately adapted and the patient released from initial follow-up care by the prescribing doctor, the patient may request a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens.

b. A practitioner choosing to issue an oral prescription shall furnish the same information required for the written prescription except the written signature and address of the practitioner. An oral prescription may be released by an O.D., M.D., or D.O. to any dispensing person who is a licensed professional with the O.D., M.D., D.O., or R.Ph. degree or person under direct supervision of those licensed under Iowa Code chapters 148, 150, 150A, 154 and 155A.

c. The issuing of an oral prescription must be followed by a written copy to be kept by the dispenser of the contact lenses until the date of expiration.

180.9(3) An ophthalmic spectacle lens prescription shall contain the following information.

a. Date of issuance.

b. Name and address of the patient for whom the ophthalmic lens or lenses are prescribed.

c. Name, address, and signature of the practitioner issuing the prescription.

d. All parameters necessary to duplicate properly the ophthalmic lens prescription.

e. A specific date of expiration not to exceed two years.

f. A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

180.9(4) Release of ophthalmic lens prescription.

a. The ophthalmic lens prescription shall be furnished upon request at no additional charge to the patient.

b. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

c. Spectacle lens prescriptions must be in written format, according to Iowa Code section 147.109(1).

ARC 5882A

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF OPTOMETRY 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 sections 147.76 and 272C.3, the Board of Optometry Examiners hereby gives Notice of Intended Action to amend Chapter 180, "Board of Optometry Examiners," Iowa Administrative Code.

The proposed amendments require a maximum of 12 hours of continuing education credit for local study groups for each biennium with no more than 7 hours allowed in any one year of the biennium; require a new licensee to show proof of current CPR status for the first license renewal; give approval of continuing education credit for courses approved by the Council of Optometric Practitioner Education Committee (COPE); and limit the amount of continuing education from the University of Iowa to be applied to license renewal to 12 hours in any one year.

Any interested person may make written comments on the proposed amendments no later than October 3, 1995. Comments should be addressed to Barbara Charls, Professional Licensure, Board of Optometry Examiners, Lucas State Office Building, Des Moines, Iowa 50319-0075.

A public hearing will be held on October 3, 1995, at the Lucas State Office Building, Fifth Floor, Side 2, 1 to 2 p.m.

The proposed amendments are intended to implement Iowa Code sections 147.108, 147.109, and 272C.2.

The following amendments are proposed.

ITEM 1. Adopt new paragraph **180.12(1)"d"** as follows:

d. Effective July 1, 1996, on the initial licensing renewal, the licensee must obtain at least four hours of continuing education in cardiopulmonary resuscitation (CPR). A licensee who has current certification in CPR as of the date of the initial license renewal, by the American Red Cross (Community CPR), the American Heart Association (Module C for health care providers) or an equivalent organization shall be deemed to meet this requirement.

ITEM 2. Amend paragraph **180.12(3)"c"** as follows:

c. Local study group programs approved by the board; study groups shall meet a minimum of six times per year. A maximum of one hour credit per meeting shall be given for each meeting unless prior approval is granted by the board for additional credit. *A maximum of 12 hours of credit will be allowed for each continuing education biennium with no more than 7 hours allowed in any one year of the continuing education biennium.*

ITEM 3. Amend paragraph **180.12(3)"d"** as follows:

d. Other meetings or seminars either within or without the state of Iowa may be approved in advance by the board with request for approval to be made to the board at least 30 days prior to the meeting or seminar. *These meetings or seminars must have approval and be certified for optometric continuing education by the International Association of Board of Examiners in Optometry's Council on Optometric Practitioner Education Committee (COPE).* ~~Programs, names of speakers with credentials, and subject matter shall accompany the request.~~ Providers of accredited continuing education must be approved by the board as having education as one of their primary functions.

ITEM 4. Amend paragraph **180.12(3)"i"** as follows:

i. The department of ophthalmology of the school of medicine of the State University of Iowa shall be one of the providers of continuing education for Iowa optometrists. *Licensees may apply no more than 20 hours of continuing education for the treatment and management of ocular disease obtained at the University of Iowa toward license renewal. No more than 12 hours obtained in any one year of the licensing compliance period may apply toward renewal.*

ITEM 5. Amend subrule 180.13(5) as follows:

180.13(5) No study group will be recognized that does not maintain a minimum membership of eight optometrists. The average attendance must be six optometrists per meeting. Each study group shall meet a minimum of six times per year. A maximum of one hour credit per meeting shall be given for each meeting unless prior approval is granted by the board for an additional amount of credit. A certificate of attendance shall be provided *to each licensee in attendance* at each meeting ~~by~~ *of* the study group ~~to each optometrist in attendance~~. The certificate shall include the name of the study group, the date of the meeting, the topic of study, the name of the speaker, and the signature of the study group chairperson or secretary. ~~To obtain continuing education credit, a form provided by the board shall be signed by each member in attendance and returned to the board within 30 days of each meeting.~~

To obtain continuing education credit, a written report stating the name of the study group, the date of the meeting, the location of the meeting, the topic of study, the name of the speaker or speakers, and the signature of the study group chairperson or secretary must be submitted to the continuing education secretary of the Iowa board of optometry examiners within two weeks following the study group meeting. The study group chairperson or secretary must retain an attendance form signed by each licensee in attendance at each study group meeting until the end of each license biennium.

ARC 5859A

RACING AND GAMING COMMISSION[491]

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 99D.7 and 99F.4, the Iowa Racing and Gaming Commission

hereby gives Notice of Intended Action to amend Chapter 4, "Practice and Procedure before the Racing and Gaming Commission," and Chapter 13, "Occupational and Vendor Licensing," Iowa Administrative Code.

Item 1 is a rule reference correction.

Item 2 allows licensees to retain their occupational license.

Any person may make written suggestions or comments on the proposed amendments on or before October 3, 1995. Written material should be directed to the Racing and Gaming Commission, Lucas State Office Building, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on October 3, 1995, at 9 a.m. in the Racing and Gaming Commission Office, Lucas State Office Building, Second Floor, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Amend subrule 4.29(6) as follows:

4.29(6) Qualification of officers, agents, and principal employees. Every officer, agent, and principal employee of a labor organization, union or affiliate required to register with the commission pursuant to this chapter and the rules of the commission shall be qualified in accordance with criteria contained in *491—13.6(99D,99F) and 491—13.10(99D,99F)* ~~7.3(9), 7.3(16), 10.4(9), 22.14(7) and 22.17(99F)~~.

ITEM 2. Amend rule **491—13.9(99D, 99F)** by rescinding the last sentence, which reads as follows:

A licensed employer or association shall make every attempt to obtain the license of employees no longer employed by them for whatever reason and deliver the license to the commission office.

ARC 5880A

REVENUE AND FINANCE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 13, "Permits"; Chapter 30, "Filing Returns, Payment of Tax, Penalty and Interest"; and Chapter 81, "Administration," Iowa Administrative Code.

These amendments amend rules 13.7(422), 13.16(422), 13.17(422), 30.1(423), 81.12(453A), and 81.13(453A) by adding language to implement 1995 Iowa Acts, Senate File 431, which requires the Department to deny, revoke, or refuse to reinstate a permit if the Department has received a certificate of noncompliance from the child support recovery unit.

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than October 3, 1995, to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P. O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 13, 1995. Such written comments should be directed to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P. O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by October 6, 1995.

These amendments are intended to implement Iowa Code sections 422.53, 422.58, 423.6, 423.9, 423.10, 423.14, 453A.13, 453A.16, 453A.17, 453A.22, 453A.23, 453A.44 and 453A.48.

The following amendments are proposed.

ITEM 1. Amend rule **701—13.7(422)** by adding the following new unnumbered paragraph at the end of the rule and immediately preceding the implementation clause:

A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder, who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

ITEM 2. Amend the implementation clause of rule **701—13.7(422)** to read as follows:

This rule is intended to implement Iowa Code sections 422.53 and 422.58(2) *and 1995 Iowa Acts, Senate File 431*.

ITEM 3. Amend rule **701—13.16(422)** by adding the following new unnumbered paragraph at the end of the rule and immediately preceding the implementation clause:

The department will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

ITEM 4. Amend the implementation clause of rule **701—13.16(422)** to read as follows:

This rule is intended to implement Iowa Code subsection 422.53(2) ~~as amended by 1986 Iowa Acts, chapter 1007~~ *and 1995 Iowa Acts, Senate File 431*.

ITEM 5. Amend rule **701—13.17(422)** by adding the following new unnumbered paragraph at the end of the rule and immediately preceding the implementation clause:

A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

ITEM 6. Amend the implementation clause of rule **701—13.17(422)** to read as follows:

This rule is intended to implement Iowa Code subsection 422.53(5)~~, as amended by 1986 Iowa Acts, chapter 1007~~ *and 1995 Iowa Acts, Senate File 431*.

ITEM 7. Amend rule 701—30.1(423) by adding the following new unlettered paragraph at the end of subrule **30.1(3)**:

The department will deny a permit to any applicant who is an individual if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

ITEM 8. Amend rule 701—30.1(423) by adding the following new unlettered paragraph at the end of subrule **30.1(4)**:

The department will revoke the permit of an individual permit holder if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

ITEM 9. Amend the implementation clause of rule **701—30.1(422)** to read as follows:

This rule is intended to implement Iowa Code sections 423.6, 423.9 ~~as amended by 1986 Iowa Acts, chapter 1007~~, 423.10 and 423.14, *and 1995 Iowa Acts, Senate File 431*.

ITEM 10. Amend rule 701—81.12(453A) to read as follows:

701—81.12(453A) Permit—license revocation.

81.12(1) Cigarette permits. Cigarette permits issued by the department must be revoked if the permittee willfully violates the provisions of Iowa Code section 453A.2 (sale or gift to minors). The department may revoke permits issued by the department for violation of any other provision of division I of Iowa Code chapter 453A or the rules promulgated thereunder. (Also see Iowa Code chapter 421B and rule 701—84.7(421B).) The revocation shall be subject to the provisions of rule 701—7.24(17A). The notice of revocation shall be given to the permittee at least ten days prior to the hearing provided therein. *The department will revoke a permit of a permit holder, who is an individual, if the department has received a certificate of noncompliance from the child support unit in regard to the permit holder, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.*

The board of supervisors or the city council that issued a retail permit is required by Iowa Code section 453A.22 to revoke the permit of any retailer violating Iowa Code section 453A.2 (sale or gift to minors). The board or council may revoke a retail permit for any other violation of division I of Iowa Code chapter 453A. The revocation procedures are governed by Iowa Code section 453A.22(2) and the individual council's or board's procedures. Iowa Code chapter 17A does not apply to boards of supervisors or city councils. (See rule 701—84.7(421B).) *The board of supervisors or the city council that issued a retail permit is required by 1995 Iowa Acts, Senate File 431, to revoke the permit of any retailer, who is an individual, if the board or council has received a certificate of noncompliance from the child support recovery unit in regard to the retailer, unless the unit furnishes the board of supervisors or the city council with a withdrawal of the certificate of noncompliance.*

If a permit is revoked under this subrule, *except for the receipt of a certificate of noncompliance from the child support recovery unit,* the permit holder cannot obtain a new cigarette permit of any kind nor may any other person obtain a permit for the location covered by the revoked permit for a period of one year unless good cause to the contrary is shown to the issuing authority.

81.12(2) Tobacco licenses. The director may revoke, cancel or suspend the license of any tobacco distributor or tobacco subjobber for violation of any provision in division II of Iowa Code chapter 453A, the rules promulgated thereunder, or any other statute applicable to the sale of tobacco products. The licensee shall be given ten days' notice of a revocation hearing under Iowa Code section 453A.48(2) and rule 701—7.24(17A). No license may be issued to any person whose license has been revoked under Iowa Code section 453A.44(11) for a period of one year. *The department will revoke a license of a licensee, that is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the licensee, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.*

This rule is intended to implement Iowa Code sections 453A.22, 453A.44(11) and 453A.48(2) *and 1995 Iowa Acts, Senate File 431*.

ITEM 11. Amend subrule **81.13(2)** by adding the following new paragraph at the end of the subrule:

The director will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

ITEM 12. Amend subrule **81.13(3)** by adding the following new paragraph at the end of the subrule:

The department will revoke the permit of any permit holder, who is an individual, if the department has re-

ceived a certificate of noncompliance from the child support recovery unit in regard to the individual, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

ITEM 13. Amend subrule 81.13(4) and the implementation clause as follows:

81.13(4) Applications for retail cigarette permits. Applications for retail cigarette permits are supplied by the department to city councils and county boards of supervisors. The application must be obtained from and filed with the individual council or board. *The board of supervisors or the city council is required by 1995 Iowa Acts, Senate File 431, to deny a retail permit to any applicant, who is an individual, if the board or council has received a certificate of noncompliance from the child support recovery unit in regard to the individual, unless the unit furnishes the board of supervisors or city council with a withdrawal of the certificate of noncompliance.*

This rule is intended to implement Iowa Code sections 453A.13, 453A.16, 453A.17, 453A.22, 453A.23, and 453A.44, *and 1995 Iowa Acts, Senate File 431.*

ARC 5877A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 40, "Scope of Division—Definitions—Forms—Rules of Practice," and Chapter 43, "Water Supplies—Design and Operation," Iowa Administrative Code.

The amendments revise the existing rules for the assessment of fees for water supply operation. The amended fee structure is anticipated to generate the funds originally authorized by 1994 Iowa Acts, Senate File 2314, section 48, and amended by 1995 Iowa Acts, House File 553, section 34. The reason for the emergency filing is to set forth the legislated fee structure and put the new rules into effect as quickly as possible.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for changes to the rules to implement new provisions of the law.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on August 25, 1995, as they confer a benefit upon regulated public water supplies.

These amendments are also published herein under Notice of Intended Action as **ARC 5878A** to allow public comment. This emergency filing permits the Department to implement the new provisions of 1995 Iowa Acts, House File 553, section 34.

New definitions for "population served" and "service connections" have been added to rule 40.2(455B). Rule 40.5(17A,455B) is amended to reference the new fee structure. Paragraph 43.2(3)"b" is amended to provide for an annual fee for the operation of a public water supply. The fee is to be based on the population served and is to be paid annually or with the application for a new or renewed operation permit. All facilities, except for those located on Indian lands, pay an operation fee. A fee of $0.14 per person will be assessed for all community and nontransient noncommunity water systems. For municipalities the proposed fee is based upon the last official U.S. census population. Nontransient noncommunity systems will pay based on either the actual population verifiable by the Department, or population as calculated by multiplying by an occupancy factor of 2.5 persons per service connection. Transient noncommunity systems will pay $25 per year.

Six public hearings are being held and public comments are being solicited pursuant to the concurrent Notice of Intended Action.

These amendments may have an impact on small business.

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

These amendments are intended to implement Iowa Code chapter 455B, Division III, Part 1, and 1994 Iowa Acts, Senate File 2314, section 48, as amended by 1995 Iowa Acts, House File 553, section 34.

These amendments became effective August 25, 1995.

ITEM 1. Rescind **567—40.2(455B)** definitions of "Population served" and "Service connections," and insert the following new definitions in alphabetical order:

"Population served" means the total number of persons served by a public water supply that provides water intended for human consumption. For municipalities it is the last official U.S. census population (or officially amended census population). For all other community public water supply systems it is either the actual population counted which is verifiable by the department, or population as calculated by multiplying the number of service connections by an occupancy factor of 2.5 persons per service connection. For nontransient noncommunity (NTNC) and transient noncommunity (TNC) systems, it is the average number of daily employees plus the average number of other persons served such as customers or visitors during the peak month of the year regardless if each person actually uses the water for human consumption. Where a system provides water to another public water supply system (consecutive public water supply system) which is required to have an operation permit, the population of the recipient water supply shall not be counted as a part of the water system providing the water. Community and nontransient noncommunity public water supply systems will pay their operation permit fees based upon the population served.

"Service connections" means the total number of active and inactive service lines originating from a water distribution main for the purpose of delivering water intended for human consumption. For municipalities, rural water districts, mobile home parks, housing developments, and similar facilities, this includes, but is not limited to, occupied and unoccupied residences and buildings, provided that there is a service line connected to the water main (or another service line), and running onto the property. For rental properties which are separate public water supply systems, this includes, but is not limited to, the number of rental units such as apartments.

ITEM 2. Rescind 567—40.5(17A,455B) and insert the following new rule:

567—40.5(17A,455B) Public water supply operation permit application procedures. A person requesting a water supply operation permit pursuant to 567—43.2(455B) must complete the appropriate application form, which will be provided by the department. Upon receipt of a complete application and the appropriate fee pursuant to 43.2(3)"b," the department shall review the application and, if approvable, shall prepare and issue a water supply operation permit or draft permit, as applicable, and transmit it to the applicant. A permit or renewal will be denied when the applicant does not meet one or more requirements for issuance or renewal of this permit.

ITEM 3. Rescind **43.2(3)"b"** and insert the following new paragraph:

b. Operation fees.

(1) A nonrefundable fee for the operation of a public water supply system shall be paid annually. The fee shall be based on the population served. The fee shall be the greater of $25 per year or $0.14 multiplied by the total

population served by the public water supply for all community and nontransient noncommunity public water supply systems. The fee shall be $25 per year for all transient noncommunity water systems. Where a system provides water to another public water supply system (consecutive public water supply system) which is required to have an operation permit, the population of the recipient water supply shall not be counted as a part of the water system providing the water.

(2) Fee notices. The department will send annual notices to public water supply systems at least 60 days prior to the date that the operation fee is due.

(3) First annual fee payment. The annual fee payment for the fiscal year beginning July 1, 1995, and ending June 30, 1996, must be paid to the department by December 25, 1995.

(4) Fee payments after July 1, 1996. For the state fiscal year beginning July 1, 1996, and thereafter, the annual operation fee must be paid to the department by September 1 each year.

(5) New public water systems. The initial operation fee payment for a new public water supply is due with the initial application for the annual operation permit. The amount of the initial yearly payment of the operation fee shall be determined based upon the population served. The operation fee will not be prorated. Annual operation fee payments after obtaining an initial operation permit shall be due by September 1 each year, in accordance with the fee schedule outlined in 43.2(3)"b"(1).

(6) Fee schedule adjustment. The environmental protection commission may adjust the per capita fee payment by up to +/– $0.02 per person served so as to achieve the targeted revenue. The environmental protection commission will hold a public hearing concerning the necessity for making a fee schedule adjustment upward or downward for a particular state fiscal year. The extent of the fee adjustment is limited by the intent of 1994 Iowa Acts, Senate File 2314, section 48, and 1995 Iowa Acts, House File 553, section 34. The fee payments will produce revenue amounts of $350,000 during each fiscal year.

(7) Exempted public water supply systems. Public water supply systems located on Indian lands are exempt from the fee requirements.

ITEM 4. Rescind **43.3(3)"b"(2)**, including the table, and insert in lieu thereof the following new subparagraph:

(2) All construction permit applications shall be exempted from permit fee requirements.

[Filed Emergency 8/25/95, effective 8/25/95]
[Published 9/13/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/95.

ARC 5868A

BANKING DIVISION[187]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 524.213, the Banking Division of the Commerce Department hereby adopts an amendment to Chapter 8, "General Banking Powers," Iowa Administrative Code.

The adopted amendment clarifies 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 19, 1995, as **ARC 5740A**.

The Superintendent received no letters of comment from interested parties. A public hearing was held on August 8, 1995, and no interested parties appeared at the hearing.

This amendment is identical to the one published under Notice.

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

This amendment will become effective October 18, 1995.

The following amendment is adopted.

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.

[Filed 8/24/95, effective 10/18/95]
[Published 9/13/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/95.

ARC 5863A

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 57, "Value-Added Agricultural Products and Processes Financial Assistance Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 5662A** on June 7, 1995. The IDED Board adopted the amendments on August 17, 1995.

The amendments expand the type of assistance available to include forgivable loans and deferred loans; specify that VAAPFAP will not fund more than 50 percent of any project; and revise the rule describing the percentage of any award which may be provided as a grant or forgivable loan.

A public hearing to receive comments about the proposed amendments was held on June 27, 1995. No comments were received concerning the amendments. The final amendments are identical to those published as Notice of Intended Action with the exception of renumbering of Chapter 29 to Chapter 57.

These amendments are intended to implement Iowa Code section 15E.111.

These amendments will become effective on October 18, 1995.

The following amendments are adopted.

ITEM 1. Amend **261—57.2(15E)** by adding the following new definition:

"Loan" means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment of principal, interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

ITEM 2. Amend 261—57.5(15E) by adding the following new subrule:

57.5(5) The department shall not approve an application for assistance in which VAAPFAP funding would constitute more than 50 percent of the total project costs.

ITEM 3. Amend subrule 57.6(1) as follows:

57.6(1) Form. Financial assistance awarded under this program may be in the form of a loan, *forgivable loan, deferred loan,* grant, production incentive payment, or a combination thereof. The department shall not award more than 25 percent of the amount allocated to the value-added agricultural products and processes financial assistance fund during any state fiscal year to support a single person. The department may finance any size of facility. However, the department shall reserve up to 50 percent of the total amount allocated to the fund, for purposes of assisting persons requiring $100,000 or less in financial assistance. The amount shall be reserved until the end of the third quarter of the state fiscal year and may then become available for other projects.

ITEM 4. Amend 57.6(2)"a" as follows:

57.6(2) Amount.

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

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

For awards of $500,001 - 900,000 the maximum grant or forgivable loan portion generally shall not exceed $200,000.

[Filed 8/21/95, effective 10/18/95]
[Published 9/13/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/95.

ARC 5875A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," and Chapter 22, "Controlling Pollution," Iowa Administrative Code.

The purpose of these amendments is to establish a definition of the term "12-month rolling period" and to revise and clarify the terms and conditions under which a source is eligible for a voluntary operating permit. These amendments add a definition to 20.2(455B) and 22.100(455B) for "12-month rolling period" providing a general definition applicable to this title and specifically to the voluntary operating permit program.

These amendments establish the conditions under which fugitive emissions must be considered in evaluating a source's emissions for the purpose of determining whether a source is eligible for a voluntary operating permit.

These amendments also restrict sources that are specifically required by federal rule to obtain a Title V operating permit from obtaining a voluntary operating permit.

Also included is a provision establishing that requirements included in a voluntary permit shall be enforceable as a practical matter under the state implementation plan.

Notice of Intended Action proposing these amendments was published in the Iowa Administrative Bulletin on June 7, 1995, as **ARC 5655A**. A public hearing was held on July 7, 1995. No oral comments and three written comments were received. No changes from the Notice of Intended Action were made.

These amendments may impact small businesses.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective October 18, 1995.

The following amendments are adopted.

ITEM 1. Amend rule **567—20.2(455B)** by adding the following new definition:

"12-month rolling period" means a period of 12 consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.

ITEM 2. Amend rule **567—22.100(455B)** by adding the following new definition:

"12-month rolling period" means a period of 12 consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.

ITEM 3. Amend rule 567—22.200(455B) as follows:

567—22.200(455B) Definitions for voluntary operating permits. For the purposes of rules 22.200(455B) to ~~22.207(455B)~~ *22.208(455B)*, the definitions shall be the same as the definitions found at rule 22.100(455B).

ITEM 4. Amend paragraphs **22.201(1)"a"** and **"b"** as follows:

a. That the potential to emit, as limited by the conditions of air quality permits obtained from the department, of each regulated air pollutant shall be limited to less than 100 tons per 12-month rolling period. *The fugitive emissions of each regulated air pollutant from a stationary source shall not be considered in determining the potential to emit unless the source belongs to one of the stationary source categories listed in this chapter*;

b. That the actual emissions of each regulated air pollutant have been and are predicted to be less than 100 tons per 12-month rolling period. *The fugitive emissions of each regulated air pollutant from a stationary source shall not be considered in determining the actual emissions unless the source belongs to one of the stationary source categories listed in this chapter*; and

ITEM 5. Amend paragraph **22.201(2)"a"** as follows:

a. Any affected source subject to the provisions of Title IV of the Act *or sources required to obtain a Title V operating permit under paragraph 22.101(1)"e"* or any solid waste incinerator unit required to obtain a Title V operating permit under section 129(e) of the Act is not eligible for a voluntary operating permit.

ITEM 6. Amend paragraph **22.206(2)"c"** as follows:

c. All emission limitations, all controls, and all other requirements included in a voluntary permit shall be at least as stringent as any other applicable limitation or requirement in the state implementation plan or enforceable *as a practical matter* under the state implementation plan. *For the purposes of this paragraph, "enforceable as a practical matter under the state implementation plan" shall mean that the provisions of the permit shall specify technically accurate limitations and the portions of the source subject to each limitation; the time period for the limitation (hourly, daily, monthly, annually); and the method to determine compliance including appropriate monitoring, record keeping and reporting.*

[Filed 8/25/595, effective 10/18/95]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/95.

ARC 5874A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 22, "Controlling Pollution," and

Chapter 23, "Emission Standards," Iowa Administrative Code.

The purpose of this rule making is to update references to federal regulations and to adopt, by reference, the federal standards for hazardous air pollutants for source categories.

The hazardous air pollutant standards are required to be adopted by the state as a part of the Title V operating permit program delegation of authority. Section 112(l) of the federal Clean Air Act Amendments of 1990 establishes the mechanism necessary for the state to meet the obligation to administer these standards. In accord with Section 112(l) all current federal standards for hazardous air pollutants for source categories must be adopted by the state at the time of Title V program approval. Standards may apply to major sources, area sources or both.

The federal standards (40 CFR Part 63) to be adopted include: General Provisions (Subpart A), Synthetic Organic Chemical Manufacturing Industry (Subparts F, G, H, and I), Coke Ovens (Subpart L), Dry Cleaners (Subpart M), Hard and Decorative Chromium Electroplating and Anodizing Tanks (Subpart N), Ethylene Oxide Commercial Sterilizers and Fumigation Operations (Subpart O), Chromium Emissions from Industrial Process Cooling Towers (Subpart Q), Gasoline Distribution Facilities (Subpart R), Halogenated Solvent Cleaning Machines (Subpart T), Epoxy Resins Production and Non-Nylon Polyamides Production (Subpart W), and Magnetic Tape Manufacturing Operations (Subpart EE).

Subpart B, requirements for control technology determinations for major sources in accordance with Clean Air Act sections 112(g) and 112(j), establishes requirements for regulation of major sources of hazardous air pollutants in the event that EPA lags more than 18 months behind the schedule established in 112(d) for issuing a control technology standard for a source category. If EPA has failed to promulgate a standard for that source category by 18 months after the 112(d) deadline, the owner or operator of each major source with emission units in that category must apply for a case-by-case determination of the maximum achievable control technology (MACT) from the state.

Subpart D, regulations governing compliance extensions for early reductions of hazardous air pollutants, establishes the conditions under which sources may voluntarily elect to reduce the emissions of hazardous air pollutants in exchange for a compliance extension.

A Notice of Intended Action proposing these amendments was published in the Iowa Administrative Bulletin on June 7, 1995, as **ARC 5658A**. A public hearing was held on July 7, 1995. One oral comment and three written comments were received. There were changes made from the Notice of Intended Action as a result of the comments. These changes are as follows:

In paragraph 23.1(4)"h," a sentence is added to the end of the paragraph, which specifies when a piece of equipment is in organic hazardous air pollutant service.

In paragraph 23.1(4)"i," a reference to the Code of Federal Regulations is added to clarify what is meant by "specified processes."

These amendments may impact small businesses.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective October 18, 1995.

The following amendments are adopted.

ITEM 1. Amend **22.5(2)"a,"** introductory paragraph, as follows:

a. Particulate matter nonattainment areas. If a major source or major modification is proposed to be constructed in an area designated nonattainment for particulate matter in 40 CFR §81.316 (as amended through ~~March 10, 1994~~ *April 11, 1994*), then emission offsets must be achieved prior to startup.

ITEM 2. Amend **22.5(2)"b,"** introductory paragraph, as follows:

b. Sulfur dioxide nonattainment areas. If a major source or major modification is proposed to be constructed in an area designated nonattainment for sulfur dioxide in 40 CFR §81.316 (as amended through ~~March 10, 1994~~ *April 11, 1994*), then emission offsets must be achieved prior to startup.

ITEM 3. Amend the following definitions in rule **567—22.100(455B)** as follows:

"Applicable requirement" includes the following:

1. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rule making under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52 as amended through ~~July 30, 1993~~ *August 4, 1994*;

2. to 12. No change.

"Designated representative" means a responsible natural person authorized by the owner(s) or operator(s) of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with Subpart B of 40 CFR Part 72 as amended to ~~July 30, 1993~~ *November 22, 1994*, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program. Whenever the term "responsible official" is used in rules 22.100(455B) to ~~22.116(455B)~~ *22.208(455B)*, it shall be deemed to refer to the designated representative with regard to all matters under the acid rain program.

"EPA reference method" means any method of sampling and analyzing for an air pollutant as described in 40 CFR 51, Appendix M, as amended through ~~July 20, 1993~~ *January 5, 1995*; 40 CFR 52, Appendices D and E, as amended through ~~July 20, 1993~~ *August 4, 1994*; 40 CFR 60, ~~Appendix~~ *Appendices* A, *B, C, and F,* as amended through ~~May 17, 1993~~ *December 15, 1994*; 40 CFR 61, Appendix B, as amended through ~~June 25, 1993~~ *July 15, 1994*; 40 CFR 63, Appendix A, as amended through ~~October 27, 1993~~ *March 8, 1995*; and 40 CFR 75, Appendices A, B, and H, and amended through ~~July 20 1993~~ *August 18, 1994*.

"Existing hazardous air pollutant source" means any source as defined in 40 CFR 61 (as amended through ~~June 25, 1993~~ *July 15, 1994*) and *40 CFR* 63.72 (as amended through ~~October 27, 1993~~ *March 8, 1995*) with respect to Section 112(i)(5) of the Act, the construction or reconstruction of which commenced prior to proposal of an applicable section 112(d) standard.

ITEM 4. Amend paragraph **22.103(2)"a"(1)** as follows:

(1) An emission unit which has the potential to emit less than:

4000 lbs per year of carbon monoxide,

1600 lbs per year of nitrogen oxides,

1600 lbs per year of sulfur dioxides,

1000 lbs per year of particulate matter,
600 lbs per year of PM-10,
1600 lbs per year of volatile organic compounds,
24 lbs per year of lead,
120 lbs per year of fluorides,
280 lbs per year of sulfuric acid mists,
400 lbs per year of total reduced sulfur compounds,
20 lbs per year of any hazardous air pollutant except high-risk pollutants, or
20 lbs per year of any high-risk air pollutant divided by the weighting factor ~~defined in 40 CFR 63.74, Table 1, as adopted December 29, 1992~~ *established in the definition of "High risk pollutant" in 567—22.100(455B).*

ITEM 5. Amend subrule 22.105(3) as follows:

22.105(3) Hazardous air pollutant early reduction application. Anyone requesting a compliance extension from a standard issued under 112(d) of the Act must submit with its Title V permit application information that complies with the requirements ~~of 40 CFR 63, Subpart D, as amended through October 27, 1993~~ *established in 567—paragraph 23.1(4)"d."*

ITEM 6. Amend paragraph **22.107(1)"c"** as follows:

c. Prioritization of applications. The director shall give priority to action on Title V applications involving construction or modification for which a construction permit pursuant to subrule 22.1(1) or Title I of the Act, Parts C and D, is also required. The director also shall give priority to action on Title V applications involving early reduction of hazardous air pollutants pursuant to ~~40 CFR 63, Subpart D, as amended through October 27, 1993~~ *567—paragraph 23.1(4)"d."*

ITEM 7. Amend subrule 22.107(5) as follows:

22.107(5) Hazardous air pollutant early reduction application evaluation review shall follow the procedures ~~contained in 40 CFR 63, Subpart D, as amended through October 27, 1993~~ *established in 567—paragraph 23.1(4)"d."*

ITEM 8. Insert the following new subrule **23.1(4)** and renumber existing subrule **23.1(4)** as **23.1(5)**.

23.1(4) Emission standards for hazardous air pollutants. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended through March 8, 1995, are adopted by reference, except 40 CFR §§ 63.12, 63.14, 63.15, and shall apply to the following affected facilities. The corresponding 40 CFR Part 63 Subpart designation is in parentheses. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in a biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purpose of this subrule "hazardous air pollutant" has the same meaning found in 567—22.100(455B). For the purposes of this subrule a "major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule an "area source" means any stationary source of hazardous air pollutants that is not a major stationary source as defined in this paragraph. Paragraph 23.1(4)"a," general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

a. General provisions. General provisions apply to owners or operators of affected activities or facilities except when otherwise specified in a particular subpart or in a relevant standard. (Subpart A)

b. Requirements for control technology determinations for major sources in accordance with Clean Air Act Sections 112(g) and 112(j). The owner or operator of a new or existing major source of hazardous air pollutants which includes one or more stationary sources included in a source category or subcategory for which the U.S. Environmental Protection Agency has failed to promulgate an emission standard within 18 months of the deadline established under 112(d) must submit an application for a Title V permit or an application for a significant permit modification or for an administrative amendment, whichever is applicable. The application must be made in accordance with procedures established under Title V, by the section 112(j) deadline. In addition, the owner or operator of a new emission unit may submit an application for a Notice of MACT Approval before construction. (Subpart B)

c. Reserved.

d. Compliance extensions for early reductions of hazardous air pollutants. Compliance extensions for early reductions of hazardous air pollutants are available to certain owners or operators of an existing source who wish to obtain a compliance extension from a standard issued under Section 112(d) of the Act. (Subpart D)

e. Reserved.

f. Emission standards for organic hazardous air pollutants from the synthetic chemical manufacturing industry. These standards apply to chemical manufacturing process units that are part of a major source. These standards include applicability provisions, definitions and other general provisions that are applicable to Subparts F, G, and H of 40 CFR 63. (Subpart F)

g. Emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry for process vents, storage vessels, transfer operations, and wastewater. These standards apply to all process vents, storage vessels, transfer racks, and wastewater streams within a source subject to Subpart F of 40 CFR 63. (Subpart G)

h. Emission standards for organic hazardous air pollutants for equipment leaks. These standards apply to emissions of designated organic hazardous air pollutants from specified processes that are located at a plant site that is a major source. Affected equipment includes: pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems and control devices or systems required by this subpart that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 CFR Part 63. In organic hazardous air pollutant or in organic HAP service means that a piece of equipment either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAPs as determined according to the provisions of 40 CFR Part 63.161. The provisions of

40 CFR Part 63.161 also specify how to determine that a piece of equipment is not in organic HAP service. (Subpart H)

i. Emission standards for organic hazardous air pollutants for certain processes subject to negotiated regulation for equipment leaks. These standards apply to emissions of designated organic hazardous air pollutants from specified processes (defined in 40 CFR 63.190) that are located at a plant site that is a major source. Subject equipment includes pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems at certain source categories. These standards establish the applicability of Subpart H for sources that are not classified as synthetic organic chemical manufacturing industries. (Subpart I)

j. Reserved.

k. Reserved.

l. Emission standards for coke oven batteries. These standards apply to existing coke oven batteries, including by-product and nonrecovery coke oven batteries and to new coke oven batteries, or as defined in the subpart. (Subpart L)

m. Perchloroethylene air emission standards for dry cleaning facilities. These standards apply to the owner or operator of each dry cleaning facility that uses perchloroethylene. New and existing major source dry cleaning facilities are required to control emissions to the level of the maximum achievable control technology (MACT). New and existing area source dry cleaning facilities are required to control emissions to the level achieved by generally available control technologies (GACT) or management practices. All coin-operated dry cleaning machines are exempt from the requirements of this subpart. (Subpart M)

n. Emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks. These standards limit the discharge of chromium compound air emissions from existing and new hard chromium electroplating, decorative chromium electroplating, and chromium anodizing tanks at major and area sources. (Subpart N)

o. Emission standards for hazardous air pollutants for ethylene oxide commercial sterilization and fumigation operations. New and existing major source ethylene oxide commercial sterilization and fumigation operations are required to control emissions to the level of the maximum achievable control technology (MACT). New and existing area source ethylene oxide commercial sterilization and fumigation operations are required to control emissions to the level achieved by generally available control technologies (GACT). Certain sources are exempt as described in 40 CFR 63.360. (Subpart O)

p. Reserved.

q. Emission standards for hazardous air pollutants for industrial process cooling towers. These standards apply to all new and existing industrial process cooling towers that are operated with chromium-based water treatment chemicals on or after September 8, 1994, and are either major sources or are integral parts of facilities that are major sources. (Subpart Q)

r. Emission standards for hazardous air pollutants for sources categories: Gasoline distribution: (Stage 1). These standards apply to all existing and new bulk gasoline terminals and pipeline breakout stations that are major sources of hazardous air pollutants or are located at plant sites that are major sources. (Subpart R)

s. Reserved.

t. Emission standards for hazardous air pollutants: Halogenated solvent cleaning. These standards require batch vapor solvent cleaning machines and in-line solvent cleaning machines to meet emission standards reflecting the application of maximum achievable control technology (MACT) for major and area sources; area source batch cold cleaning machines are required to achieve generally available control technology (GACT). The subpart regulates the emissions of the following halogenated hazardous air pollutant solvents: methylene chloride, perchloroethylene, trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, and chloroform. (Subpart T)

u. Reserved.

v. Reserved.

w. Emission standards for hazardous air pollutants for epoxy resins production and nonnylon polyamides production. These standards apply to all existing, new and reconstructed manufacturers of basic liquid epoxy resins and manufacturers of wet strength resins that are located at a plant site that is a major source. (Subpart W)

x. to ad. Reserved.

ae. Emission standards for magnetic tape manufacturing operations. These standards apply to major sources performing magnetic tape manufacturing operations. (Subpart EE)

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/95.

ARC 5876A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

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

The amendment to Chapter 61 provides Section 401 certification for the Rock Island District Corps of Engineers' regional permit 7, which authorizes fill and excavation activities associated with the construction of roadways and bridges. Section 401 certification is a state water quality agency's certification that a proposed activity will not violate state water quality standards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 7, 1995, as **ARC 5657A**. Comments on the proposed amendment were accepted through June 28, 1995. No comments were received, and the adopted amendment is identical to the amendment published in the Notice of Intended Action.

The Environmental Protection Commission adopted the amendment at its August 21, 1995, meeting.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

This amendment will become effective on October 18, 1995.

The following amendment is adopted.

Amend paragraph **61.2(2)"h"** as follows:

h. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. The repair and maintenance of a drainage district ditch as defined in 567—70.2(455B,481A) will not be considered a violation of the antidegradation policy for the purpose of implementing Title IV of these rules. United States Army Corps of Engineers (Corps) nationwide permits, 33 CFR 330, Numbers 3, 4, 5, 6, 7,12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26, 27, 32, 33, 34, 36, 37, 38, and 40, as promulgated November 22, 1991, are certified pursuant to Section 401 of the Clean Water Act. Regional permit numbers 2, 7, 12, and 20 of the Rock Island District of the Corps are also certified. No specific Corps permit or 401 certification is required for activities covered by these permits unless required by the nationwide permit or the Corps, and the activities are allowed subject to the terms of the nationwide and regional permits.

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ARC 5871A

GENERAL SERVICES DEPARTMENT[401]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 18.4 and 7A.30, the Department of General Services hereby adopts the amendments to Chapter 10, "Inventory Guidelines for State of Iowa Personal and Real Property," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 21, 1995, as **ARC 5667A**. A public hearing was held on July 11, 1995. The Department of General Services adopted these amendments on August 24, 1995.

The amendments to Chapter 10 revise inventory guidelines for state personal and real property for use by state agencies.

There are no changes as a result of the public hearing.

These amendments are intended to implement Iowa Code sections 18.4 and 7A.30.

These amendments will become effective October 18, 1995.

The following amendments are adopted.

ITEM 1. Amend rule 401—10.2(7A) to read as follows:

401—10.2(7A) Definitions.

1. Personal property. For purposes of this chapter, personal property is any item ~~or equipment~~ that has a current cost or value of $500 or more and has an anticipated useful life of one year or more. Computer software is to be excluded from this definition.

2. Real property. Land and buildings.

~~a.~~ *3.* Accounting in aggregate. ~~The process of taking like items of 50 or more with a cost or value under $500/item, i.e., desks, tables, chairs, moveable partitions, files, and stands with an unnumbered tag with one entry made to the asset listing for the aggregate value of all like items.~~ *The process of accounting for items made up of two or more separate components with one entry to the asset listing for the combined value of all components when that value totals $1,000 or more. Two or more like items with a combined value of $1,000 or more may also be accounted for in aggregate.*

~~b.~~ *4.* Value of personal property items. Any item costing or valued at $500 or more. The cost of the item should include freight and installation expense, when *readily available*. The purchasing administrative expense is not included in the cost or value.

~~c.~~ *5.* ~~Component parts~~ *Created items.* Personal property that is constructed from ~~component~~ parts must be included in the inventory listing if the resulting ~~equipment~~ *item* has an aggregate actual cost or a total value or replacement value of $1,000 or more.

ITEM 2. Amend 401—10.3(7A) to read as follows:

401—10.3(7A) Accounting in aggregate. ~~Large quantities (Approximately 50 or more) of furniture (chairs, tables, desks, files, stands, and movable partitions) and other equipment each costing less than $500 shall be marked with an unnumbered "Property — State of Iowa" tag and accounted for in aggregate.~~ *Items accounted for in aggregate shall have one item or component of the item tagged with a prenumbered tag and all other items or components marked with an unnumbered tag or the identifiable markings.*

ITEM 3. Amend subrule 10.5(1) to read as follows:

10.5(1) Prenumbered tags. *If feasible,* ~~All~~ *all* inventoried items ~~should~~ *shall* be identified with a state of Iowa ~~pressure sensitive~~ prenumbered decal or ~~the~~ *an* appropriate bar code tag *or other identifiable mark.*

ITEM 4. Amend subrule 10.5(2) to read as follows:

10.5(2) Unnumbered tags. *Unnumbered "Property—State of Iowa"* ~~Tags~~ *tags or other identifiable markings* used for items ~~(50 or more) costing less than $500 but having an~~ *accounted for in* aggregate ~~cost or value of $1,000 or more~~.

ITEM 5. Amend rule 401—10.6(7A) to read as follows:

401—10.6(7A) Inventory listing. The following minimum information must be contained in the inventory record for each equipment item on the inventory listing:

1. ~~Department number of owner agency: required field~~ *Department.*
2. ~~Department loaned/transferred from: optional field~~ *Tag number.*
3. ~~Building location code: optional field~~ *Description.*
4. ~~Floor: optional code~~ *Acquisition value.*
5. ~~Room: optional field. The room where asset is located.~~ *Locations.*
6. ~~County location: optional field. The county where asset is located.~~ *Acquisition date.*
7. ~~Asset Id code: optional filed. Must be numeric.~~ *Departments shall develop adequate internal control pro-*

cedures to identify individual(s) authorized to update and change the inventory records.

8. ~~State: optional field. Must be numeric.~~ *If department depreciates:*

Life expectancy.

Net book value.

~~9. Operator initials: required field. The user's initials or operator number.~~

~~10. Item description: required field. A description of the item.~~

~~11. Model name or number: optional field.~~

~~12. Serial number: optional field.~~

~~13. Manufacturer name: optional field.~~

~~The following four fields are not required, but if one or more of them are entered, all four fields must be entered.~~

~~14. Original P.O. number or claim number: optional field.~~

~~15. P.O. date received: optional field. Must be numeric.~~

~~16. Fund code: optional field.~~

~~17. Fiscal year: optional field. Must be numeric.~~

~~The following two fields are not required, but if one field is entered both fields must be entered.~~

~~18. Depreciation code: optional field.~~

~~19. Life expectancy: optional field. Number of years the item will be used.~~

~~20. Status code: required field.~~

~~21. Acquisition value: required field. Must be numeric and greater than zero. The price paid for the item.~~

~~22. Salvage value: optional field. Must be numeric. Cannot be greater than acquisition value. Value at end of item's usefulness.~~

~~23. Prior years' depreciation: Data cannot be entered into this field. The program will put zeros into this field.~~

~~24. Net book value: Data cannot be entered into this field. The program will put the amount entered into acquisition value into this field.~~

ITEM 6. Amend 401—Chapter 10 by adding a new rule as follows:

401—10.7(7A) Capital leases. Property acquired under the capital lease provision shall be accounted for in the inventory listing at the inception of the lease.

These amendments are intended to implement Iowa Code sections 18.4 and 7A.30.

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ARC 5879A

PROFESSIONAL LICENSURE DIVISION[645]

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

Adopted and Filed

Pursuant to the authority of Iowa Code section 155.9, the Board of Examiners for Nursing Home Administrators hereby rescinds Chapter 140, "Public Information," Chapter 141, "Licensure of Nursing Home Administrators," Chapter 142, "Continuing Education," and Chapter 149, "Public Records and Fair Information Practices," and adopts new Chapter 140, "Administrative and Regulatory Authority," Chapter 141, "Licensure of Nursing Home Administrators," Chapter 142, "Nursing Home Administration Education Programs," Chapter 143, "Continuing Education," Chapter 146, "Petitions for Rule Making," Chapter 147, "Public Records and Fair Information Practices," and Chapter 148, "Declaratory Rulings," Iowa Administrative Code.

The new chapters change Iowa Code references from 135E to 155 and reorganize the rules for more efficiency.

Chapter 140 clarifies Board administrator duties, organization of the Board and Board meetings and changes a quorum of board members from two-thirds to a majority.

Chapter 141 changes the minimum qualifications for licensure to a baccalaureate degree with coursework in gerontology, business management, accounting, business law, health care administration and nursing home practicum for anyone licensed after January 1, 1999; provides for practicum in an independent setting; changes the requirements for provisional administrator; clarifies requirements for license renewals; changes the procedures for a license to go on inactive status and to reactivate a license; changes the procedure to pay for the national examination; changes penalty fees; and clarifies reasons an applicant may be denied a license, a license renewal may be denied or a licensee disciplined.

Chapter 142 establishes the process and criteria for approval of educational programs in nursing home administration.

Chapter 143 changes the continuing education requirement to 40 hours per biennium; establishes that the Board accepts courses approved by the National Continuing Education Review Service; provides criteria for approved providers; provides for postapproval of programs for individuals; and establishes exceptions to the continuing education requirement.

Chapter 146 adopts the petitions for rule making segment of the Uniform Rules.

Chapter 147 adopts 645—Chapter 10, "Public Records and Fair Information Practices."

Chapter 148 adopts the declaratory ruling segment of the Uniform Rules.

A public hearing was held May 16, 1995. Ten written and oral comments were received.

Comments were received supporting the increased educational requirements and the importance of health care administrators having strong educational backgrounds that would benefit the move toward health care reform.

Comments were received regarding the increase in educational requirements by requiring an applicant to possess a bachelor degree. Currently the applicant is required to have successfully completed a program with an associate of arts degree or its equivalent. Commenters said Iowa has excellent long-term health care programs and that there is no need for further educational requirements. Commenters said higher educational requirements would lead nursing home administrators to demand higher wages which in turn would increase health care costs for private pay residents and Title XIX would not be able to keep up with the increases in health care rates.

Comments were received regarding the increase in continuing education hours needed to renew nursing home administrator licenses. Currently nursing home administrators are required to obtain 36 hours per biennium to re-

new their licenses. The adopted rules increase that requirement to 40 hours per biennium. Commenters expressed concern that the increase in the cost of continuing education would also be passed on to the health care facilities, private pay residents, and those covered under Title XIX.

The proposed rules were generally accepted, however, there was one commenter who thought the rules should be reconsidered before being adopted. One commenter disagreed with the requirement of notifying the board office of changes in name or address within 60 days and said there should not be sanctions for violating this rule.

One comment was received regarding rule 141.1(155). This rule reads, "All persons acting or serving in the capacity of a nursing home administrator shall hold a nursing home administrator's license issued by the board except as provided in Iowa Code section 155.9(3)." This rule refers to a provisional license which is issued as an interim license to a nursing home that has lost its licensed nursing home administrator. This license is valid until a new administrator can be hired. The commenter thought the rule should also reference 481—subrule 51.38(3). This Inspection and Appeals Department subrule exempts administrators from being required to be licensed nursing home administrators if the facility is under the auspices of the hospital license.

Comments were received regarding rule 141.12(147, 155,272C), Sanctions, license denial, suspension and revocation. Subrule 141.12(7) lists "willful or repeated violations of any statute, rule or regulation regarding a nursing home" as a reason for board disciplinary action. Commenters said this subrule was "too broad and open a category" and needed to be more defined.

The following are revisions to the Notice of Intended Action which was published March 15, 1995, as **ARC 5477A**:

1. In 141.2(2)"b"(1)"2" and 141.3(2)"b"(5), the phrase "housekeeping, laundry, maintenance" is changed to "environmental services".
2. In rule 141.3(155), introductory paragraph, the date minimum qualifications for licensure as a nursing home administrator must be met is amended from January 1, 1998, to January 1, 1999.
3. In subparagraph 141.3(2)"b"(1) and rule 142.1 (155), the organization name "Federation of Regional Accrediting Commissions of Higher Education" is changed to "National Commission on Accrediting (Council of Post-secondary Accreditation).
4. In subrule 141.3(3), the date licensees are deemed to meet the requirement of the new rules is amended from January 1, 1998, to January 1, 1999.
5. In subrule 141.11(4), the fee for a provisional license is lowered from $250 to $120.
6. In subrule 142.2(7), the word "all" is removed.
7. In subrule 142.2(14), the phrase "equal to 320 contact hours" is clarified by changing the wording to "equal to the remaining credits needed to total 720 contact hours, not to exceed 320 hours".

The Board of Examiners for Nursing Home Administrators adopted these rules on August 10, 1995.

These rules are intended to implement Iowa Code chapters 155, 272C, 17A and 22.

These rules will become effective on October 18, 1995.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 140 to 143 and 146 to 148] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 5477A**, IAB 3/15/95.

[Filed 8/25/95, effective 10/18/95]
[Published 9/13/95]

[For replacement pages for IAC, see IAC Supplement 9/13/95.]

ARC 5858A

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Pursuant to the authority of Iowa Code section 99D.7, the Iowa Racing and Gaming Commission hereby adopts amendments to Chapter 10, "Thoroughbred Racing," Iowa Administrative Code.

The proposed amendments to subrule 10.5(17) increase the amount of time the claim box shall be kept locked prior to the start of the race.

These amendments are identical to those published under Notice of Intended Action in the July 5, 1995, Iowa Administrative Bulletin as **ARC 5706A**.

A public hearing was held on July 25, 1995. No comments were received.

These amendments were also Adopted and Filed Emergency and published in the July 5, 1995, Iowa Administrative Bulletin as **ARC 5707A**.

These amendments will become effective October 18, 1995, at which time the emergency amendments will be rescinded.

These amendments are intended to implement Iowa Code chapter 99D.

ITEM 1. Amend subrule **10.5(17)**, paragraph **"b,"** subparagraph **(2)**, as follows:

(2) Filing of claim. File in a locked claim box maintained for that purpose by the stewards the claim filled out completely and with sufficient accuracy to identify the claim in writing on forms provided by the association at least ~~15~~ *10* minutes before the time of the race.

ITEM 2. Amend subrule **10.5(17)**, paragraph **"c,"** subparagraph **(1)**, as follows:

(1) The claim box shall be approved by the commission and kept locked until ~~15~~ *10* minutes prior to the start of the race, when it shall be presented to the stewards or their designee for opening and publication of the claims.

[Filed 8/21/95, effective 10/18/95]
[Published 9/13/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/95.

ARC 5872A

SECRETARY OF STATE[721]

Adopted and Filed

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby amends Chapter 4, "Forms," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 19, 1995, as ARC 5744A. A public hearing was scheduled for August 8, 1995; however, no one came. The Secretary of State adopted these rules on August 25, 1995.

These amendments update existing forms and add six new ones. Most of the changes are made in response to legislative changes.

A new form, which was included in the Notice, 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 convicted 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.

Five forms have been added since the Notice of Intended Action. All of these forms were circulated for comments with the forms included in the Notice to all county commissioners of elections and to printers who produce election forms. No comments were received regarding the new forms. The additional forms are 1-O, Letter of Appointment for Pollwatchers for Nonpartisan and Nonparty Candidates; 1-P, Application for Additional Ballots; 1-Q, Application for Additional Ballots, Auditor's Record of Telephone Request; 1-R, Ballot Photocopy Record; and 5-E, Voter Registration Transaction Source Record.

Form 1-O is required by Iowa Code section 49.104(5). Forms 1-P, 1-Q and 1-R are all required by Iowa Code section 49.66 as amended by 1995 Iowa Acts, House File 494, section 8. These forms provide a method for keeping records of requests for additional ballots, if supplies at a polling place are exhausted before the polls close. Form 5-E, the Voter Registration Transaction Source Record, provides the county auditors with a format for reporting statistics required to be reported to the Federal Election Commission under the National Voter Registration Act of 1993.

The year of revision has been changed for all Armed Forces or Overseas Ballot envelopes (Forms 5-A, 5-B and 5-C). The revision date which is printed on the envelopes is 1991, although the actual rules change was made in 1990. This change is to harmonize the rules with the date on the form. The forms have not been revised since 1990.

These amendments are 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; 49.65; 49.66 as amended by 1995 Iowa Acts, House File 494, section 8; 49.77; 49.79; 49.80; 49.81; 49.81(4); 49.90; 49.91; 49.104(2); 49.104(3); 49.104(5); 49.104(6); 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; 53.2 as amended by 1995 Iowa Acts, House File 494, section 15; 53.13; 53.19; 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; and 11 CFR, subpart C, section 8.7 (1995).

These amendments will become effective October 18, 1995.

The following amendments are adopted.

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
1-E	(Reserved)
1-F (Rev.- 90)	Oath for Officer or Clerk of Election
1-G (Rev.- ~~90~~ 95)	Statement to Person Casting a Special Ballot
1-H (Rev.- ~~90~~ 95)	Envelope for Special Ballot
1-I (Rev.- ~~90~~ 95)	Affidavit of Voter Requesting Assistance
1-J (Rev.- ~~90~~ 95)	Declaration of Intent to Serve as Election Observer (Public Measure Elections)
1-K (Rev.-90)	Ballot Record and Receipt
1-L (Rev.- ~~90~~ 95)	County Abstract of Votes
1-M (93)	Accreditation Form — Pollwatchers for Political Parties (Challenging Committees)
1-N (93)	Accreditation Form — Observers for Political Parties (To Witness the Counting of Ballots)

SECRETARY OF STATE[721](*cont'd*)

1-O (95)	*Letter of Appointment — Pollwatchers for Nonpartisan and Nonparty Candidates*
1-P (95)	*Application for Additional Ballots*
1-Q (95)	*Application for Additional Ballots — Auditor's Record of Telephone Request*
1-R (95)	*Ballot Photocopy Record*

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*

Section 4. Armed Forces and Overseas Absentee Voting

Form Number	Description
4-A (Rev.- ~~90~~ *91*)	Armed Forces or Overseas Ballot — Delivery Envelope
4-B (Rev.- ~~90~~ *91*)	Armed Forces or Overseas Ballot — Return Carrier Envelope
4-C (Rev.- ~~90~~ *91*)	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
5-E (95)	*Voter Registration Transaction Source Record*

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; 49.65; 49.66 as amended by 1995 Iowa Acts, House File 494, section 8; 49.77; 49.79; 49.80; 49.81; 49.81(4); 49.90; 49.91; 49.104(2); 49.104(3); 49.104(5); 49.104(6); 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; 53.2 as amended by 1995 Iowa Acts, House File 494, section 15; 53.13; 53.19; 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; and 11 CFR, subpart C, section 8.7 (1995).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/95.

ARC 5884A

SUBSTANCE ABUSE COMMISSION[643]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 125.7(4), the Commission on Substance Abuse hereby amends Chapter 3, "Licensure Standards for Substance Abuse Treatment Programs," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 7, 1995, as **ARC 5664A**. A public hearing was held over the Iowa Communication Network (ICN), on Thursday, June 29, 1995. The Commission on Substance Abuse adopted the amendments on August 16, 1995.

These amendments outline specific licensure standards for the use of methadone that more appropriately meet the needs of treatment programs utilizing methadone in the treatment of narcotic addicts. In addition, it provides the Department with specific rules through which a standard of service to clients/patients can be promoted.

As a result of the public hearing and written comments received, the following revision was made:

Subrule 3.35(5) was revised by deleting the terms "screening," "be clearly stated," and "determining the eligibility of" and replacing with the terms "have" and "considering an" so as to improve clarity and understanding of the subrule. Revision was for purposes of clarifying the subrule.

These amendments are intended to implement Iowa Code section 125.21.

These amendments shall become effective on October 18, 1995.

The following amendments are adopted.

Adopt new subrules 3.35(1) to 3.35(14) as follows:

3.35(1) Definitions.

"Methadone detoxification" means a practice of using methadone as part of a planned course of treatment involving reduction in dosage to the point of abstinence followed by drug-free treatment. A patient/client may be enrolled in methadone detoxification for a maximum of 180 days.

"Methadone maintenance" means a practice of using methadone administered over a period of time to relieve withdrawal symptoms, reduce craving and permit normal functioning so that, in conjunction with rehabilitative services, patients/clients can develop productive lifestyles.

"Methadone program" means a detoxification or maintenance treatment program using methadone and offering services for the rehabilitation of persons dependent on opium, morphine, heroin or any other derivative or synthetic drug of that group.

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

3.35(2) Required approvals. All methadone programs shall be licensed or approved by the commission and shall maintain all other approvals required by the U.S. Food and Drug Administration, Drug Enforcement Administration and the Iowa board of pharmacy examiners in order to provide services.

3.35(3) Central registry system. To prevent simultaneous enrollment of a patient/client in more than one methadone program, all methadone programs shall participate in a central registry as established by the division.

Prior to admission of an applicant to a methadone program, the program shall submit to the registry the name, birth date, date of intended admission, and any other information required for the clearance procedure. No person shall be admitted to a methadone program who is found by the registry to be participating in another such program. All methadone programs shall report all admissions, discharges, and transfers to the registry immediately. All information reported to the registry from the programs, and all information reported to the programs from the registry, shall be treated as confidential in accordance with "Confidentiality of Alcohol and Drug Abuse Patient Records" regulations, 42 CFR, Part 2, effective June 9, 1987.

a. Definitions. For purposes of this section:

"Central registry" means the system through which the Iowa department of public health, division of substance abuse and health promotion, obtains patient/client identifying information about individuals applying for maintenance or detoxification treatment for the purpose of preventing an individual's concurrent enrollment in more than one such program.

"Methadone program" means a detoxification or maintenance treatment program which is required to report patient/client identifying information to the central registry, and which is located in the state.

b. Restrictions on disclosure. A program may disclose patient/client identifying information to a central registry for the purpose of preventing multiple enrollment of a patient/client only if:

(1) The disclosure is made when:

• The patient/client is admitted for treatment; or

• The treatment is interrupted, resumed or terminated.

(2) The disclosure is limited to:

• Patient/client identifying information; and

• Relevant dates of admission.

(3) The program shall inform the patient/client of the required disclosure prior to admission.

c. Use of information limited to prevention of multiple enrollments. Any information disclosed to the central registry to prevent multiple enrollments may not be redisclosed by the registry or such information used for any other purpose than the prevention of multiple enrollments unless so authorized by court order in accordance with 42 CFR, Part 2, effective June 9, 1987.

d. Permitted disclosure by the central registry to prevent a multiple enrollment. If a program petitions the central registry, and an identified patient/client is enrolled in another program, the registry may disclose:

(1) The name, address, and telephone number of the program in which the patient/client is currently enrolled to the inquiring program; and

(2) The name, address, and telephone number of the inquiring program to the program in which the patient/client is currently enrolled. The programs may communicate as necessary to verify that no error has been made and to prevent or eliminate any multiple enrollment.

3.35(4) Admission requirements.

a. Prior to or at the time of admission to a methadone program, the program shall conduct a comprehensive assessment so as to determine appropriateness for admission.

b. The program shall verify, to the extent possible, the patient's/client's name, address, and date of birth.

c. The program physician shall determine and document in the patient's/client's record that the patient/client is physiologically dependent on narcotic substances and has been so dependent for at least one year prior to admission. A one-year history of addiction means that the patient/client was physiologically dependent on a narcotic at a time one year before admission to a program and was addicted for most of the year preceding admission.

(1) When physiological addiction cannot be clearly documented, the program physician or an appropriately trained staff member designated and supervised by the physician shall record in the patient's/client's record the criteria used to determine the patient's/client's current physiologic dependence and history of addiction. In the latter circumstance, the program physician shall review, date, and countersign the supervised staff member's evaluation to demonstrate their agreement with the evaluation. The program physician shall make the final determination concerning a patient's/client's physiologic dependence and history of addiction. The program physician also shall sign, date, and record a statement that they have reviewed all the documented evidence to support a one-year history of addiction and the current physiologic dependence and that in their reasonable clinical judgment the patient/client fulfills the requirements for admission to maintenance treatment. Before the program administers any methadone to the patient/client, the program physician shall complete and record the statement documenting addiction and current physiologic dependence.

(2) When a patient/client voluntarily left a methadone program in good standing and seeks readmission within two years of discharge, the program shall document the following information:

• Prior methadone treatment of six months or more; and

∘ The program physician shall enter in the patient's/client's record that in the physician's medical judgment methadone treatment is warranted.

d. The program shall collect a urine sample for analysis. Where dependence is substantially verified through other indicators, a negative urinalysis will not necessarily preclude admission to the program.

e. Prior to admission, the program shall confirm with the central registry that the patient/client is not currently enrolled in another methadone program.

f. If a potential patient/client has previously been enrolled in another methadone program, the admitting program shall request from the previous program a copy of the patient's/client's assessment data, treatment plan, and discharge summary including the type or reasons for discharge. All programs subject to these rules shall promptly respond to such a request upon receipt of a valid release of information.

g. A person under the age of 18 is required to have had two documented attempts at short-term detoxification or drug-free treatment to be eligible for maintenance treatment. A one-week waiting period is required after such a detoxification attempt, however, before an attempt is repeated. The program physician shall document in the patient's/client's record that the patient/client continues to be, or is again, physiologically dependent on narcotic drugs.

h. Program staff shall ensure that a patient/client is voluntarily participating in the methadone program and the patient/client shall sign the Consent to Methadone Treatment, Form FDA 2635.

i. Pregnant patients/clients may be admitted to methadone treatment with the following provisions:

(1) Evidence of current physiological dependency is not needed if the program physician certifies the pregnancy and, in the physician's reasonable judgment, finds treatment to be justified. Documentation of all findings and justifications for admission shall be documented in the patient's/client's record by the program physician prior to the initial dose of methadone.

(2) Pregnant patients/clients shall be offered comprehensive prenatal care. If the program cannot provide prenatal services, the program shall assist the patient/client in obtaining such services and shall coordinate ongoing care with the collateral provider.

(3) The program physician shall document that the patient/client has been informed of the possible risks to the unborn child from the use of methadone and the risks of continued use of illicit substances.

(4) Should a program have a waiting list for admission to the program, pregnant patients/clients shall be given priority.

3.35(5) Placement, admission and assessment. The program shall have written criteria for considering an individual for placement and admission.

a. The program shall have written policies and procedures governing a uniform process that defines:

(1) The types of information to be gathered on all individuals upon admission;

(2) Procedures to be followed when accepting referrals from outside agencies or organizations;

(3) The types of records to be kept on all individuals applying for services.

b. The patient/client assessment (psychosocial history) shall be an analysis and synthesis of the patient's/client's status, and shall address the patient's/client's strengths, problems, and areas of clinical concern. It shall be developed within the period of time between admission and the first review date specified for that particular level of care within the continued stay review process. This initial assessment upon admission to treatment services is an expansion of information on the six categories contained within the placement screening document.

c. When an individual refuses to divulge information or to follow the recommended course of treatment, this refusal shall be noted in the case record.

d. At the time of admission, documentation shall be made that the individual has been informed of:

(1) General nature and goals of the program;

(2) Rules governing patient/client conduct and infractions that can lead to disciplinary action or discharge from the program;

(3) The hours during which the services are available;

(4) Treatment costs to be borne by the patient/client, if any;

(5) Patient/client rights and responsibilities; and

(6) Confidentiality laws, rules and regulations.

e. Sufficient information shall be collected during the admission process so that the assessment process allows for the development of a complete assessment of the patient's/client's status and a comprehensive plan of treatment can be developed.

f. The results of the screening and admission process shall be clearly explained to the patient/client, and to the patient's/client's family when appropriate. This shall be documented in the patient/client record.

g. The program physician or designee, who is a qualified medical professional, shall complete a medical evaluation and a current psychological/mental status evaluation prior to the administration of the initial dose of methadone. If the history and current psychological/mental status evaluation is completed by an individual other than the program physician, the program shall document in the patient's/client's case record that this information was reviewed by the program physician prior to the initial dosage of methadone. The medical evaluation shall include but not be limited to:

(1) A complete medical history;

(2) An assessment of the patient's/client's current psychological and mental status;

(3) A physical examination including examination for:

∘ Pulmonary, liver, or cardiac abnormalities;
∘ Infectious disease; and
∘ Dermatologic sequela of addiction.

(4) Laboratory tests including:

∘ Serological test for syphilis; and
∘ Urine screening for drugs.

(5) Intradermal PPD (tuberculosis skin test) and review of tetanus immunization status; and

(6) When indicated, an EKG, chest X-ray, pap smear, pregnancy test, sickle cell screening, complete blood count and white cell differential, multiphasic chemistry profile, routine and microscopic urinalysis, or other tests indicated by the patient's/client's condition.

3.35(6) Treatment plans. Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the patient's/client's case record.

a. An initial treatment plan shall be developed upon intake and shall delineate the patient's/client's immediate needs and actions required to meet these needs. This plan shall be in effect until a comprehensive treatment plan is developed.

b. A comprehensive treatment plan shall be developed as soon after the patient's/client's admission as is clini-

cally feasible, but no later than 30 days following admission to an outpatient methadone treatment program.

c. The comprehensive individualized treatment plan shall minimally contain:

(1) A clear and concise statement of patient's/client's current strengths and needs;

(2) Clear and concise statements of the short- and long-term goals the patient/client will be attempting to achieve;

(3) Type and frequency of therapeutic activities in which the patient/client will be participating;

(4) The staff person(s) to be responsible for the patient's/client's treatment; and

(5) The specific criteria to be met for successful completion of treatment.

d. Treatment plans shall be developed in partnership with the patient/client. Comprehensive treatment plans shall be reviewed by the primary counselor and the patient/client as often as necessary, but no less than every 90 days during the first year and semiannually each subsequent year for methadone treatment modalities. Treatment plans shall be reviewed by the program physician on an annual basis.

e. The reviews shall consist of a reassessment of the patient's/client's current status to include accomplishments and needs and a redefining of treatment goals when appropriate. The date of the review and any change, as well as the individuals involved in the review, shall also be recorded.

f. The use of abstract terms, jargon, or slang should be avoided in the treatment plan, and the plan should be written in a manner readily understandable to the average patient/client. The program shall provide the patient/client with copies of all treatment plans upon request.

g. Treatment plans shall be culturally and environmentally specific so as to meet the needs of the patient/client. Treatment plans shall be written in a manner readily understandable to the average person or with assistance available to illiterate, handicapped, or mentally impaired patients/clients.

3.35(7) Progress notes. A patient's/client's progress and current status in meeting the goals set in the treatment plan, as well as efforts by staff members to help the patient/client achieve these stated goals, shall be recorded in the patient's/client's case record. Such information will be noted following each individual counseling session. Group therapy progress notes shall be recorded following each session or summarized at least weekly.

a. Entries shall be filed in chronological order and shall include the date services were provided or observations made, the date the entry was made, the signature or initials and staff title of the individual rendering the services. All progress notes shall be entered into the patient/client case record in permanent pen, typewriter, or by computer.

b. All entries that involve subjective interpretations of a patient's/client's progress should be supplemented with a description of the actual behavioral observations which were the basis for the interpretation.

c. The use of abstract terms, jargon, or slang should be avoided in progress notes.

d. If a patient/client is receiving services from an outside resource, the program shall attempt to secure a written copy of status reports and other patient/client records from that resource.

e. The program shall develop a uniform progress notes format to be used by all clinical staff.

3.35(8) Rehabilitative services. The program shall provide rehabilitative services that are appropriate for the patient/client based on needs identified during the assessment process. The program may provide rehabilitative services through collateral agreements with other service providers. A patient/client who does not comply with the program's rehabilitative service requirements shall be placed on a period of probation as defined by the program, or be required to immediately increase the frequency of clinic attendance for medication and rehabilitative services. If, during a period of probation, the patient/client continues to be in noncompliance with rehabilitative services, the program shall continue to increase the attendance requirement until daily attendance is obtained or the patient/client complies with rehabilitative services. This requirement shall not preclude the program's ability to determine that discharge of a patient/client is warranted for therapeutic reasons or program needs.

3.35(9) Medication dispensing.

a. The program physician shall determine the patient's/client's initial and subsequent dose of medication and clinic dosing schedule and shall assume responsibility for the amount of the narcotic drug administered or dispensed and shall record, date, and sign in each patient's/client's case record each change in the dosage schedule. The physician shall directly communicate orders to the pharmacy or registered or licensed personnel supervising medication dispensing. The program physician may communicate such orders verbally; however, orders shall be reduced in writing and countersigned within 72 hours by the program physician.

b. The initial dose of medication shall not exceed 30 milligrams, and the total dose for the first day shall not exceed 40 milligrams, unless the program physician documents in the patient's/client's case record that 40 milligrams did not suppress opiate abstinence symptoms. A patient/client transferring into the program or on a guest-dosing status may receive an initial dosage of no more than the last daily dosage authorized by the former or primary program.

(1) The medication shall be administered by a professional authorized by law.

(2) No methadone shall be administered unless the patient/client has completed admission procedures, unless the patient/client enters the program on a weekend and the central registry cannot be contacted. If, in the clinical judgment of the program physician, a patient/client is experiencing an emergency situation, the admission procedures may be completed on the following workday.

c. Administration.

(1) Methadone, including take-home doses, shall be dispensed to patients/clients in oral liquid form and in single doses. Take-home bottles shall be labeled in accordance with state and federal law and have childproof caps.

(2) A dispensing log shall be kept in the dispensing area and in the patient/client case records which shall document the amount of methadone dispensed and include the signature of the staff member authorized to dispense the medication. No dose shall be dispensed until the patient/client has been positively identified and the dosage amount is compared with the currently ordered and documented dosage level.

(3) Ingestion shall be observed and verified by the staff person authorized to dispense the medication.

(4) The program physician shall record, date, and sign in each patient's/client's case record each change in the dosage schedule. Daily dosages of methadone in excess of 100 milligrams shall be dispensed only with the approval of the program physician and shall be documented and justified in the patient's/client's case record.

3.35(10) Take-home medication.

a. Take-home medication may be given to patients/clients who demonstrate a need for a more flexible schedule in order to enhance and continue rehabilitative progress. For patients/clients receiving take-home medication, the program shall consider the following requirements:

(1) Absence of recent abuse of drugs (narcotic or non-narcotic), including alcohol;

(2) Regular attendance at the clinic;

(3) Attendance at a licensed or approved treatment program for rehabilitative services (e.g., programs are considered approved when licensed or approved in accordance with Iowa Code chapter 125);

(4) Absence of recent criminal activity;

(5) Stable home environment and social relationships;

(6) Active employment or participation in school, or similar responsible activities related to employment, education or vocation; and

(7) Assurance that medication can be safely transported and stored by the patient/client for the patient's/client's own use.

b. Prior to granting take-home privileges, the program physician shall document in the patient's/client's case record that all the above criteria have been considered and that, in the physician's professional judgment, the risk of diversion or abuse is outweighed by the rehabilitative benefits to be derived.

c. If the patient/client meets the above criteria, the patient/client may receive take-home medication according to the following guidelines:

(1) If the patient/client has been admitted for less than three months, daily clinic dosing is required unless the program is closed on Sunday in which case a one-day dosage may be issued for take-home;

(2) If the patient/client has been admitted for more than three months, but less than two years, the patient/client must receive clinic dosing at least three times per week with no more than two take-home dosages issued at a time; and

(3) If the patient/client has been admitted for more than two years, the patient/client must receive clinic dosing at least two times per week with no more than three take-home dosages issued at a time.

(4) If the patient/client has been admitted for more than three years, the patient/client must receive clinic dosing at least one time per week with no more than six take-home dosages issued at one time.

d. If a patient/client is unable to conform to the applicable mandatory schedule, a revised schedule may be permitted provided the program receives an exception to these rules from the division and FDA. A copy of the written exception shall be placed in the patient's/client's case record. The division will consider exceptions only in unusual circumstances. When applying for less frequent pickups for patients/clients, approval will be based on considerations in addition to distance when another program exists within 25 miles of the patient's/client's residence.

e. Should a patient receiving take-home medication provide urinalysis for drug screen that is confirmed either positive for substances or negative for methadone, the program shall ensure that when test results are used, presumptive laboratory results are distinguished from results that are definitive.

(1) The program physician shall place the patient/client on three months' probation, as defined by the program, or increase the patient's/client's frequency of clinic dosing after considering the patient's/client's overall progress and length of involvement in the program.

(2) Should the patient/client provide a urinalysis that is positive for substances or negative for methadone during a period of probation, the program physician shall increase the patient's/client's frequency of clinic attendance for dosage pickup for at least three months. If after the three-month period the patient/client meets the eligibility criteria, the patient/client may return to the previous take-home schedule.

f. Take-home dosages of methadone in excess of 100 milligrams may be dispensed by the program physician when carefully reviewed and considered and justified in the patient's/client's case record based on the physician's clinical judgment; and when prior approval is obtained from the Food and Drug Administration and the Iowa Department of Public Health, Division of Substance Abuse and Health Promotion.

3.35(11) Urinalysis. Each program shall establish policies and procedures for the collection of urine specimens and utilization of urinalysis results.

a. The program shall ensure that an initial drug-screening test or analysis is completed for each prospective patient/client and that at least eight additional random tests or analyses are performed on each patient/client during the first year in maintenance treatment and that at least quarterly random tests or analyses are performed on each patient/client in maintenance treatment for each subsequent year. Random tests or analyses shall be performed monthly on each patient/client who receives six days of take-home medication. When a sample is collected from each patient/client for such a test or analysis, it shall be done in a manner that minimizes opportunity for falsification. Each test or analysis shall be analyzed for opiates, methadone, amphetamines, cocaine, and barbiturates. In addition, if any other drug or drugs have been determined by a program to be abused in that program's locality, or as otherwise indicated, each test or analysis must be analyzed for any of those drugs as well. Any laboratory that performs the testing required under this rule shall be in compliance with all applicable federal proficiency testing and licensing standards and all applicable state standards.

b. The program shall ensure that test results are not used as the sole criterion to force a patient/client out of treatment but are used as a guide to change treatment approaches. The program shall also ensure that when test results are used, presumptive laboratory results are distinguished from results that are definitive.

3.35(12) Patient/client case records. The program shall have written policies and procedures governing the compilation, storage and dissemination of individual patient/client case records.

a. These policies and procedures shall ensure that:

(1) The program exercises its responsibility for safeguarding and protecting the patient/client case records against loss, tampering, or unauthorized disclosure of information;

(2) Content and format of patient/client case records are kept uniform; and

(3) Entries in the patient/client case record are signed and dated.

b. The program shall provide adequate physical facilities for the storage, processing, and handling of patient/client case records. These facilities shall include suitably locked, secured rooms or file cabinets.

c. Appropriate records shall be readily accessible to those staff members providing services directly to the patient/client and other individuals specifically authorized by program policy. Records should be kept in proximity to the area in which the patient/client normally receives services.

d. There shall be a written policy governing the disposal and maintenance of patient/client case records. Patient/client case records shall be maintained for not less than five years from the date they are officially closed.

e. Confidentiality of alcohol and drug abuse patient/client case records. The confidentiality of alcohol and drug abuse patient/client case records maintained by a program is protected by the "Confidentiality of Alcohol and Drug Abuse Patient Records" regulations 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse patient/client records, and 42 U.S.C. 290ee-3 applicable to drug abuse patient/client records. The program is precluded from identifying that a patient/client attends the program or disclosing any information identifying a patient/client as an alcohol or drug abuser unless:

(1) The patient/client consents in writing;

(2) The disclosure is allowed by a court order;

(3) The disclosure is made to medical personnel in a medical emergency; or

(4) The disclosure is required by law.

3.35(13) Interim maintenance treatment.

a. An approved program may offer interim maintenance treatment when, due to capacity, the program cannot place the patient/client in a program offering comprehensive services within 14 days of the patient's/client's application for admission.

b. An approved program may provide interim maintenance treatment only if the program also provides comprehensive maintenance treatment to which interim maintenance treatment patients/clients may be transferred.

c. Interim maintenance treatment program approval. Before a public or nonprofit private narcotic treatment program may provide interim maintenance treatment, the program must receive approval of both the U.S. Food and Drug Administration and the division of substance abuse and health promotion and:

(1) The program director must certify that the program seeking such authorization is unable to place patients/clients in a public or private nonprofit program within a reasonable geographic area within 14 days of the patient's/client's application for admission; and

(2) That interim maintenance treatment will not reduce the capacity of the program's comprehensive maintenance treatment.

(3) Patients/clients admitted to interim maintenance treatment shall be transferred to comprehensive maintenance treatment within 120 days of admission.

d. Minimum standards for interim maintenance treatment. The program may admit a patient/client who is eligible for comprehensive maintenance treatment to interim maintenance treatment if the patient/client cannot be placed in a public or private nonprofit comprehensive program within a reasonable geographic area and within 14 days of application for services. An initial drug screen, and at least two others, shall be taken from the patient/client during the maximum admission period of 120 days. A program shall establish and follow reasonable criteria for determining the transfer of patients/clients to comprehensive maintenance treatment. These transfer criteria shall be in writing, available for inspection, and shall include at a minimum a preference for the transfer of pregnant patients/clients. Interim maintenance shall be conducted in accordance with all applicable federal regulations and state rules. The program shall notify the division when a patient/client begins interim treatment; when a patient/client leaves interim treatment, and when a patient/client transfers to comprehensive maintenance treatment. Such notifications shall be documented by the program in the patient's/client's case record. All requirements for comprehensive maintenance treatment apply to interim maintenance treatment with the following exceptions:

(1) The medication is required to be administered daily under observation;

(2) Take-home medication is not allowed;

(3) Initial and comprehensive treatment plans are not required;

(4) A primary counselor is not required to be assigned to the patient/client; and

(5) Interim maintenance cannot be provided for longer than 120 days in any 12-month period.

3.35(14) Complaints, investigations, suspension and revocation. The rules relating to complaints, investigation, suspension and revocation as outlined in 643 IAC 3.11(125) through 3.17(125) shall apply to methadone programs.

[Filed 8/25/95, effective 10/18/95]
[Published 9/13/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/95.

ARC 5857A

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on August 16, 1995, adopted an amendment to Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

A Notice of Intended Action for the amendment was published in the July 5, 1995, Iowa Administrative Bulletin as **ARC 5701A**.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations promulgated under United States Code, Title 49, and found in 49 CFR, Parts 107, 171 to 173, 177, 178 and 180. To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

Commercial vehicles transporting goods in interstate commerce are subject to the Federal Motor Carrier Safety Regulations on the effective dates specified in the Federal

Register. Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the Federal Hazardous Materials Regulations on the effective dates specified in the Federal Register. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the Federal Register to allow a period for public comment; and, after adoption, the final regulations are again published in the Federal Register. Each year a revised edition of 49 CFR is published incorporating all of the final regulations adopted during the year. Although revised editions of 49 CFR are usually dated October or November, the publication is not actually available in Iowa for several months after that date.

The significant additions, deletions and amendments to the Federal Motor Carrier Safety Regulations which have become final and effective since the 1993 edition are as follows:

Parts 390 and 391 were amended to expand the list of health care professions allowed to perform physical examinations of commercial motor vehicle drivers and to amend the required medical form.

Parts 390 and 391 were amended by making a conviction for a violation of an out-of-service order by a driver of a commercial motor vehicle a disqualifying offense. The conviction will result in suspension, revocation, cancellation, or disqualification. A 90-day disqualification is required for the first violation and from 1 to 5 years for subsequent violations.

Parts 390, 391, 393, 395 and 396 were amended by changing the definitions of interstate commerce and commercial motor vehicle, including private motor carriers of passengers in interstate transportation.

Parts 390 and 392 were amended to ban the use of radar detectors in all commercial motor vehicles.

Part 391 was amended to modify the controlled substances testing information that motor carriers are required to maintain for annual summary reports.

Parts 392 and 393 were amended to allow stopped commercial vehicles to use fusees and liquid-burning flares instead of reflective triangles, except when the vehicle is transporting hazardous materials or is powered by compressed gas.

Part 393 was amended by adopting as final an interim rule which requires Mexican commercial motor vehicles operating in the United States to be equipped with brakes acting on all wheels.

Part 393 was amended to require that tiedown assemblies for securing cargo be at least 1/2 times the weight of the cargo and to provide a table of working load limits for determining the number of tiedowns required.

The significant additions, deletions and amendments to the Federal Hazardous Materials Regulations which have become final and effective since the 1993 edition are as follows:

Parts 171 to 173, 178 and 180 were amended to establish safety standards for intermediate bulk containers and eliminated most exemptions for polyethylene and for rigid and flexible IBCs.

Part 171 was amended to extend the compliance date for regulated medical waste and materials infectious to animals to October 1, 1995; the date for infectious substances remains October 1, 1994.

Part 172 was amended to revise the "List of Hazardous Substances and Reportable Quantities" to allow better identification of CERCLA substances for compliance with regulations.

Parts 173 and 180 were amended to extend the date for continued construction of several cargo tank motor vehicle specifications to August 31, 1995.

Additional amendments to the regulations were editorial and technical corrections, including the following: clarification of inconsistencies and corrections to the hazardous materials regulations, a reminder of a registration date, and the denial of a request to reconsider changes to the June 20, 1994, list of hazardous substances.

The regulations were published in the following issues of the Federal Register.

October 1, 1993,	page 51524
November 8, 1993,	page 59194
December 21, 1993,	page 67370
December 23, 1993,	page 68220
January 12, 1994,	page 1784
February 23, 1994,	page 8748
May 17, 1994,	page 25572
May 18, 1994,	page 26022
June 2, 1994,	page 28487
June 14, 1994,	page 30530
June 20, 1994,	page 31822
June 27, 1994,	page 32930
July 6, 1994,	pages 34708, 34712
July 22, 1994,	page 37537
July 26, 1994,	page 38040
August 25, 1994,	page 43898
August 31, 1994,	page 44938
September 22, 1994,	page 48762
September 26, 1994,	page 49128

These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 321 and will become effective October 18, 1995.

Rule-making action:

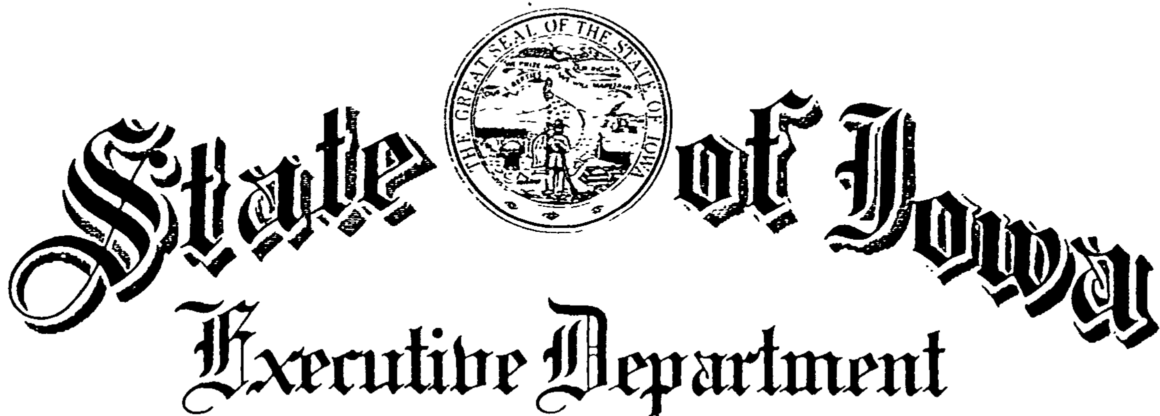
Amend subrule **520.1(1)**, paragraphs "**a**" and "**b**" as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 390-399 (October 1, ~~1993~~ *1994*). 49 CFR Sections 391.109 and 391.111 concerning random drug testing shall not apply to intrastate operations.

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~1993~~ *1994*). The regulations in the October 1, 1990, edition of Title 49 CFR shall remain in full force and effect in accordance with the transition provisions of 49 CFR Section 171.14 (December 31, 1991).

[Filed 8/17/95, effective 10/18/95]
[Published 9/13/95]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/95.



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

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On Thursday, July 27, 1995, a severe storm system moved across northeast and east central Iowa generating strong winds, heavy rains, and hail; and

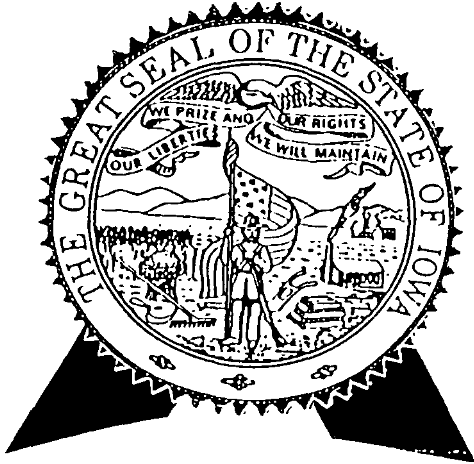
WHEREAS, this storm system spawned intense tornadoes, straight winds, hail, and flooding which caused destruction and damage to residences, crops, infrastructure, business and private property in Buchanan, Delaware and Jones Counties; and

WHEREAS, based upon initial reports forwarded by local and state officials; and

WHEREAS, the results of this information and survey indicate that local governments have requested and are in need of State assistance to include damage assessment, debris removal and burning activities in accordance with Iowa Adminstrative Code 567-23.2 (a) and Iowa Code Chapter 29C,

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, do hereby proclaim a state of disaster emergency for Buchanan, Delaware and Jones Counties, for the aforementioned reasons. This proclamation of disaster emergency authorizes local and State government to render good and sufficient aid to assist this area in its time of need.

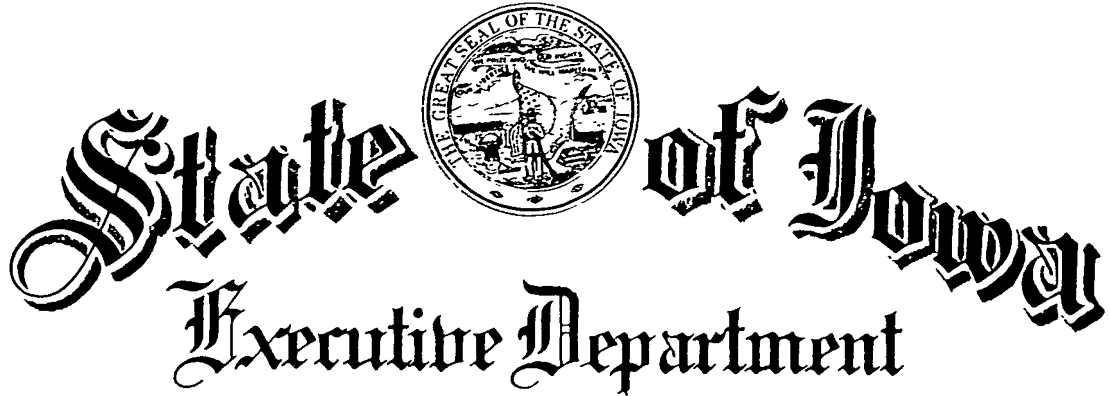
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 28th day of July in the year of our Lord one thousand nine hundred and ninety-five.



GOVERNOR

ATTEST:

SECRETARY OF STATE



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

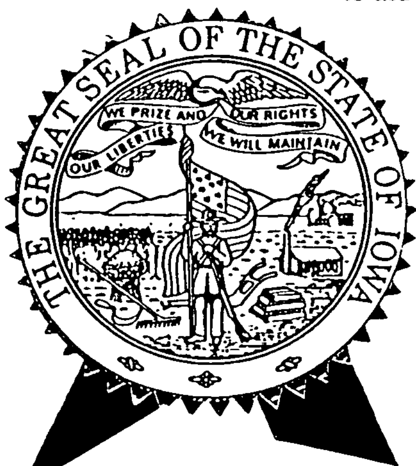
PROCLAMATION OF EMERGENCY

WHEREAS, a missing person report was filed June 27, 1995, at 4:00 p.m., for a young woman from Mason City; and

WHEREAS, forecasts for severe weather and increased summer ground cover make it imperative that the individual be located as quickly as possible; and

WHEREAS, it was determined July 2, 1995, that assistance is necessary for services beyond local resources from State agencies in locating the missing person;

NOW, THEREFORE, I, Terry E. Brandstad, Governor of the state of Iowa, do call upon additional resources, to include the Iowa National Guard, to aid in the search for this missing person.



IN TESTIMONY WHEREOF, I have here-unto subscribed my name and caused the Great Seal of the state of Iowa to be affixed. Done at Des Moines, this 2nd day of July, in the year of our Lord, one thousand nine hundred ninety-five.

Terry E. Branstad
GOVERNOR

ATTEST:

Paul D. Pate
SECRETARY OF STATE

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