IOWA ADMINISTRATIVE BULLETIN

Published Biweekly VOLUME XXII NUMBER 3
August 11, 1999 Pages 141 to 272

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PREFACE

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

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

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Iowa Administrative Bulletin

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Iowa Administrative Code

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

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Iowa Administrative Code - $1,163.76 plus $58.19 sales tax
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All checks should be made payable to the Iowa State Printing Division. Send all inquiries and subscription orders to:

Customer Service Center
Department of General Services
Hoover State Office Building, Level A
Des Moines, IA 50319
Telephone: (515)242-5120

Schedule for Rule Making
1999

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. 25 '98	Jan. 13 '99	Feb. 2 '99	Feb. 17 '99	Feb. 19 '99	Mar. 10 '99	Apr. 14 '99	July 12 '99
Jan. 8	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sept. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sept. 20
Mar. 19	Apr. 7	Apr. 27	May 12	May 14	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	May 28	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	June 25	July 14	Aug. 18	Nov. 15
May 14	June 2	June 22	July 7	July 9	July 28	Sept. 1	Nov. 29
May 28	June 16	July 6	July 21	July 23	Aug. 11	Sept. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sept. 29	Dec. 27
June 25	July 14	Aug. 3	Aug. 18	Aug. 20	Sept. 8	Oct. 13	Jan. 10 '00
July 9	July 28	Aug. 17	Sept. 1	Sept. 3	Sept. 22	Oct. 27	Jan. 24 '00
July 23	Aug. 11	Aug. 31	Sept. 15	Sept. 17	Oct. 6	Nov. 10	Feb. 7 '00
Aug. 6	Aug. 25	Sept. 14	Sept. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '00
Aug. 20	Sept. 8	Sept. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 6 '00
Sept. 3	Sept. 22	Oct. 12	Oct. 27	Oct. 29	Nov. 17	Dec. 22	Mar. 20 '00
Sept. 17	Oct. 6	Oct. 26	Nov. 10	Nov. 12	Dec. 1	Jan. 5 '00	Apr. 3 '00
Oct. 1	Oct. 20	Nov. 9	Nov. 24	Nov. 26	Dec. 15	Jan. 19 '00	Apr. 17 '00
Oct. 15	Nov. 3	Nov. 23	Dec. 8	Dec. 10	Dec. 29	Feb. 2 '00	May 1 '00
Oct. 29	Nov. 17	Dec. 7	Dec. 22	Dec. 24	Jan. 12 '00	Feb. 16 '00	May 15 '00
Nov. 12	Dec. 1	Dec. 21	Jan. 5 '00	Jan. 7 '00	Jan. 26 '00	Mar. 1 '00	May 29 '00
Nov. 26	Dec. 15	Jan. 4 '00	Jan. 19 '00	Jan. 21 '00	Feb. 9 '00	Mar. 15 '00	June 12 '00
Dec. 10	Dec. 29	Jan. 18 '00	Feb. 2 '00	Feb. 4 '00	Feb. 23 '00	Mar. 29 '00	June 26 '00
Dec. 24	Jan. 12 '00	Feb. 1 '00	Feb. 16 '00	Feb. 18 '00	Mar. 8 '00	Apr. 12 '00	July 10 '00
Jan. 7 '00	Jan. 26 '00	Feb. 15 '00	Mar. 1 '00	Mar. 3 '00	Mar. 22 '00	Apr. 26 '00	July 24 '00

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
5	**Friday, August 20, 1999**	**September 8, 1999**
6	**Friday, September 3, 1999**	**September 22, 1999**
7	**Friday, September 17, 1999**	**October 6, 1999**

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: Kathleen K. Bates, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the processing of rule-making documents, we request a 3.5″ High Density (not Double Density) IBM PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, 1st Floor, Lucas State Office Building or included with the documents submitted to the Governor's Administrative Rules Coordinator.

2. Alternatively, if you have Internet E-mail access, you may send your document as an attachment to an E-mail message, addressed to both of the following:

bcarr@legis.state.ia.us
kbates@legis.state.ia.us

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies by the Governor's office, but not on the diskettes; diskettes are returned unchanged.

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

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

To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]		
Organic certification and organic standards, ch 47 IAB 7/14/99 **ARC 9200A**	Public Library 507 Poplar Atlantic, Iowa	August 12, 1999 7 p.m.
	Chamber of Commerce 119 W. 6th St. Storm Lake, Iowa	August 17, 1999 7 p.m.
	Conference Room—2nd Floor Wallace State Office Bldg. Des Moines, Iowa	August 19, 1999 10 a.m.
DENTAL EXAMINERS BOARD[650]		
Continuing education, 25.3 IAB 8/11/99 **ARC 9275A**	Conference Room—2nd Floor Executive Hills West 1209 E. Court Ave. Des Moines, Iowa	September 8, 1999 1 p.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Community development block grant program—contingency fund, 23.4(5), 23.10 IAB 8/11/99 **ARC 9245A** (See also **ARC 9246A** herein)	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	August 31, 1999 2:30 p.m.
Community planning and development fund, ch 41; rescind chs 42, 46 to 49 IAB 8/11/99 **ARC 9247A**	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	August 31, 1999 1:30 p.m.
EDUCATION DEPARTMENT[281]		
Standards for practitioner preparation programs, ch 79 IAB 6/30/99 **ARC 9130A**	Conference Room 3 North—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	August 30, 1999 2 p.m.
HUMAN SERVICES DEPARTMENT[441]		
Drug prior authorization; therapeutic classes of drugs, 78.1(2), 78.28(1) IAB 8/11/99 **ARC 9243A** (See also **ARC 9143A**, IAB 6/30/99)	Conference Room—6th Floor Iowa Bldg., Suite 600 411 Third St. S.E. Cedar Rapids, Iowa	September 1, 1999 10 a.m.
	Administrative Conference Room 417 E. Kanesville Blvd. Council Bluffs, Iowa	September 1, 1999 9 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

	Large Conference Room—5th Floor Bicentennial Bldg. 428 Western Davenport, Iowa	September 1, 1999 10 a.m.
	Conference Room 102 City View Plaza 1200 University Des Moines, Iowa	September 1, 1999 10 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	September 1, 1999 10 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	September 1, 1999 10 a.m.
	Fifth Floor 520 Nebraska St. Sioux City, Iowa	September 2, 1999 1:30 p.m.
	Conference Room 420 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	September 1, 1999 10 a.m.

INSURANCE DIVISION[191]

Unfair trade practices—aftermarket crash parts in auto insurance policies, 15.15 IAB 8/11/99 **ARC 9253A** (See also **ARC 9090A**, IAB 6/16/99)	Hearing Room 350 Maple St. Des Moines, Iowa	September 7, 1999 10 a.m.
Viatical settlement contracts, 50.120 to 50.124 IAB 8/11/99 **ARC 9273A**	330 E. Maple St. Des Moines, Iowa	September 8, 1999 10 a.m.

IOWA FINANCE AUTHORITY[265]

Low-income housing tax credits, ch 12 IAB 8/11/99 **ARC 9271A** **(ICN Network)**	IPTV 1 6450 Corporate Dr. Johnston, Iowa	September 1, 1999 1 p.m.
	National Guard Armory 10400 18th St. SW Cedar Rapids, Iowa	September 1, 1999 1 p.m.
	State Room Clear Lake AEA 9184B 265th St. Clear Lake, Iowa	September 1, 1999 1 p.m.
	National Guard Armory 2415 Kanesville Blvd. Council Bluffs, Iowa	September 1, 1999 1 p.m.

IOWA FINANCE AUTHORITY[265] (Cont'd)
(ICN Network)

	Mt. Joy Army Aviation Support Facility 9650 S. Harrison St. Davenport, Iowa	September 1, 1999 1 p.m.
	National Guard Armory 1000 S. Walnut Mt. Pleasant, Iowa	September 1, 1999 1 p.m.
	National Guard Armory Park West Rd. — Old Hwy. 34 Red Oak, Iowa	September 1, 1999 1 p.m.
	National Guard Armory 102 S. Main St. Sioux City, Iowa	September 1, 1999 1 p.m.

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Insurance eligibility, 10.2 IAB 8/11/99 **ARC 9263A**	Conference Room 1000 Illinois St., Suite B Des Moines, Iowa	August 31, 1999 10 a.m.
Remedial or insurance claims, 11.1 IAB 8/11/99 **ARC 9264A**	Conference Room 1000 Illinois St., Suite B Des Moines, Iowa	August 31, 1999 10 a.m.

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Cosmetology, 61.1(3), 62.1 IAB 8/11/99 **ARC 9270A**	Board Room 525—5th Floor Lucas State Office Bldg. Des Moines, Iowa	August 31, 1999 8 to 9 a.m.

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Mutual consent voluntary adoption registry, ch 107 IAB 7/28/99 **ARC 9222A**	South Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	August 17, 1999 1 to 2 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Sex offender registry, 8.302 to 8.304 IAB 7/28/99 **ARC 9217A** (See also **ARC 9218A**)	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 2, 1999 9:30 a.m.
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Unauthorized changes of telecommunications service, 6.8, 22.23 IAB 8/11/99 **ARC 9267A**	Board Hearing Room 350 Maple St. Des Moines, Iowa	October 21, 1999 10 a.m.

CITATION of Administrative Rules

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

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

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

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

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].

The following list will be updated as changes occur:

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ARC 9241A

ATTORNEY GENERAL[61]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 1999 Iowa Acts, House File 476, section 3, the Attorney General hereby gives Notice of Intended Action to adopt Chapter 34, "Acquisition Negotiation Statement of Rights," Iowa Administrative Code.

1999 Iowa Acts, House File 476, section 3, mandates that an acquiring agency provide a statement of rights to owners of record who may have all or a part of their property acquired by condemnation. It also directs the Attorney General to adopt rules prescribing a statement of rights which an acquiring agency may use to meet its obligation. There is no provision for waiver since use of the statement is permissive under the statute.

Any person or agency may submit written comments concerning these proposed rules. The comments shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments.
3. Be addressed to the Attorney General's Office, Special Assistant Attorney General, Transportation Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1120; Internet E-mail address dferree@idot.e-mail.com.
4. Be received by the Transportation Division of the Attorney General's Office no later than August 31, 1999.

Requests for oral presentation regarding this rule making must be submitted in writing to General Counsel by August 31, 1999, at the address above.

These rules are intended to implement 1999 Iowa Acts, House File 476, section 3.

The following **new** chapter is proposed.

CHAPTER 34
ACQUISITION NEGOTIATION STATEMENT OF RIGHTS

61—34.1(78GA,HF476) Statement of property owner's rights. 1999 Iowa Acts, House File 476, section 3, mandates that an acquiring agency provide a statement of rights to owners of record who may have all or a part of their property acquired by condemnation. It also directs the attorney general to adopt rules prescribing a statement of rights which an acquiring agency may use to meet its obligation. Pursuant to that directive, the following statement of property owner's rights is adopted:

STATEMENT OF PROPERTY OWNER'S RIGHTS

Just as the law grants certain entities the right to acquire private property, you as the owner of the property have certain rights. You have the right to:

1. Receive just compensation for the taking of property. (Iowa Constitution, Article I, section 18)
2. An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code section 6B.45 as amended by 1999 Iowa Acts, House File 476, section 18; Iowa Code section 6B.54 as amended by 1999 Iowa Acts, House File 476, section 20)
3. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency's determination of just compensation is based not less than ten days before being contacted by the acquiring agency's acquisition agent. (Iowa Code section 6B.45 as amended by 1999 Iowa Acts, House File 476, section 18)
4. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required. (Iowa Code section 6B.54)
5. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (1999 Iowa Acts, House File 476, section 3)
6. A determination of just compensation by an impartial compensation commission and the right to appeal its award to the district court if you cannot agree on a purchase price with the acquiring agency. (Iowa Code section 6B.4; Iowa Code section 6B.7 as amended by 1999 Iowa Acts, House File 476, section 8; Iowa Code section 6B.18)
7. A review by the compensation commission of the necessity for the condemnation if your property is agricultural land being condemned for industry. (1999 Iowa Acts, House File 476, section 7)
8. Payment of the agreed upon purchase price or, if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code section 6B.25; Iowa Code section 6B.26; Iowa Code section 6B.54(11))
9. Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code section 6B.33 as amended by 1999 Iowa Acts, House File 476, section 15; Iowa Code section 6B.54(10))
10. Reimbursement of certain litigation expenses: (a) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency's final offer before condemnation; and (b) if the award on appeal in court is more than the compensation commissioners' award. (Iowa Code section 6B.33)
11. At least 90 days' written notice to vacate occupied property. (Iowa Code section 6B.54(4))
12. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of the payments. (Iowa Code section 316.9; Iowa Code section 6B.42 as amended by 1999 Iowa Acts, House File 476, section 17)

The rights set out in this statement are not claimed to be a full and complete list or explanation of an owner's rights under the law. They are derived from Iowa Code chapters 6A, 6B and 316. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

61—34.2(78GA,HF476) Alternate statement of rights. Rule 61—34.1(78GA,HF476) is not intended to prohibit acquiring agencies from providing a statement of rights in a different form, a more detailed statement of rights, or supplementary material expanding upon an owner's rights.

These rules are intended to implement 1999 Iowa Acts, House File 476, section 3.

ARC 9244A

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 261.1(5) and 261.3, the College Student Aid Commission proposes to amend Chapter 12, "Iowa Tuition Grant Program," Iowa Administrative Code.

This amendment will conform institutional eligibility requirements to the Iowa Code.

Interested persons may submit comments orally or in writing to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa, 50309; telephone (515)281-3501, on or before August 31, 1999.

This amendment is intended to implement Iowa Code section 261.9.

The following amendment is proposed.

Amend subrule 12.2(1) as follows:

12.2(1) Methods of gaining institutional eligibility under Iowa Code section 261.9. An Iowa institution requesting participation in the Iowa tuition grant program must apply to the college student aid commission utilizing the commission's designated application.

The applicant institution must:

a. Be accredited by the North Central Association of Colleges (NCA); or

b. Be certified by the NCA as a candidate for accreditation; or

~~c. Provide documentation from the NCA that it has the potential for accreditation and is making progress toward accreditation under the time frame established by the NCA; or~~

~~d~~ *c.* Be a school of nursing accredited by the National League for Nursing and approved by the board of nurse examiners, including one operated, controlled, and administered by a county public hospital.

ARC 9275A

DENTAL EXAMINERS BOARD[650]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 17A.8(6) at a regular* or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners gives Notice of Intended Action to amend Chapter 25, "Continuing Education," Iowa Administrative Code.

Chapter 25 is being amended to decrease continuing education hours allowed for attendance at convention-type meetings and to clarify the types of subject matter acceptable for continuing education.

Any interested person may make written suggestions or comments on these proposed amendments prior to August 31, 1999. Such written comments should be directed to Constance L. Price, Executive Director, Board of Dental Examiners, Executive Hills West, 1209 East Court, Des Moines, Iowa 50319.

There will be a public hearing on September 8, 1999, at 1 p.m. in the Second Floor Conference Room, Executive Hills West, 1209 East Court, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

The proposed amendments are intended to implement Iowa Code section 147.10.

The following amendments are proposed.

ITEM 1. Amend subrule 25.3(4) as follows:

25.3(4) Activity types acceptable for continuing dental education credit may include:

a. Attendance at a multiday convention-type meeting. A multiday, convention-type meeting is held at a national, state or regional level and involves a variety of concurrent educational experiences directly related to the practice of dentistry. Attendance shall receive ~~five~~ *three* hours of credit with the maximum allowed ~~ten~~ *six* hours of credit per biennium. Four hours of credit shall be allowed for presentation of an original table clinic at a convention-type meeting as verified by the sponsor when the subject matter conforms with 25.3(7). Attendance at the table clinic session of a dental or dental hygiene convention shall receive two hours of credit as verified by the sponsor.

b. to e. No change.

ITEM 2. Amend subrule **25.3(7)**, paragraph **"b,"** as follows:

b. Nonacceptable subject matter includes: personal development, *business aspects of practice (this does not exclude courses in patient treatment record keeping, risk management, and OSHA regulations), personnel management,* ~~practice management, communication,~~ government regulations, insurance, collective bargaining, and community service presentations. While desirable, those subjects are not applicable to the dental and dental hygiene skills, knowledge, and competence as expressed in the legislation. Therefore, such courses will receive no credit toward relicensure. The board may deny credit for any course.

ARC 9245A

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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

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

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

The proposed amendments establish a contingency fund within the Community Development Block Grant Program. The Contingency Fund provides funds for (1) projects that address an imminent threat to public health or safety and (2) projects that take advantage of a community development opportunity that would otherwise be foregone. There are no waiver provisions proposed because the Department is required by federal regulations to establish the method of allocation of funds prior to award.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 31, 1999. Interested persons may submit written or oral comments by contacting Roselyn McKie Wazny, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4822.

A public hearing to receive comments about the proposed amendments will be held at 2:30 p.m. on August 31, 1999, at the above address in the IDED main conference room. Individuals interested in providing comments at the hearing should contact Roselyn McKie Wazny by 4 p.m. on August 30, 1999, to be placed on the hearing agenda.

These amendments were also Adopted and Filed Emergency and are published herein as ARC 9246A. The content of that submission is incorporated by reference.

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

ARC 9247A

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 rescind Chapter 42, "Governmental Enterprise Fund," Chapter 46, "Rural Enterprise Fund," Chapter 47, "Rural Leadership Development Program," Chapter 48, "Rural Action Development Program," and Chapter 49, "Rural Innovation Grants," and to adopt Chapter 41, "Community Planning and Development Fund," Iowa Administrative Code.

The proposed amendments rescind Chapters 42, 46, 47, 48, and 49 and adopt a new Chapter 41. The purpose is threefold: (1) to combine all programs under one set of administrative rules that will be flexible and responsive to local needs; (2) to enhance provision of services and resources to communities; and (3) to reduce administrative costs and reduce confusion in the delivery of five separate programs. The proposed rules do not include waiver provisions at this time. The Department desires to study the issue further before taking action.

Public comments concerning the proposed new chapter will be accepted until 4:30 p.m. on August 31, 1999. Interested persons may submit written or oral comments by contacting Roselyn McKie Wazny, Division of Community and Rural Development, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4822.

A public hearing to receive comments about the proposed new chapter will be held on August 31, 1999, at the above address in the IDED main conference room at 1:30 p.m. Individuals interested in providing comments at the hearing should contact Roselyn McKie Wazny by 4 p.m. on August 30, 1999, to be placed on the hearing agenda.

These rules are intended to implement Iowa Code section 15.108(3) and 1999 Iowa Acts, House File 745, section 1(3)"c."

The following amendments are proposed.

ITEM 1. Rescind and reserve **261—Chapters 42, 46, 47, 48 and 49.**

ITEM 2. Adopt the following **new** chapter:

CHAPTER 41
COMMUNITY PLANNING AND DEVELOPMENT FUND

261—41.1(78GA,HF745) Purpose. The purpose of this program is to assist communities in addressing community and economic development challenges and opportunities. Technical and financial assistance will be provided to communities to access planning, training, education, consultation and technical assistance to further local initiatives or to select and prioritize strategies for the improvement of operations and structures to meet business and residential demands.

261—41.2(78GA,HF745) Program eligibility.

41.2(1) Eligible applicants include cities, counties, and councils of government on behalf of economic development groups; individual city and county projects; multicommunity or county projects; or coalitions of public/private entities including but not limited to local governments, fire/EMS departments, educational institutions, not-for-profit corporations, hospitals, state agencies, or development organizations. Applicants must be able to demonstrate a minimum match which equals at least 25 percent of the grant amount requested in the form of cash, and an additional in-kind services match of 25 percent.

41.2(2) Eligible projects. Examples of eligible projects include but are not limited to the following:

a. To hire staff or consultation to implement or expand community development opportunities;

b. To hire staff or consultative services to design, develop or implement new systems of delivery of governmental services;

c. For the direct purchase of consultative or technical services to conduct feasibility studies, economic impact studies, examination of commercial, tourism, industrial, small business, or recreational development activities;

d. To conduct targeted marketing studies for specific strategies or emerging opportunities, or other marketing planning or technical assistance services;

e. To purchase educational/training materials to support leadership or professional development for economic/community development initiative;

f. To support a pilot study for a new or innovative approach to support community/economic development or to improve access to government services;

g. To conduct assessments of governmental or other services, issues and needs that, if modified, would improve climate for local economic development;

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

h. To conduct assessments of organizations or to engage in strategic planning;

i. Other targeted assistance necessary to enhance the economic vitality of the proposed area.

261—41.3(78GA,HF745) General policies for applications.

41.3(1) The maximum award for a single project is $50,000 over a period not to exceed three years. Awards may be in the form of either cash or technical assistance. Cash or technical assistance awards will vary depending upon the complexity of the issue, geographic area of service, level of population in the service area, number of issues involved, and diversity of the consortium.

41.3(2) If a consortium of entities applies, applications shall include letters of support from each entity indicating roles, responsibilities, and support in the form of either cash or in-kind services.

41.3(3) If a consortium of entities applies, one community, county, or council of governments shall be designated as the recipient of funds. An official of that legal entity shall sign the application accepting responsibility for the funds.

41.3(4) Program implementation timetables shall not exceed 36 months, unless prior written approval is given by the department.

41.3(5) The department will disseminate a request for proposals to appropriate entities.

261—41.4(78GA,HF745) Application procedures. Preapplications shall be submitted to the Community Development Project Manager, Community Planning and Development Fund, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. Preapplications will be reviewed by the community development program manager, and written comments will be returned to applicant with appropriate application forms and instructions available at this address.

261—41.5(78GA,HF745) Application contents. Required contents of the application include:

1. A summary sheet including title and project overview; name, address, and telephone number of one person who will serve as the contact for the application; the geographic area to be served; and total program budget including applicant match.

2. A description of needs or problems, objectives, activities, project timetable, and a description of the final product/manual/outcome.

3. A budget for the project including cash and in-kind match.

261—41.6(78GA,HF745) Review process. Each eligible application will be reviewed by a committee within the department. Applications that score fewer than 400 points under subrule 41.6(2) will not be recommended for funding. Applicants may be interviewed further to explore the potential for providing technical assistance, gain additional information concerning the proposal, and negotiate the project's work plan and budget.

41.6(1) Ranking. The committee will rank the applications based on the following criteria:

a. Economic or community enhancement impact to the area. (How the project will improve the development potential of the project area, improve access to services, or create an environment for community improvement.)

b. Capacity of the applicant to sustain, implement, or reach stated objectives once grant period is concluded. (Ability of the applicant to sustain a new position, if requested, to build or implement a new system, building.)

c. Demonstrated networking, cooperation and partnerships with other entities, organizations, and local governments necessary to meet stated goals and objectives. (Past successful cooperative efforts that have been sustained over time. Multicommunity groups are strongly encouraged; some of the areas involved must also directly serve or impact a rural area.)

d. Local financial and volunteer contribution to the project. (Cash, office materials, supplies, volunteer support, office space, equipment, administrative assistance.)

e. Creativity and innovation of the proposed project to address issues presented. (Project demonstrates a new and creative approach to address a common issue/concern.)

f. Evidence of participation in local planning that supports the request for funds. (Community builder plan, housing needs assessment, comprehensive land use planning, or a similar planning activity that has led the applicant to the proposed activity for which application addresses.)

41.6(2) Scoring. The scoring system has a maximum of 700 points.

a. Economic or community enhancement impact to the area. 150 points possible.

b. Capacity of the applicant to sustain, implement or reach stated objectives. 150 points possible.

c. Demonstrated networking, cooperation and partnerships with other entities, organizations, and local governments. 150 points possible.

d. Local effort. 100 points possible.

e. Creativity and innovation of the proposed project. 75 points possible.

f. Evidence of local planning. 75 points possible.

261—41.7(78GA,HF745) Award process. Recommendations by the committee for funding will be forwarded to the director of the department for final decisions. Applicants will be notified in writing after the final decisions on grants are made.

41.7(1) Expenses eligible for reimbursement may include but are not limited to the following:

a. Coordinating staff for the governmental units or community groups participating in the project.

b. Feasibility studies or implementation of a locally developed study or plan.

c. Educational/training materials, supplies, postage necessary to the outcome of the project.

d. Travel expenses of the local coordinator, if hired through a participating governmental unit.

e. Direct purchase of consultative or technical assistance services.

f. In-state conference, workshop or seminar fees necessary to the outcome of the project for staff or volunteers directly involved in the project.

g. Travel expenses to visit other sites or locations in state necessary to the outcome of the project for staff or volunteers directly involved in the project.

41.7(2) Expenses ineligible for reimbursement may include but are not limited to the following:

a. Purchase of land, buildings or improvements thereon.

b. Expenses for development of sites and facilities.

c. Expenses for equipment, materials, supplies, telephones, and faxes related to the project.

d. Expenses for studies or plans that are routinely developed as a part of city or county function or operation, such as development of comprehensive planning documents, community builder plans, master plans or engineering studies of

water, sewer, streets/roads, parks, unless a new or innovative approach is used such as a city/county joint planning process for land use, service provision or other collaborative actions.

261—41.8(78GA,HF745) Program management.

41.8(1) Record keeping. Financial records, supporting documents, statistical records and all other records pertinent to the project shall be retained by the recipient of funds for a period of three years after the contract expiration date.

41.8(2) A contract will be negotiated with the successful applicant which includes, but is not limited to, the terms for disbursement of funds and responsibilities.

41.8(3) Representatives of the department and state auditors shall have access to all books, accounts and documents belonging to or in use by the grantee pertaining to the receipt of assistance under this program.

41.8(4) All contracts under this program are subject to audit.

261—41.9(15) Performance reviews.

41.9(1) Applicants will be required to submit performance reports to the department. The report will assess progress on the goals and project activities. Some projects may require the completion of a final product (such as a manual), study or report to be submitted to the department before final payment is made. Performance reports may be quarterly or semiannually, and for some projects, may be required for a period of time after contract period expires.

41.9(2) The department may perform field visits as deemed necessary.

These rules are intended to implement 1999 Iowa Acts, House File 745, section 1(3)"c."

ARC 9243A

HUMAN SERVICES DEPARTMENT[441]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby gives Notice of Intended Action that public hearings as set forth below will be held in order to receive oral or written comments on amendments to subrule 78.1(2), paragraph "a," subparagraph (3), and subrule 78.28(1), paragraph "d," that revise the current drug prior authorization rules and add new therapeutic classes of drugs which will require prior authorization. These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on June 30, 1999, as **ARC 9143A**.

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

Cedar Rapids—September 1, 1999 10 a.m.
Cedar Rapids Regional Office
Iowa Building - Suite 600
Sixth Floor Conference Room
411 Third St. S.E.
Cedar Rapids, Iowa 52401

Council Bluffs—September 1, 1999 9 a.m.
Administrative Conference Room
Council Bluffs Regional Office
417 E. Kanesville Boulevard
Council Bluffs, Iowa 51501

Davenport—September 1, 1999 10 a.m.
Davenport Area Office
Bicentennial Building - Fifth Floor
Large Conference Room
428 Western
Davenport, Iowa 52801

Des Moines—September 1, 1999 10 a.m.
Des Moines Regional Office
City View Plaza
Conference Room 102
1200 University
Des Moines, Iowa 50314

Mason City—September 1, 1999 10 a.m.
Mason City Area Office
Mohawk Square, Liberty Room
22 North Georgia Avenue
Mason City, Iowa 50401

Ottumwa—September 1, 1999 10 a.m.
Ottumwa Area Office
Conference Room 3
120 East Main
Ottumwa, Iowa 52501

Sioux City—September 2, 1999 1:30 p.m.
Sioux City Regional Office
Fifth Floor
520 Nebraska St.
Sioux City, Iowa 51101

Waterloo—September 1, 1999 10 a.m.
Waterloo Regional Office
Pinecrest Office Building
Conference Room 420
1407 Independence Avenue
Waterloo, Iowa 50703

Any persons who intend to attend a public hearing and have special requirements such as hearing or vision impairments should contact the Bureau of Policy Analysis at (515)281-8440 and advise of special needs.

ARC 9242A

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 514I.5(8), the Department of Human Services proposes to amend Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," appearing in the Iowa Administrative Code.

These amendments implement the following changes to the HAWK-I program:

- A 20 percent deduction to earned income is allowed when determining eligibility for the program. This will create more consistency on how income is counted between the Medicaid and HAWK-I program.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Federal legislation allows states to define how income is counted when comparing it to the income limit. While the HAWK-I program uses gross income to compare to 185 percent of the federal poverty level when determining eligibility, the Medicaid program allows deductions to income before comparing income to 133 percent of the federal poverty level. This confuses the public and makes it difficult to know which program to apply for. This amendment will more closely align the programs by allowing a 20 percent standard deduction to earned income when determining eligibility for the HAWK-I program in the same manner that is allowed for Medicaid. This deduction is intended to offset some of the costs of employment (e.g., taxes) and does not apply to unearned income (e.g., child support and social security).

- Children participating in the HAWK-I program do not have to provide a social security number as a condition of eligibility to participate in the program.

The Health Care Financing Administration (HCFA) has clarified that a child does not have to provide a social security number in order to participate in the HAWK-I program. HCFA has also clarified that provision of a social security number remains a requirement for Medicaid and that children who would be eligible for Medicaid except for the failure to provide a social security number are not eligible for the HAWK-I program.

- Children who are voluntarily excluded from Medicaid due to financial reasons are allowed to participate in the HAWK-I program.

Medicaid rules specify which household members (and thus whose income) must be included when determining eligibility. The family may voluntarily exclude certain persons from the eligibility determination in order to avoid consideration of their income when determining eligibility for the remaining members of the household. If the family voluntarily excludes a child from the Medicaid household, that child is not eligible to participate in the Medicaid program under any other coverage group.

The Attorney General's Office has clarified that a child who is voluntarily excluded from the household due to the child's excess income or resources can participate in the HAWK-I program if otherwise eligible. This provision does not apply to children who are voluntarily excluded from the household for nonfinancial reasons (e.g., the parent excludes the child in order to avoid cooperation with the child support recovery office).

- The appointment terms for persons on the clinical advisory committee to the HAWK-I Board are established.

These amendments do not provide for waivers in specified situations because:

- The amendments allowing a 20 percent deduction to earned income when determining eligibility for the HAWK-I program, clarifying that children participating in the HAWK-I program do not have to provide a social security number as a condition of eligibility to participate in the program and allowing children who are voluntarily excluded from Medicaid due to financial reasons to participate in the HAWK-I program confer a benefit on those children.
- The amendment establishing the appointment terms for persons on the clinical advisory committee to the HAWK-I Board already allows persons to serve more than one term.

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 September 1, 1999.

These amendments are intended to implement Iowa Code chapter 514I.

The following amendments are proposed.

ITEM 1. Amend rule 441—86.2(514I) as follows:

Amend subrule **86.2(2)**, paragraph **"a,"** subparagraph **(1)**, by adding the following **new** numbered paragraph **"3."**

3. Earned income deduction. Each person in the household whose nonexempt income, earned as an employee or from self-employment, is considered in determining HAWK-I eligibility is entitled to a 20 percent earned income deduction. The deduction is intended to include work-related expenses other than child care. These expenses may include taxes, transportation, meals, uniforms and other work-related expenses.

Amend subrule 86.2(5) as follows:

86.2(5) Ineligibility for Medicaid. The child shall not be receiving Medicaid or eligible to receive Medicaid if application were made except when the child would be required to meet a spenddown under the medically needy program in accordance with the provisions of 441—subrule 75.1(35). Additionally, a child who would be eligible for Medicaid except for the parent's failure or refusal to cooperate in establishing initial or ongoing eligibility shall not be eligible for coverage under the HAWK-I program. *Children who are excluded from the household due to the child's excess income can participate in the HAWK-I program if otherwise eligible. This does not apply to children who are voluntarily excluded from the household for nonfinancial reasons.*

Rescind subrule **86.2(12)**.

ITEM 2. Amend 441—Chapter 86 by adopting the following **new** rule:

441—86.16(514I) Clinical advisory committee. Members of the clinical advisory committee established in accordance with the provisions of 441—paragraph 1.10(2)"c" shall be appointed to three-year terms. Members may be appointed for more than one term. No more than one-third of the membership of the committee shall rotate off the committee in any given calendar year.

ARC 9253A

INSURANCE DIVISION[191]

Amended Notice of Intended Action

Pursuant to Iowa Code section 505.8, Notice is hereby given that a public hearing will be held on Tuesday, September 7, 1999, at 10 a.m. in the Hearing Room, Utilities Board, 350 Maple Street, Des Moines, Iowa, in order to receive oral or written comments on rule 191—15.15(507B), regarding notice required for use of aftermarket crash parts in automobile insurance policies, published in the Iowa Administrative Bulletin on June 16, 1999, as **ARC 9090A**. Persons wishing to speak at the hearing should contact Angela Burke Boston at the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, no later than 4:30 p.m. on Friday, September 3, 1999.

ARC 9273A

INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 502.607, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 50, "Regulation of Securities Offerings and Those Who Engage in the Securities Business," Iowa Administrative Code.

The proposed rules impose certain advertising, examination, and disclosure requirements upon issuers and agents who wish to sell viatical settlement contracts within the state of Iowa. A waiver provision is also included herein which applies specifically to these rules.

Any interested person may make written suggestions or comments on these proposed rules prior to Friday, September 10, 1999. These written materials may be mailed to Craig A. Goettsch, Iowa Securities Bureau, 340 East Maple Street, Des Moines, Iowa 50319-0066, or may be transmitted via facsimile to (515)281-3059.

A public hearing will be held on Wednesday, September 8, 1999, at 10 a.m. at the Iowa Insurance Division, 330 East Maple Street, Des Moines, Iowa 50319-0065.

These rules are intended to implement Iowa Code chapter 502 as amended by 1999 Iowa Acts, Senate File 410.

The following rules are proposed.

Adopt the following new rules:

VIATICAL SETTLEMENT CONTRACTS

191—50.120(502) Advertising of viatical settlement contracts.

50.120(1) Under this rule, the term "advertisement" means any written or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including film strips, motion pictures and videos, published in connection with the offer or sale of a viatical settlement contract.

50.120(2) The issuer and agent shall file all viatical settlement contract advertisements not less than ten days prior to the date of use or a shorter period as the administrator may permit. The advertisements shall not be used in Iowa until a copy thereof, marked with allowance for use, has been received from the administrator.

50.120(3) Viatical settlement contract advertisements should contain no more than the following:

a. The name of the issuer;

b. The address and telephone number of the issuer;

c. A brief description of the security, including minimum purchase requirements and liquidity aspects;

d. If rate of return is advertised, it must be stated as the annual averaged rate of return, with a disclaimer that this is an annual averaged rate of return, that individual investor rates of return will vary based upon the viator's projected and actual date of death, and that an annual rate of return on a viatical settlement contract cannot be guaranteed;

e. The name, address and telephone number of the agent of the issuer authorized to sell the viatical settlement contracts;

f. A statement that the advertisement is neither an offer to sell nor a solicitation of an offer to purchase and that any offer or solicitation may only be made by providing a disclosure document; and

g. How a copy of the disclosure document may be obtained.

50.120(4) Notwithstanding the provisions of rule 191—50.25(502), certain viatical settlement advertisements are deemed false and misleading on their face by the administrator and are prohibited under Iowa Code sections 502.407 and 502.602. False and misleading viatical settlement advertisements include, but are not limited to, the following representations:

a. "Fully secured," "100% secured," "fully insured," "secure," "safe," "backed by rated insurance company(ies)," "backed by federal law," "backed by state law," or similar representations;

b. "No risk," "minimal risk," "low risk," "no speculation," "no fluctuation," or similar representations;

c. "Qualified or approved for IRA, Roth IRA, 401K, SEP, 403B, Keogh plans, TSA, other retirement account rollovers," "tax deferred," or similar representations;

d. "Guaranteed fixed return, annual return, principal, earnings, profits, investment," or similar representations;

e. "No sales charges or fees," or similar representations;

f. "High yield," "superior return," "excellent return," "high return," "quick profit," or similar representations;

g. "Perfect investment," "proven investment," or similar representations;

h. Purported favorable representations or testimonials about the benefits of viaticals as an investment, taken out of context from newspapers, trade papers, journals, radio and television programs, and all other forms of print and electronic media.

191—50.121(502) Application by viatical contract issuers and registration of agents to sell viatical settlement contracts.

50.121(1) Under this rule, the term "viatical settlement contract issuer" includes, but is not limited to, any individual, company, corporation or other entity that offers or sells, directly or indirectly, viatical settlement contracts to investors.

50.121(2) A viatical settlement contract issuer employing agents in Iowa must make prior application to the administrator for this authority. The application shall be made by letter and shall include:

a. A statement of the issuer's intent to employ agents for the sale of its viatical settlement contracts; and

b. Name, address, social security number and proof of satisfaction of subrule 50.121(3) for each agent.

50.121(3) An applicant for registration as an Iowa-licensed agent of an issuer of viatical settlement contracts shall file with the administrator:

a. Proof of obtaining a passing grade on the NASD Series 7 examination;

b. Proof of obtaining a passing grade on the NASD Series 63 examination;

c. An accurate, complete and signed Form U-4; and

d. A $30 filing fee.

191—50.122(502) Risk disclosure. Viatical settlement contract issuers and registered agents of issuers must provide specific, written disclosures of risk to Iowa investors at the

INSURANCE DIVISION[191](cont'd)

time of the initial offer to sell a viatical settlement contract. These disclosures must be preceded by the following caption, which must be in bold, 16-point typeface:

IMPORTANT RISK DISCLOSURE INFORMATION—READ BEFORE SIGNING ANY VIATICAL SETTLEMENT CONTRACT

Certain items must be disclosed including, but not limited to, the following:

1. That the actual annual rate of return on any viatical settlement contract is dependent upon (a) an accurate projection of the viator's life expectancy, and (b) the actual date of the viator's death. An annual "guaranteed" rate of return is not possible;
2. Whether, after purchasing the viatical settlement contract, the investor will be responsible for payment of premiums on the contract if the viator lives longer than projected. If the investor will be responsible for such premiums, the amount of the premium payment and its negative effect on the investor's return must be disclosed to the investor;
3. Whether any premium payments on the contract have been escrowed. The investor must be provided the date upon which the escrowed funds will be depleted, informed whether the investor will be responsible for payment of premiums thereafter, and informed of the amount of such premiums;
4. Whether any premium payments on the contract have been waived. The investor must be informed whether the investor will be responsible for payment of the premiums if the insurer who wrote the policy terminates the waiver after purchase, and informed of the amount of such premiums;
5. Whether the investor is responsible for payment of premiums on the contract if the viator returns to health, and the amount of such premiums;
6. Whether the investor is entitled to all or part of the investor's investment under the contract if the viator's underlying policy is later determined to be null and void;
7. Whether the insurance policy is a group policy and, if so, the special risks associated with group policies including, but not limited to, whether the investor is responsible for payment of additional premiums if the policies are sold or converted;
8. Whether the insurance policy is term insurance and, if so, the special risks associated with term insurance including, but not limited to, whether the investor is responsible for additional premium costs if the viator continues the term policy at the end of the current term;
9. Whether the investor will be the beneficiary or owner of the insurance policy and, if the investor is the beneficiary, the special risks associated with beneficiary status;
10. Whether the insurance policy is contestable and, if so, the special risks associated with contestability including, but not limited to, the risk that the investor will have no claim or only a partial claim to death benefits should the insurer cancel the policy within the contestability period;
11. Who is making the projection of the viator's life expectancy, the information this projection is based upon, and the relationship of the projection maker to the issuer;
12. Who is monitoring the viator's condition, how often the monitoring is done, how the date of death is determined, and how and when this information will be transmitted to the investor;
13. Whether the insurer who wrote the viator's underlying policy has any additional rights which could negatively affect or extinguish the investor's rights under the viatical settlement contract, what these rights are, and under what conditions these rights are activated;
14. That a viatical settlement contract is not a liquid investment and that there is no established secondary market for resale of these products by the investor;
15. That the investor will receive no returns (i.e., dividends and interest) until the viator dies; and
16. That the investor may lose all benefits or receive substantially reduced benefits if the insurer goes out of business during the term of the viatical investment.

191—50.123(502) Duty to disclose. Issuers and agents equally share an affirmative duty to disclose all relevant and material information to prospective investors in viatical settlement contracts. The required disclosure is the registration statement required by Iowa Code section 502.207 which has been reviewed and made effective by the administrator.

191—50.124(502) Waivers. The administrator may grant a waiver of a rule pertaining to issuer and agent applications for viatical licensure.

50.124(1) No waiver shall be granted from a requirement imposed by statute. Any waiver must be consistent with statutory requirements.

50.124(2) A waiver under this subrule may be granted only upon a showing of all the following:

a. Because of special circumstances, applying the rule would impose an undue burden or extreme hardship on the requester;

b. Granting the waiver would not adversely affect the public interest and the protection of investors; and

c. Granting the waiver would provide substantially equal protection of public health and safety as would compliance with the rule.

50.124(3) A request for waiver shall be made at any time within 60 days of the initial application and shall include the following information:

a. The name, address, and telephone number of the person requesting the waiver;

b. The specific rule from which a waiver is requested;

c. The nature of the waiver requested;

d. An explanation of all facts relevant to the waiver request, including all material facts necessary for the administrator to evaluate the criteria for granting a waiver as defined in subrule 50.124(2); and

e. A description of any prior communication between the administrator and the requester regarding the proposed waiver.

50.124(4) The administrator shall rule upon all waiver requests and transmit the ruling to the requester. The ruling shall include the reason for granting or denying the request. The administrator's ruling shall constitute final agency action for the purposes of Iowa Code chapter 17A.

50.124(5) The administrator may impose reasonable conditions when granting a waiver to achieve the objectives of the particular rule being waived.

50.124(6) If at any time the administrator finds the facts as stated in the waiver request are not true, that material facts have been withheld, or that the requester has failed to comply with conditions set forth in the waiver, the administrator may cancel the waiver and seek additional sanctions against the issuer and agent as provided by this chapter and Iowa Code chapter 502.

50.124(7) Any request for an appeal from a decision granting, denying, or canceling a waiver shall comply with the procedures provided in Iowa Code chapter 17A. An appeal shall be made within 30 days after the administrator's ruling in response to the waiver request.

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50.124(8) All final rulings in response to waiver requests shall be indexed and available to members of the public at the administrator's office.

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Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5 (17), the Iowa Finance Authority proposes to rescind Chapter 12, "Low-Income Housing Credit," and adopt a new Chapter 12, "Low-Income Housing Tax Credits," Iowa Administrative Code.

The purpose of the new chapter is to satisfy the requirements of Iowa Code section 16.52 which requires the Iowa Finance Authority (Authority) to promulgate rules and allocation procedures which will ensure the maximum use of available tax credits in order to encourage development of low-income housing in the state. Additionally, the Authority is required to promulgate rules that specify the application procedure and the allowance of low-income housing tax credits under the state housing credit ceiling.

The Authority does not intend to grant waivers under the provisions of this rule. Waivers would cause an imbalance in the selection process and a perception of unfairness in the scoring. Additionally, the evaluators could be subject to undue pressure to grant a waiver of a requirement imposed by state or federal law that could imperil the validity of the grant of low-income housing tax credits.

In rule 265—12.1(16), the Authority expands the definitions of its current rules to provide more detail to applicants.

In rule 265—12.2(16), the Authority describes the purposes and objectives of the low-income housing tax credit program.

In rule 265—12.3(16), the Authority describes the fees charged for the low-income housing tax credit program. The Authority is charging an application fee, a reservation fee and a compliance fee for participation in this program.

In rule 265—12.4(16), the Authority describes the application process and supplies general information regarding the application process and requirements.

In rule 265—12.5(16), the Authority describes the nonprofit set-aside required by state and federal law.

In rule 265—12.6(16), the Authority describes the contents of the application for low-income housing tax credits. The application provides great detail for the information required to apply for tax credits.

In rule 265—12.7(16), the Authority describes the threshold requirements for all applicants. If the threshold requirements are not met, an application will be rejected outright.

Rule 265—12.8(16) describes the additional threshold requirements for applicants who are nonprofit organizations. If these applicants do not meet these additional threshold requirements, an application will be rejected outright.

In rule 265—12.9(16), the Authority describes the selection criteria and the scoring available for each category required by Iowa Code section 16.52 and Section 42 of the Internal Revenue Code. The selection criteria are detailed so that all potential applicants will understand the requirements.

In rule 265—12.10(16), the Authority reserves for itself the discretion to award credits based upon criteria other than the results of scoring the applications. The Authority may award credits based upon projects that further the stated purposes and objectives of the low-income housing program. The Authority may consider the number of projects or units that are proposed for a certain county. The Authority may allow no more than one or two projects per county in any given application cycle. The Authority may consider the number of projects a developer is awarded and limit the total amount of credits or projects awarded for any annual ceiling cap. No single project owner shall be awarded more than $500,000 in tax credits for multiple projects. No single project owner shall be awarded tax credits for more than three projects. The Authority may consider the total number of units in a proposed project. No single project owner shall be allowed more than 10 percent of the total state allocation ceiling for any single project. The Authority may ask an applicant to phase a project if the project requires more than 10 percent of the state allocation ceiling and may require completion and rent-up of the first phase of the project prior to the consideration of awarding additional credits for any subsequent phase to the project.

In rule 265—12.11(16), the Authority provides for notice of the tax credit reservation award. The notice is contingent upon the passage of the appeal period. Once the appeal period has passed and no appeals have been filed, the tax credit reservation becomes final.

In rule 265—12.12(16), the Authority provides for post-award filing and certification requirements. Also, this rule permits an applicant to amend its application in order to substitute sources and uses of funds the Authority deems appropriate.

In rule 265—12.13(16), the Authority provides for a streamlined contested case proceeding for project owner appeals. The time to appeal is 5 days. The hearing must be held within 45 days from the date of the appeal. The rule provides for discovery. The rule is linked to the Authority's general rule on contested case proceedings except that the time periods are shortened to allow for the timely commencement of projects during a calendar year.

Rule 265—12.14(16) describes the monitoring and record-keeping requirements of Section 42 of the Internal Revenue Code. These rules reflect the requirements of the U.S. Treasury regulations that govern this program.

Rule 265—12.15(16) describes the treatment of projects funded by tax-exempt financing. The rule indicates that these projects will be subject to the selection criteria and the threshold criteria in considering the projects, but that these projects will not compete in the competitive round of financing as required by Section 42 of the Internal Revenue Code.

The Authority anticipates that it will receive significant comment on these rules. The rules were prepared under a very short time frame and the Authority will look to public comment to refine the rules. Some of the areas that are in preliminary form include but are not limited to the threshold requirements, the selection requirements, remedies for appeals, the appeal process, the application process, the contents of the application and amendments to the applications filed by October 1, 1998. These rules are intended to implement the requirements of Iowa Code section 16.52 and 26 U.S.C. Section 42 and further the purposes and objectives of the low-income housing tax credit program in Iowa. They are intended to provide the public with notice of the require-

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ments for the qualified allocation plan, the selection criteria, the threshold criteria, and all other requirements to qualify for tax credits available under state and federal law.

The Authority will hold a public hearing to receive public comments on these rules on September 1, 1999, at 1 p.m. over the Iowa Communications Network (ICN) at the following sites:

IPTV 1
6450 Corporate Drive
Johnston, Iowa

National Guard Armory
10400 18th St. SW
Cedar Rapids, Iowa

State Room
Clear Lake AEA
9184B 265th St.
Clear Lake, Iowa

National Guard Armory
2415 Kanesville Blvd.
Council Bluffs, Iowa

Mt. Joy Army Aviation Support Facility
9650 S. Harrison St.
Davenport, Iowa

National Guard Armory
1000 S. Walnut
Mt. Pleasant, Iowa

National Guard Armory
Park West Road – Old Hwy. 34
Red Oak, Iowa

National Guard Armory
102 S. Main St.
Sioux City, Iowa

Consideration will be given to all written data, views, and arguments thereto received by the Iowa Finance Authority, Attention: Mary Ericson, 100 E. Grand Avenue, Suite 250, Des Moines, Iowa 50309, on or before August 31, 1999.

These rules are intended to implement Iowa Code section 16.52.

The following chapter is proposed.

Rescind 265—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
LOW-INCOME HOUSING TAX CREDITS

265—12.1(16) Definitions.

"Affiliate" means an individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with any other person, and specifically shall include parents or subsidiaries.

"Applicable fraction" means the fraction used to determine the qualified basis of the qualified low-income building, which is the smaller of the unit fraction or the floor space fraction, as defined more fully in IRC Section 42(c)(1).

"Applicable percentage" means the percentage used to determine the amount of the low-income housing tax credit, as defined more fully in IRC Section 42(b).

"Applicant" means any person and any affiliate of such person, corporation, a partnership, joint venture, association, or other entity that submits an application to the authority requesting a tax credit allocation pursuant to the rules and the qualified allocation plan. Each project owner, and each of the project owner's successors in interest, shall be obligated to carry out the commitments made to the authority by the applicant.

"Application" means those forms required by the authority, including any required attachments, exhibits or other supporting materials, filed with the authority by an applicant requesting a low-income housing tax credit allocation. The application must include all information required by rule and as may be subsequently required by the authority.

"Application acceptance period" means October 1, 1998. Only those applications received by the authority on October 1, 1998, shall be considered for the round of tax credit reservations to be awarded during 1999.

"Application round" means the period beginning with the start of the application acceptance period lasting until such time as all available credits from the state housing credit ceiling (as stipulated by the authority) are allocated, provided that the application round not extend beyond the last day of the 1999 calendar year.

"Area gross median income (AGMI)" means the tenant income requirements pursuant to the qualified low-income housing project requirements of IRC Section 42(g).

"Board" means the board of directors of the authority.

"Carryover agreement and allocation and taxpayer's election statement" means an allocation of current year tax credit authority by the authority pursuant to the provisions of IRC Section 42(h)(1)(E) and Treasury Regulations, § 1.42-6.

"Code" or "IRC" means the Internal Revenue Code of 1986 together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued thereunder by the United States Department of the Treasury or the Internal Revenue Service relating to the low-income housing tax credit program authorized by IRC Section 42. A copy of the Internal Revenue Code and Treasury regulations relating to this program are found in the state law library and are available for review by the public.

"Compliance period," as defined in IRC Section 42(i)(1) as amended to January 1, 1986, means, with respect to any building, the period of 15 consecutive taxable years beginning with the first taxable year of the credit period.

"Control" (including the terms "controlling," "controlled by," "under common control with," or some variation or combination of all three) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract or otherwise, including specifically ownership of more than 50 percent of the general partner interest in a limited partnership, or designation as a managing general partner or the managing member of a limited liability company.

"Cost certification procedures" means those procedures described by these rules for the filing of requests for IRS Form 8609 for projects placed in service under the low-income housing tax credit program and for carryover agreements and allocations and taxpayer's election statements.

"Credit" means the low-income housing tax credit issued pursuant to the program, IRC Section 42 and Iowa Code section 16.52.

"Credit period" means, with respect to a building within a project, the period of ten taxable years beginning with the

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taxable year the building is placed in service or, at the election of the project owner, the succeeding taxable year, as more fully defined in IRC Section 42(f)(1).

"Declaration of land use restrictive covenants (LURA)" means an agreement between the authority, the project owner and all successors in interest to the project owner which encumbers the project with respect to provisions stipulated in IRC Section 42(h), this chapter and Iowa Code section 16.52.

"Determination notice" means a notice issued by the authority to the owner of a tax-exempt bond project which states that the project may be eligible to claim low-income housing tax credits without receiving an allocation of credits from the state housing credit ceiling, sets forth conditions which must be met by the individual project before the authority shall issue the IRS Form(s) 8609 to the project owner, and specifies the amount of tax credits necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

"Difficult development area" means any area that is so designated by the Secretary of the United States Department of Housing and Urban Development (HUD) as an area which has high construction, land, and utility costs relative to area median family income.

"Elderly project" means a project for persons 62 years of age or older as defined by the Federal Fair Housing Act. An elderly project must have the following characteristics: (1) the housing is intended for, and solely occupied by, persons 62 years of age or older; or (2) all units (excluding those occupied by an employee or owner) are occupied by at least one person who is 60 years of age or older; and (3) the housing adheres to a written commitment by the project owner and management agent to provide housing for persons 60 years of age or older.

"Eligible basis" means, with respect to a building within a project, the building's eligible basis as defined in IRC Section 42(d).

"Equity gap" means the difference between the total sources of financing for the project and the total project costs that is to be filled with the proceeds of the credit.

"Fannie Mae" means the Federal National Mortgage Association.

"Freddie Mac" means the Federal Home Loan Mortgage Corporation.

"Governmental entity" means federal or state agencies, departments, boards, bureaus, commissions, authorities, and political subdivisions, special districts and other similar entities, their employees, board members or agents.

"HART team" means the housing assistance review team. It is a committee comprised of representatives of governmental and quasi-governmental entities which administer the low-income housing tax credit programs and other affordable housing programs that may contribute financing and market information to low-income housing projects eligible for low-income housing tax credits. Members of the HART team include representatives from the authority, the Iowa department of economic development, the United States Department of Agriculture, the Federal Home Loan Bank of Des Moines, HUD and Fannie Mae.

"Housing credit agency" means the authority. Pursuant to Iowa Code section 16.52, the authority is charged with the responsibility of allocating low-income housing tax credits pursuant to IRC Section 42(h)(8)(A) and pursuant to Iowa Code section 16.52.

"HUD" means the United States Department of Housing and Urban Development, or its successor.

"Intermediary costs" means costs associated with the sale or use of credits to raise equity capital. Such costs include, but are not limited to, syndication and partnership organization costs and fees, filing fees, broker commissions, related attorney and accounting fees, appraisal, and engineering and environmental site assessment costs.

"IRS" means the Internal Revenue Service, or its successor.

"Low-income housing credit allocation amount" means, with respect to a project or a building within a project, the amount the authority allocates to a project and determines to be necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the compliance period.

"Low-income housing tax credit (LIHTC)" means the credit determined under IRC Section 42(a) for any taxable year in the credit period equal to the amount of the applicable percentage of the qualified basis for each qualified low-income building.

"Low-income unit" means any residential rental unit if such unit is rent-restricted and the occupant's income meets the limitations applicable as required for a qualified low-income housing project.

"Market study" means a study of the rental market conditions for the communities where projects are or will be located. An outline of the market study requirements is included in the application.

"Metropolitan statistical area (MSA)" means a central city containing at least 50,000 people with a total metropolitan population of at least 100,000.

"Per capita component" means an item of the state housing credit ceiling, as defined in IRC Section 42(h)(3)(C)(I). The per capita component is based upon the calendar year population estimates as determined by IRC Section 146(j), and promulgated on an annual basis by an IRS Service Notice.

"Person" shall have the same meaning as contained in Iowa Code chapter 4.

"Program" means the low-income housing tax credit program.

"Project" means a low-income rental housing property the owner of which represents that it is or will be a qualified low-income housing project within the meaning of IRC Section 42(g). With regard to this definition, the "project" is that property which is the basis for the application.

"Project owner" or "owner" means any person or affiliate thereof that owns or proposes to own and develop a project or expects to acquire control of a project consistent with control documents provided by the owner to the authority as part of the application for low-income housing tax credits.

"Property" means the real estate and all improvements thereon which are the subjects of the application, including all items of personal property affixed or related thereto, whether currently existing or proposed to be built thereon in connection with the application.

"Qualified allocation plan (the QAP)" means an allocation plan approved by the authority pursuant to these rules, approved by the governor of Iowa, and discussed at a public hearing which sets forth the threshold criteria, selection criteria, priorities, preferences, compliance procedures and monitoring requirements as provided in IRC Section 42(m)(1) and Iowa Code section 16.52 and as further provided in this chapter. The requirements set forth in these rules also apply to tax-exempt bond financed projects, which

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may be eligible for credits apart from the annual state housing credit per capita component, and must also satisfy the requirements for allocation under the qualified allocation plan.

"Qualified basis" means, with respect to a building within a project, the building's eligible basis multiplied by the applicable fraction, within the meaning of IRC Section 42(c)(1).

"Qualified census tract" means any census tract which is so designated by the Secretary of HUD and, for the most recent year for which census data are available on household income in such tract, in which 50 percent or more of the households have an income which is less than 60 percent of the area median family income for such year.

"Qualified nonprofit organization" means an organization that is described in IRC Section 501(c)(3) or (4), that is exempt from federal income taxation under IRC Section 501(a), that is not affiliated with or controlled by a for-profit organization, and includes as one of its exempt purposes the fostering of low-income housing within the meaning of IRC Section 42(h)(5)(C) and is allowed by law or otherwise to hold and develop property.

"Qualified nonprofit project" means a project in which a qualified nonprofit organization has control (directly or through a partnership or wholly owned subsidiary) and materially participates (within the meaning of IRC Section 469(h)) in its development and operation throughout the compliance period.

"Real estate owned (REO) projects" means any existing residential development that is owned or that is being sold by an insured depository institution in default, or by a receiver or conservator of such an institution, or is a property owned by HUD, Fannie Mae, Federal Home Loan Mortgage Corporation (Freddie Mac), a federally chartered bank, a savings bank, a savings and loan association, the Federal Home Loan Bank, a federally approved mortgage company or any other federal agency.

"Recovered credits" means credits from projects that were previously awarded tax credits that either cannot use all the credits the project was awarded or the project cannot be placed in service by the owner.

"Rehabilitation expenditure" means amounts incurred in connection with the rehabilitation which the project owner represents to be "rehabilitation expenditures" within the meaning of IRC Section 42(e)(2).

"Rural project" means a project located in Iowa within an area which:

1. Is situated outside the boundaries of a MSA; or
2. Is situated within the boundaries of a MSA if it has a population of not more than 20,000 and does not share boundaries with an urbanized area; or
3. Is located in an area that is eligible for funding by the United States Department of Agriculture, Rural Home Division.

"Selection criteria" means the criteria described in this chapter to determine the housing priorities of the state under the low-income housing tax credit program.

"State housing credit ceiling" means the limitation imposed by IRC Section 42(h) on the aggregate amount of housing credit allocations that may be made by the authority during any calendar year, as determined from time to time by the authority in accordance with IRC Section 42(h)(3).

"Tax-exempt organization" means an entity which is described in IRC Section 501(c)(3) or (4), and which is either registered or qualified to conduct business in the state or in the governmental unit wherein the project may be situated.

"Threshold criteria" means criteria used to determine the project's qualifications that are the minimum level of acceptability for consideration under the credit program. If a project fails to meet threshold criteria, it shall not be scored.

"Unallocated or unreserved credits" means credits from the 1999 round of financing that are not awarded by the authority during its round of financing. These credits would be eligible for redistribution in accordance with the rules of the authority.

"Utilities" means gas, electricity, water and sewer service.

265—12.2(16) Purpose and objectives. The purpose of the low-income housing tax credit program is to provide an incentive to developers to construct or to acquire or to substantially rehabilitate, or in some combination thereof, affordable rental housing units throughout the state for qualified individuals and families. These individuals or families must have an income that is at 60 percent or below the area median gross income. The units must remain in compliance for a minimum period of fifteen years. The intent of the program is to allocate tax credits to those projects which best meet and serve the objectives outlined as follows:

1. To assist in the creation of affordable housing units for individuals and families which serve qualified individuals and families at the lowest income levels for the longest periods of time.
2. To assist in the creation of affordable housing units in areas of the greatest needs for such housing in the state.
3. To encourage the preservation and rehabilitation of existing affordable housing units.
4. To encourage the construction of new affordable housing units.
5. To encourage the efficient use, leveraging, and coordination of various federal, state, community and private sources of funding and incentives to finance low-income housing development.
6. To encourage the efficient use of tax credit financing to leverage other forms of public financing for low-income housing developments.
7. To maximize the utilization of the state housing ceiling available for low-income housing tax credits to produce the highest number of low-income housing units in the state on an annual basis.
8. To assist in the creation of quality, decent, safe and affordable housing units for limited income individuals and families at reasonable costs.

265—12.3(16) Fees. The authority shall collect the following fees for the low-income housing tax credit program.

12.3(1) A nonrefundable $300 application processing fee for projects with up to 12 units. The authority shall collect a nonrefundable application fee of $500 for proposed projects with 13 or more units. The authority may accept checks made payable to the Iowa Finance Authority for the application fee. The fee shall be due with the application. An application shall not be reviewed or scored unless the application fee accompanies the application.

12.3(2) The authority shall collect a reservation fee of 5 percent of the total annual credit amount for projects receiving $100,000 or less in annual credit, and a reservation fee equal to 7 percent of the total annual credit shall be required for projects receiving $100,001 or more in annual credit. The reservation fee is nonrefundable.

12.3(3) A compliance monitoring fee will be charged once the project has been placed in service, but prior to the issuance of IRS 8609 form after the authority has received, reviewed and approved the IRS 8609 request package. A

compliance monitoring manual may be provided with the IRS 8609 forms free of charge. The compliance fee shall be 2.55 percent of the total annual credit amount awarded to the owner. The compliance monitoring manual is incorporated in this rule by this reference.

265—12.4(16) Application process and general information. Upon request, the authority shall forward an application packet to a potential applicant. As may be necessary for the benefit of the program, the authority may distribute unsolicited application packets to local financial institutions, regional councils of government, landlord associations, and other rental housing groups.

12.4(1) The application packet shall consist of the qualified allocation plan as described in these rules and the application form prepared by the authority to reflect the requirements of the qualified allocation plan.

a. All applications shall be typed, not handwritten. The application form provided by the authority must be used. The authority may supply the application form to any applicant in electronic form upon request.

b. Applications submitted on forms that have been retyped or on a form other than the application form supplied by the authority shall not be accepted.

c. All exhibits shall be labeled to match the applicable page of the application and must be submitted in numerical order.

12.4(2) For purposes of the applications due for the 1999 cycle of tax credit reservations, the authority shall consider only the applications, attachments and supporting documents filed on October 1, 1998, for the 1999 cycle. All applications filed on October 1, 1998, shall be considered newly filed as of October 7, 1999. Any site visit conducted by the authority between August 1, 1999, and October 6, 1999, may be relied upon during the scoring of these applications after October 6, 1999.

12.4(3) Amendments to the applications filed on October 7, 1999, shall be due on October 22, 1999. Thereafter, no amendments to the 1999 applications shall be accepted. If no amendments are filed, the application filed on October 7, 1999, shall be scored as is. The authority shall not consider any amendment filed after October 1, 1998, and before March 9, 1999, provided the authority is able to determine when an amendment was made to an application.

a. Applicants may amend any relevant portions of their applications to conform with or address changes made in the qualified allocation plan as described in these rules.

b. Reserved.

12.4(4) Incomplete applications shall not be scored. An incomplete application is any application that is missing any document required by these rules whether included with the original application or filed as an amendment.

12.4(5) Questions concerning the qualified allocation plan and the application may be addressed in writing to the authority's contact person set forth in the application instructions, by mail, E-mail, hand delivery or facsimile, no later than the time and date designated in the application instructions sent with the application. For the 1999 cycle, the authority shall notify all applicants of the name of the contact person and pertinent contact information. Questions received and answers the authority provides shall be mailed or faxed on the date designated in the application instructions sent with the application. Responses shall not be E-mailed to applicants. Oral questions shall not be accepted. The authority shall not be bound by any oral representation made in connection with the application or award of tax credit reservations. For the 1999 cycle, the authority shall have an in-person question and answer period for all applicants regarding the 1999 applications on October 15, 1999. The authority shall notify all applicants of the time and place of the meeting.

12.4(6) The authority is not responsible for any costs incurred by an applicant which are related to the preparation or delivery of the application or any other activities carried out by the applicant related to its response to the qualified allocation plan and application.

12.4(7) By submitting an application, an applicant agrees that the authority shall copy the application for purposes of facilitating the evaluation or to respond to requests for public records. The applicant agrees that such copying shall not violate the rights of any third party. The authority shall have the right to use ideas or adaptations of ideas that are presented in the applications.

12.4(8) All applications become property of the authority and shall not be returned to the applicants even in the event that no tax credits are awarded. At the conclusion of the selection process, the contents of all proposals shall be placed in the public domain and be opened to inspection by interested parties subject to the provisions of Iowa Code chapter 22.

12.4(9) All information submitted by an applicant may be treated as a public record by the authority unless the applicant properly requests that the information be treated as confidential information at the time the application is submitted. Public records shall be copied by the authority as necessary to comply with Iowa's public record laws and consistent with the authority's rules.

a. Any request for confidential treatment of information must be included with the application and must enumerate the specific grounds in Iowa Code chapter 22 which support treatment of the material as confidential and must indicate why disclosure is not in the best interest of the public. The request must also include the name, address, and telephone number of the person authorized by the applicant to respond to any inquiries by the authority concerning the confidential status of the materials.

b. In the event the authority receives a request for the release of information that includes material an applicant has marked as confidential, the authority shall provide a written notice to the applicant regarding the request by fax as soon as practicable. Unless otherwise directed by a court of competent jurisdiction, the authority shall release the requested information within 15 days after faxing and mailing a written notice to the affected applicant.

c. The applicant's failure to request confidential treatment of material pursuant to this subrule and the relevant laws and administrative rules shall be deemed by the authority as a waiver of any right to confidentiality that the applicant may have had.

12.4(10) The amount of tax credits available in Iowa in each calendar year shall reflect the sum of the amounts allowed as the state credit ceiling under IRC Section 42(h)(3)(C). One or more reservation cycles may be established for each calendar year. The executive director, in consultation with authority staff, may determine in each calendar year the dates for each reservation cycle and the amount of tax credit (up to 100 percent of the state credit ceiling) available for reservation in each cycle. The authority shall maintain a list of persons who have expressed an interest in receiving a copy of the QAP and the application. Notices announcing specific dates and the amounts of tax credit available for reservation in each cycle shall be mailed to the persons on the list and posted on the authority's web site

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(http://ifahome.com) or otherwise made available prior to the beginning of each reservation cycle. The notice shall be deemed to have been given for the 1999 cycle.

12.4(11) The following conditions shall apply to the 1999 cycle of tax credits:

a. Any credit not reserved at the end of the first cycle shall be carried over to the next cycle, if any, for the same purpose.

b. After the 1999 cycle, any unallocated or recovered credits or a combination of both shall be carried over to 2000.

12.4(12) Any determinations by the authority in connection with any aspect of the low-income housing tax credit program shall not be construed to be a representation or warranty to any person, sponsor, investor, or lender as to the feasibility or viability of any project. The authority's review of the applications and the supporting exhibits is for its own purposes. The authority makes no representations or warranties to owners, investors, lenders or any other persons as to compliance with the Internal Revenue Code, the Iowa Code, Treasury regulations or any other laws or regulations governing low-income housing tax credits.

12.4(13) The authority shall make a determination as to the amount of credit as required by IRC Section 42 (m)(2) at each of the following times:

1. When application is made.
2. When the allocation is made.
3. When the project is placed in service (if subsequent to allocation).

Prior to each determination above, the applicant shall certify to the authority the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) to the project.

12.4(14) The authority may request additional information from an applicant. The information requested shall not be used to amend any category that is scored except as described herein. The information obtained from the applicant shall be reduced to writing and shall be added to the project file. The authority may request that an applicant whose project request for tax credit reservations exceeds 10 percent of the state per capita component available for distribution to phase the project so that the request for tax credits is below 10 percent of the state per capita component. The request shall be in writing and shall be included in the project file. The written response to the request shall also be included in the project file maintained by the authority for the low-income housing tax credit program. In the event the applicant elects to amend its application to phase its proposed project, the amendments to the application shall be due ten days from the date the applicant agrees in writing to phase its project. In the event the applicant does not respond to the authority in writing within the ten-day period, the request to amend the project shall be deemed rejected and shall be noted in the project file.

12.4(15) The authority may make site visits as it deems necessary to review proposed project sites. Applicants shall not be notified of a site visit unless access to a building is required.

12.4(16) Once the time has expired for making amendments to the applications, applicants may not contact the evaluators assigned by the authority to review and score the applications for the cycle under consideration. Any such contact may be considered an ex parte communication and may require the authority to reject the applicant's proposal.

12.4(17) Consistent with Iowa Code section 16.32, no member, officer, agent, or employee of the authority shall be personally liable concerning any matters arising out of, or in relation to, the allocation of the affordable housing tax credits.

12.4(18) Applicants who have no previous history of receiving tax credit allocations in the state of Iowa must submit a certification to the authority concerning the applicant's previous participation and histories as principals in rental housing projects.

265—12.5(16) Nonprofit set-aside.

12.5(1) In accordance with IRC Section 42 and Iowa Code section 16.52, at least 10 percent of the annual state housing credit ceiling must be set aside for qualified nonprofit organizations which own an interest in and materially participate in the development and the operation of a qualified low-income housing project. This credit amount cannot be used for any other purpose, and any unused credit portion may be carried over at the end of the allocation year.

12.5(2) The authority shall allocate housing credits from the 10 percent set-aside to qualified nonprofit organizations based upon the selection criteria and scoring and other factors described in these rules. Nonprofit applicants shall be scored with all of the for-profit applicants except that the 10 percent nonprofit set-aside shall be available in its entirety beginning with the first cycle, until fully allocated.

265—12.6(16) Application contents. Applicants shall be required to respond to the following questions or provide the following information in the application prepared by the authority:

12.6(1) Identify the type of low-income housing tax credit requested.

12.6(2) Identify whether the applicant is requesting credit from the nonprofit set-aside, housing assistance fund, HOME, or Federal Home Loan Bank.

12.6(3) Identify project information including legal name of owner, whether the owner is formed or will be formed, the name of the general partner or managing partner, or both.

12.6(4) Identify the contact person for the project, including address, telephone number, fax number and E-mail address, if applicable.

12.6(5) Identify the name of the project, the project address including all buildings, the city, the ZIP code, the census tract, census block and the county.

12.6(6) Identify whether the project is in a metropolitan statistical area.

12.6(7) Identify whether the project is in a qualified census tract or high-cost area.

12.6(8) Identify the congressional district, the state senate district and the state house district in which the project is located.

12.6(9) Calculate the applicable fraction using the number of low-income units, the total number of units in the project, the percentage of low-income units, the total floor space of the low-income units measured in square feet, the total floor space of all units measured in square feet, and the percentage of floor space of low-income units.

12.6(10) Identify other project characteristics including the total number of buildings, the gross floor area of all buildings in the project, the residential floor area, and the nonresidential or commercial floor area.

12.6(11) Identify the types of units in the project including detached housing, transient housing, townhouse, row house, detached single family, multifamily rental residential, garden apartments, single-room occupancy housing, or other type of housing that is specified in the application.

12.6(12) Identify whether the building has an elevator, basement and the number of stories in the building.

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12.6(13) Identify whether the units have been targeted to specific populations including elderly, (62 years of age or older), family (three or more bedrooms), units specifically designed for persons with disabilities, persons on the public housing waiting list, persons needing transitional housing, or other targeted groups as identified by the applicant. The applicant must indicate the number of units for each target population.

12.6(14) Identify accessory buildings and areas, recreation facilities, commercial facilities, the total number of parking spaces, and the total number of garages.

12.6(15) Identify whether the building has four or fewer units that will be occupied by the owner of the building or any person related to the owner.

12.6(16) Identify whether the site is controlled by the owner/taxpayer for the project and describe the site control form, i.e., purchase contract, option, recorded warranty deed, executed long-term lease through compliance and extended use period.

12.6(17) Identify information regarding the form of site control including the expiration date of the contract or option, the total cost of the land, the exact area of the site, the name of the seller, the seller's address and telephone number.

12.6(18) Identify whether the site has proper zoning for the project.

12.6(19) Identify whether all utilities are presently available at the site.

12.6(20) Identify any activities anticipated to be located within a 100-year flood plain.

12.6(21) Identify whether the applicant is a for-profit entity or a not-for-profit entity and include the name of the entity, the contact person, the address, the city, state and ZIP code for the entity, the telephone number, fax number and E-mail address for the developer.

12.6(22) If the applicant is a partnership, identify the name of the partnership, the type of partnership, the federal identification number for the partnership, and the names of each of the partners indicating which are the general partners, the partners' share of ownership and the telephone number for each partner.

12.6(23) If the applicant is a corporation, identify the name of the corporation, its federal identification number, the name and titles of the corporate officers and shareholders, an indication of the number of shares owned by each shareholder, and the telephone number of the officers and shareholders.

12.6(24) Identify all projects in which the developer(s) or general partner(s) have received an allocation of low-income housing tax credits or sold a project which received an allocation of low-income housing tax credits. Additionally, if the applicant has not received tax credits for projects in Iowa, additional information shall be required by the authority. An applicant shall be required to describe all previous projects and certify the project list.

12.6(25) Identify each member of the development team for a project. An applicant must submit a résumé that lists qualifications, address, and telephone number. The development team includes the developer, general partner, majority shareholder, contractor, architect, management company, sponsoring organization, consultant, tax accountant, attorney, engineer, and any other person assisting with the application or project. Identify the function for each person on the development team. An applicant must also identify whether any member of the development team has an indirect or direct financial interest or other interest with any other member of the development team. The applicant must identify the nature of the interest. If there is no identification of interests, the applicant should list "None."

12.6(26) An applicant that seeks a portion of the nonprofit set-aside must demonstrate that it owns an interest in the proposed project and that it is materially participating in the development and operation of the project throughout the compliance period. Consistent with IRC Section 469(h), "materially participating" means an activity only if the nonprofit is involved in the operations of the activity on a basis which is regular, continuous and substantial. The nonprofit must identify that it is a tax-exempt organization pursuant to IRC Section 501(c)(3); that one of its exempt purposes includes fostering low-income housing; that it is exempt from taxation pursuant to IRC Section 501(a); that it is a 501(c)(4) organization or that it is not affiliated with or controlled by a for-profit corporation.

12.6(27) Describe the nonprofit's ownership or percentage of ownership in the project.

12.6(28) Describe the nonprofit's participation in the development and operation of the project, including management, social services, development and funding.

12.6(29) Describe any support services to be offered by the nonprofit to tenants of the project and where these services will be offered.

12.6(30) Identify the names of its board members and its officers.

12.6(31) Identify all paid full-time staff and sources of funding for annual operation expenses and current programs. Additionally, a nonprofit applicant must indicate whether its ownership of the project will remain the same throughout the compliance period.

12.6(32) Indicate whether it is a certified community housing development organization (CHDO).

12.6(33) Identify how many buildings, if any, will be acquired for the proposed project. An applicant must also indicate whether the buildings are currently under the control of the project owner and if not, when the buildings will be under the control of the project owner for acquisition. An applicant must list the buildings under its control, the type of control, the expiration of the control document, the number of units and the acquisition cost of the building.

12.6(34) Identify whether the building or buildings acquired or to be acquired were acquired from a related party or an unrelated party.

12.6(35) Identify whether the building or buildings acquired or to be acquired with buyer's basis are or are not determined with reference to seller's basis.

12.6(36) Identify whether the building or buildings were acquired or are to be acquired from an insured depository institution in default or from a receiver or conservator of such institution. If so, an applicant must identify the name of the institution.

12.6(37) Identify whether the building or buildings were acquired or are to be acquired from an owner in default or as a result of foreclosure. If so, an applicant must identify the name of the owner.

12.6(38) Identify whether the building or buildings were acquired or are to be acquired from a governmental unit or a qualified nonprofit organization. If so, an applicant must identify the governmental unit or the nonprofit organization.

12.6(39) Identify whether the building or buildings were acquired or are to be acquired from an owner who used such residence for no other purpose than the owner's principal residence. If so, the applicant must identify the name of the owner.

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12.6(40) An applicant must confirm eligibility under IRC Section 42(d)(2)(B)(ii) (the ten-year rule) by listing each building by building address, the date the building was placed in service by the owner from whom the building was or will be acquired, the date the building was or is planned for acquisition by the applicant, and the number of years between the date the building was last placed in service and the expected date of acquisition. If the number of years for any building is less than ten years, an applicant must explain any exception under the Internal Revenue Code, which would make the building eligible for credit under IRC Section 42(d)(2)(B)(ii).

12.6(41) If the applicant is proposing to rehabilitate a building or several buildings, information regarding rehabilitation expenditures for each building must be provided. An applicant must identify, with respect to each building, the rehabilitation expenditures as defined in IRC Section 42(e)(2) which shall be allocable to or substantially benefit the affordable units in such building. An applicant must show the calculations for whether the amount of rehabilitation expenditures is at least equal to the greater of 10 percent of the expected adjusted basis of the building or $3,000 rehabilitation expenditure per low-income unit. Additionally, an applicant must indicate that all buildings in the project qualify for the exception provided for in IRC Section 42(e)(3)(B) regarding the 10 percent basis requirement or all the buildings qualify for the exception provided for in IRC Section 42(f)(5)(B)(ii)(II) regarding the $3,000 per unit requirement or that there are different circumstances for each building as described by an applicant.

12.6(42) Identify whether the project involves the relocation of tenants and describe any relocation assistance, if any.

12.6(43) An applicant must list the total project costs and eligible basis by credit type for the residential portion of a project. Based on this information, the eligible basis for the project shall be calculated along with the total adjusted eligible basis, the total qualified basis, the maximum allowable credit amount, the combined present value of the credit and the total credit requested per unit. The qualified eligible basis must be determined on a building-by-building basis. Project costs include costs for:

1. Land and broker fees;
2. Existing structures;
3. On-site work;
4. Off-site work;
5. Demolition;
6. Relocation;
7. Other work around the site;
8. A new building;
9. Rehabilitation;
10. General requirements for rehabilitation and new construction;
11. Contractor overhead;
12. Contractor profit;
13. Other items for rehabilitation and new construction;
14. Architect fees;
15. Engineer fees;
16. Attorney fees;
17. Accountant fees;
18. Consultant fees;
19. Processing agent fees;
20. Other professional fees;
21. Construction insurance;
22. Construction interest;
23. Construction loan origination fees;
24. Construction loan credit enhancement;
25. Taxes during construction;
26. A permanent loan origination fee;
27. Permanent loan credit enhancement;
28. Title and recording fees;
29. Other financing fees and expenses;
30. Property appraisal;
31. Market study;
32. Environmental report;
33. Tax credit fees;
34. The organization of a partnership;
35. Bridge loan fees or expenses;
36. Tax opinion;
37. Developer overhead;
38. Developer fees;
39. Other items related to the developer fees;
40. The rent-up reserve;
41. The operation reserve.

12.6(44) Identify the sources of construction financing including the amount of funds and the term of the loan.

12.6(45) Identify the sources of permanent financing not including equity funds.

12.6(46) Identify all sources of funds for the project.

12.6(47) Identify all sources and amounts of funds that are financed directly or indirectly with federal, state or local government funds.

12.6(48) Indicate whether the applicant will exclude any below market federal loan from the eligible basis of the project building.

12.6(49) Indicate whether tax-exempt financing is used for the project and the percentage of tax-exempt financing used in comparison to the total cost of the project.

12.6(50) Indicate whether taxable bond financing is used and in what amount.

12.6(51) Indicate whether the project's permanent financing will have any type of credit enhancement and, if so, the type of enhancement.

12.6(52) Indicate whether the project has any existing subsidies provided by a federal, state, local or other source.

12.6(53) Indicate whether HUD approval is required for the transfer of any physical assets associated with the project.

12.6(54) Indicate whether a project investor will be providing equity funds for the project in exchange for tax credits. If so, provide information concerning any syndication or placement of interest in the owner entity and estimated proceeds to be received from such sale or placement as follows:

a. Amount of low-income tax credit proceeds;
b. Amount of historic tax credit proceeds;
c. Date the proceeds from the low-income tax credits and historic tax credits will be paid;
d. Whether the funds result from a public or private offering;
e. The type of investors; and
f. The name of the fund, the name, address and telephone number of the syndicator.

12.6(55) The authority shall provide space where an applicant can calculate a trial amount for the tax credit needed for a project. However, the authority shall calculate the actual amount of the credit needed for the proposed project. The trial amount calculated for the tax credit may differ from the amount calculated by the authority. The amount calculated by the authority shall be the amount relied upon by the authority.

12.6(56) The applicant shall make an irrevocable election to follow the minimum set-aside requirements established

by IRC Section 42. The minimum set-aside elections shall include the following:

a. At least 20 percent of the rental residential units in the project are rent-restricted and are to be occupied by individuals whose income is 50 percent or less of area gross median income;

b. At least 40 percent of the rental residential units in the project are rent-restricted and are to be occupied by individuals whose income is 60 percent or less of area gross median income;

c. In addition to the minimum set-aside requirement contained in this rule, the project shall meet the deep rent skewing option defined in IRC Section 142(d)(4); that is, 15 percent of the units are occupied by individuals whose income is 40 percent or less of area gross median income and other requirements included therein.

12.6(57) Indicate whether any of the low-income units receive or have been approved to receive rental assistance at the time the application for low-income tax credits was filed with the authority. If so, an applicant must list the type of rental assistance received, the number of units receiving rental assistance, the number of years of the rental assistance contract, the details of the rent restrictions including the actual rent for one month, the actual utilities paid by the tenant for one month and the total rent and utilities paid by the tenant for one month.

12.6(58) Based upon an applicant's response to the minimum set-aside election, the applicant must indicate the maximum monthly rent that may be charged per unit based upon 40 percent of the area gross median income for one unit for one month, 50 percent of the area gross median income for one unit for one month, and 60 percent of the area gross median income for one unit for one month, using the information attached to the application to calculate these amounts.

12.6(59) For the low-income units in a project, an applicant must estimate the monthly income for the low-income units. The estimate must include an estimate of the annual percentage increase in the annual income from the project.

12.6(60) For market rate units, an applicant must estimate the monthly income for the market rate units. The estimate must include an estimate of the annual percentage increase in the annual income from the project.

12.6(61) An applicant must calculate the amount of the monthly utilities for the units in a project and identify whether the tenant or the owner is paying the cost. An applicant must indicate the source of information for the calculation.

12.6(62) Identify administrative expenses including advertising, management fees, legal fees, partnership fees, accounting and audit fees and other expenses.

12.6(63) Identify maintenance costs including decorating, repair, exterminating, ground expense and any other cost items identified and detailed as to amount.

12.6(64) Identify operating expenses including elevator maintenance, water and sewer, electric, gas, and trash removal costs and payroll and related employment costs, including taxes, insurance costs and other costs related to operating expenses.

12.6(65) Identify real estate tax costs or special assessments or any other fee levied by a local or state governmental unit.

12.6(66) Identify the annual replacement reserve for the units in the project and provide an estimate for the annual percentage increase in annual expenses.

12.6(67) Identify the project schedule including site preparation, ownership completion, financing for construction, permanent loan, other loans and grants, plans and specifications, closing and transfer information, construction start date, completion of construction, the date the building is placed in service and the date lease is completed.

12.6(68) Identify the name of the local jurisdiction in which the project will be located and include the name and address of the chief executive officer of the political jurisdiction. See IRC Section 42(m)(1)(A)(ii). If this information is not provided, the authority shall not be able to notify the local jurisdiction that an application has been filed. An award of tax credits may be invalid if this notification is not accomplished.

12.6(69) An applicant must indicate that the project shall be subject to an extended use agreement for 15 years, 30 years or for some period of time after 15 years.

12.6(70) An applicant must indicate whether:

a. The project is located in a community that is experiencing a shortage of low-income housing;

b. The project combines the tax credit with financial assistance from the local community, or other state or federal sources;

c. The project is in an official neighborhood preservation or other organized community revitalization program.

The applicant shall attach documentation to support the items identified in this subrule including, but not limited to, a current market study, letters from the local housing authority indicating that the project is located in a neighborhood preservation area or other organized community revitalization program or a letter from state or local officials indicating financial commitments for the project. A general statement that a city, town or other community is a designated revitalization area is insufficient to meet this requirement.

12.6(71) Include a list of previous projects on a form prescribed by the authority. The applicant must make a full disclosure regarding all previous projects and participation history as a principal in any rental housing project including, but not limited to, the name and address of all principals in the projects, the name, location, governmental agency and number of units in the project, the role, interest, and year when participation began and ended, the year the project was placed in service, and whether there have been any sales, foreclosures, defaults, instances of IRS noncompliance and issuance of IRS Form 8823.

12.6(72) An applicant must sign the taxpayer certification and attach it to the application.

12.6(73) An applicant must sign a certification of ownership, disclosure, prior experience, and release relating to all previous projects.

12.6(74) The following exhibits must support the application:

1. Site control documentation.
2. Documentation of zoning as described in rule 12.7(16).
3. Evidence of availability of utilities at the site as described in rule 12.7(16).
4. Evidence of a conditional or final financing commitment from all sources as described in rule 12.7(16).
5. A market study if the project contains more than 12 units.
6. A sketch plan of the site including plans and specifications or work write-ups.
7. A legible site location map.
8. A copy of the recorded deed showing that the owner or the taxpayer or both hold the title to the site must be provided before a carryover agreement can be signed or an IRS Form 8609 can be issued, whichever is applicable in the year in which the project receives a reservation.

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9. A copy of the letter from the Internal Revenue Service indicating the federal identification number for a partnership and a copy of the executed partnership agreement file stamped by the secretary of state are required before a carryover agreement shall be executed or an IRS Form 8609 shall be issued by the authority.

10. A copy of the letter from the Internal Revenue Service indicating the federal identification number for a corporation and an executed copy of the articles and bylaws. These documents must be present before a carryover agreement shall be executed or an IRS Form 8609 shall be issued by the authority.

11. If the applicant is seeking a portion of the nonprofit set-aside, the nonprofit organization must include a copy of its articles of incorporation or partnership agreement and the determination letter of tax-exempt status from the Internal Revenue Service.

12. If the applicant has obtained a waiver for its building or buildings, a copy of the waiver must be included with the application. An allocation cannot be made until the waiver has been received.

13. A copy of any agreement or contract relating to syndication or placement of partnership interests.

14. A copy of any rental assistance contract, agreements or approvals from a public housing authority.

15. Documentation of the utility calculations. The most recent public housing assistance, HUD or rental development utility calculation chart must be used for the calculations.

16. A legal description of the site.

17. Articles of incorporation for nonprofit organizations.

18. A 15-year after-tax cash flow of the project.

19. A 15-year total benefit approximation that includes the after-tax cash flow or requested tax credit showing the estimated percentage of return on the owner's investment and limited partner's investment.

20. An AIA construction contract or other contract detailing the estimated construction costs for the project.

21. Utility allowance charts.

22. A list of previous projects for a developer or a general partner who has not had previous tax credit allocations in Iowa.

23. A résumé of each member of the development team for projects of five or more units.

24. Documents supporting housing needs characteristics.

25. If the project is designed to serve tenants with special housing needs, documentation supporting the previous experience of the development team with the type of housing or service delivery proposed.

26. Other documentation as identified in the application or these rules.

265—12.7(16) Threshold requirements—all applicants. To be considered for a reservation of tax credits, a project described in an application must first demonstrate that it meets all of the following basic requirements. Any application that fails to meet any one of these requirements shall be rejected and shall not be scored.

12.7(1) The applicant has certified in writing that the proposed project is a qualified residential rental project that is consistent with the requirements of IRC Section 42. The certification must be attached to the application.

12.7(2) The applicant is ready to proceed. Readiness includes but is not limited to a showing of the following:

a. The applicant has site control. Adequate evidence of site control is accomplished through one of the following (one of these items must be attached to the application as an exhibit):

(1) A copy of a recorded warranty deed in the name of the ownership entity, or entities, which comprise the project owner;

(2) A contract for sale or lease (the minimum term of the lease must be at least 45 years) in the name of the ownership entity, or entities which comprise the project owner. The contract for sale or the lease must be valid for the entire period of development that is under consideration for tax credits or at least 90 days, whichever is greater.

(3) A copy of an exclusive option to purchase in the name of the ownership entity or entities which comprise(s) the applicant. The option must be valid for the entire period the project is under consideration for tax credits or at least 90 days from the date of the filing of the application, whichever is greater.

b. The applicant shall provide evidence of current and appropriate zoning in the form of a letter from the appropriate municipal authority. Adequate evidence attached as an exhibit to the application of zoning approval includes but is not limited to:

(1) A copy of the letter from the city or town where the project will be located indicating that appropriate zoning approvals for the project have been or will be granted.

(2) A copy of a letter or other written evidence that documents that a zoning request has been filed with the appropriate municipal authority prior to October 1, 1998.

c. The project site must have utilities presently available at the site. Adequate evidence showing the existence of utilities includes, but is not limited to:

(1) A copy of a letter from the appropriate municipal provider or local provider, or

(2) A copy of the last monthly utility bill which must clearly identify the project by its full address.

Either of these documents must be attached to the application as an exhibit.

d. The applicant must supply documentation of housing needs of the community. Adequate evidence of housing needs is a market study. The market study must be attached to the application as an exhibit. For the 1999 cycle of tax credit awards, a market study is current if it was completed between October 2, 1997, and October 1, 1998. The market study is not required for projects with fewer than 12 units.

e. The applicant must file a complete and timely application.

f. The applicant must exhibit a willingness to enter into a land use restrictive covenant (LURA) for the project with the authority, as required by IRC Section 42(h)(6). Adequate evidence of willingness to enter into an extended use agreement is a copy of the agreement or a certification that the applicant shall execute an extended use agreement with the authority.

12.7(3) The applicant must demonstrate that the project is financially feasible and viable using the least amount of housing credit dollar. See IRC Section 42(m)(2) and Iowa Code section 16.52(2). Adequate evidence of financial feasibility and continuing viability must include a detailed description of the following:

a. The sources and uses of funds and the total financing planned for the project;

b. Any proceeds or receipts expected to be generated by reason of tax benefits;

c. The percentage of the housing credit dollar amount used for project costs other than the costs of intermediaries; and

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d. The reasonableness of the development and operational costs of the project.

The authority shall use generally accepted underwriting criteria to assess the financial feasibility and continuing viability of a project. Based upon its own assessment and the financial information submitted to support the project, the authority shall determine whether the applicant has requested the least amount of housing credit dollar necessary to ensure project feasibility.

12.7(4) An application shall be rejected outright if the authority determines that an applicant or any of its principals or affiliates who own at least 5 percent of the applicant or any of the officers or board members of the applicant have been convicted of, entered an agreement for immunity from prosecution or pled guilty, including a plea of no contest, to a crime of dishonesty, fraud, tax fraud, embezzlement, bribery, payments of illegal gratuities, perjury, false statements, racketeering, blackmail, extortion, or falsification or destruction of records. Applicants that have been debarred from any program administered by the authority, any other state agency, or any federal agency are ineligible for tax credits. Applicants that have an identity of interest with any debarred entity may not be eligible as determined by the authority.

12.7(5) An application shall be rejected if the developer fees and overhead and consultant fees exceed 15 percent of the total adjusted basis of the project. The authority shall determine this amount by subtracting the developer fees and overhead and consultant fees from the eligible basis before calculating the fees as a percentage of the adjusted eligible basis.

12.7(6) The contractor's profit exceeds 6 percent of the project costs.

12.7(7) The contractor's overhead exceeds 2 percent of project costs.

12.7(8) The general requirements for a project exceed 6 percent of the project costs.

12.7(9) The applicant fails to disclose any direct or indirect financial or other interest a member of the project development team may have with another member of the project development team.

12.7(10) If the applicant is a partnership or a limited partnership, the authority shall reserve tax credits to a partnership and the general partners. Reservations are not transferable. In the event there is a change in a general partner after an allocation of credits has been made, the authority shall be notified by the partnership to obtain approval of the change. The new general partner shall meet the requirements described in these rules before the authority shall consent to the change. If the requirements outlined in these rules are not met, the request for transfer shall not be approved.

12.7(11) If the applicant is a corporation, the authority shall reserve tax credits to a corporation. Reservations are not transferable. In the event there is a change in the majority shareholder after an allocation of credits has been made, the authority shall be notified by the corporation to obtain approval of the change. The new majority shareholder shall meet the requirements described in these rules before the authority shall consent to the change. If the requirements outlined in these rules are not met, the request for transfer shall not be approved.

265—12.8(16) Threshold requirements for nonprofit applicants. To be considered for a reservation of tax credits, a project described in an application must first demonstrate that it meets all of the requirements of rule 12.7(16). In addition, nonprofit applicants must meet the requirements of rule 12.8(16). Any application that fails to meet any of the requirements of rule 12.7(16) or 12.8(16) shall not be scored and the application shall be rejected.

12.8(1) For applicants (project owners) seeking credits from the nonprofit set-aside, all of the following documents that confirm that the project owner is a qualified nonprofit organization pursuant to IRC Section 42(h)(5)(C) must be attached to the application:

a. An IRS determination letter which states that the qualified nonprofit organization is a 501(c)(3) or (4) entity;

b. If the project involves a joint venture between a qualified nonprofit organization and a for-profit entity, an agreement which shows that the nonprofit organization controls the project (directly or indirectly) and shall materially participate (within the meaning of the IRC Section 469(h)) in the development and operation of the project throughout the compliance period;

c. A current list of all directors and officers of the nonprofit organization, including their names, addresses, and primary occupations. All directors and officers must disclose any relationship with an affiliate or otherwise with other members of the applicant or any members of an affiliate of the development team or any combination thereof; and

d. A copy of the articles of incorporation of the nonprofit organization that specifically states that the fostering of affordable housing is one of the exempt purposes for the qualified nonprofit organization.

12.8(2) The applicant must show that the nonprofit organization owns an interest in the project (directly or through a partnership) and must materially participate in the development and operation of the project throughout the compliance period. Adequate evidence of ownership includes but is not limited to a certified statement of ownership. Adequate evidence of material participation includes but is not limited to a description of the management and operational plan for the project demonstrating the material participation of the nonprofit organization.

12.8(3) The authority reserves the right to conduct additional due diligence to determine whether or not an entity is a qualified nonprofit organization.

265—12.9(16) Selection criteria and scoring. The authority shall evaluate applications for tax credit allocations using the selection and point system described in this rule. A project may receive all or a portion of the maximum points listed in each subrule. In the event of a tie among the projects based on scoring, the authority shall consider the projects and select the project or projects it believes best furthers the purposes and objectives of the low-income housing tax credit program as identified in this chapter. Points shall be awarded based on the following selection criteria:

12.9(1) The project is located outside a MSA (5 points).

12.9(2) The project is located in a qualified census tract or a difficult development area and qualifies for up to a 30 percent increase in eligible basis, pursuant to IRC Section 42(d)(5)(C). A list of these areas is provided in the application package (5 points).

12.9(3) The sources of funding for the project combine the low-income housing tax credit with community-based financial assistance, such as tax abatements, tax increment financing, local CDBG or HOME funds, local housing trust funds, or other local financial assistance. A maximum total score of 15 points is possible for this item. Each source of local funding identified in the property budget in the application shall receive 5 points. In order to score in this category, the local funding contribution must be at least 5 percent of the total project costs.

12.9(4) The project includes the project owner's equity contribution or deferred development fees. Adequate evidence of this item must be reflected in the application and evidenced by the identification of a commitment in the form of a letter specifying the amount and terms of the project owner's equity contribution (5 points).

12.9(5) The project utilizes conventional mortgage financing from an Iowa-based financial institution as evidenced by a commitment letter from the local Iowa lending office of the financial institution (5 points).

12.9(6) The project must have local support. The project is supported by the local governmental entity as evidenced by a letter from a senior governmental entity official which states that the governmental entity supports or does not oppose the proposed project (5 points).

12.9(7) The project supports a specific neighborhood preservation or other organized community revitalization program as evidenced by a letter from a local government, housing authority, neighborhood-based nonprofit organization or other responsible party, which describes a specific plan for preservation or revitalization of the neighborhood (5 points).

12.9(8) The project utilizes only the amount of credit deemed necessary to reasonably meet the needs of low-income tenants likely to reside in the project, rather than the maximum amount of credit as required by IRC Section 42(m). The authority's analysis regarding this item may include, but is not limited to, the actual credit cost per unit in comparison with other proposed projects received for the current round of financing. A maximum of 15 points shall be awarded to this item on a sliding scale.

a. For projects that do not involve rehabilitation, the points shall be allocated as follows:

Credit Request Per Unit	Points
Less than $4,900	15
$4,901 to $6,000	10
$6,001 to $7,500	5
$7,501 to $10,000	3
Over $10,001	0

b. For projects involving rehabilitation of buildings, the points shall be allocated as follows:

Rehabilitation Cost Per Unit	Points
Less than $30,000	15
$30,001 to $60,000	10
$60,001 to $90,000	5
Over $90,000	2

12.9(9) The project preserves existing low-income housing as evidenced by one of the following items:

a. The project owner must show that the property in the project would be subject to foreclosure or default were no credit allowed, or is or shall be acquired from an insured depository institution in default or from a receiver or conservator of such institution. Adequate evidence of this item is a letter from the institution to which the project is in danger of being assigned (15 points); or

b. The project owner must show that the project owner is purchasing or has purchased a property owned by HUD, an insured depository institution in default, or a receiver or conservator of such an institution, or is an REO property. Adequate evidence of this item must be in the form of a binding contract to purchase from such federal or other entity as described in this rule, closing statements, or a copy of recorded warranty deed (15 points).

12.9(10) The project consists of "mixed-use" units, i.e., qualified tax credit and market rate units (5 points).

12.9(11) The project consists of 12 or fewer units (5 points).

12.9(12) A high percentage of the total costs of the project are allocated to actual construction costs as illustrated in the construction budget as opposed to the use of intermediary costs which include consultant, syndication, legal, appraisal, and other fees (15 points).

12.9(13) Local governmental or nonprofit organizations have evidenced support of the project and are committed to participating in supplying supportive services as evidenced by a letter of commitment to provide such services. The maximum number of points for this item is 10 points with 5 points awarded for each supportive service identified in the application package.

12.9(14) For a project owner of five or more units, the project owner has a successful track record as a developer or owner, or both, of completing and placing in service low-income housing in Iowa (10 points).

12.9(15) For a project owner of five or more units, the project owner has a successful track record as a developer or owner, or both, of providing housing under the LIHTC program as evidenced by having placed a LIHTC project in service prior to October 1, 1998 (5 points).

12.9(16) For a project owner with a management agent of five or more units, the project owner has signed a contract or a letter of intent with a management agent who has successful experience in the management of affordable housing, including LIHTC projects or other federally assisted projects, as evidenced by a copy of the contract or letter of intent and the resume of the management agent (10 points).

12.9(17) The project owner has a construction contract for the project with an Iowa contractor. A copy of the construction contract detailing the estimated costs of construction must be provided with the application (10 points).

12.9(18) The project owner is addressing special needs of tenants such as families with children, the elderly, or otherwise. The project owner must provide written evidence of previous successful experience in addressing the special needs which shall be addressed and provide a written commitment to provide appropriate services to meet these needs at the project (10 points).

12.9(19) The project owner is a qualified Iowa nonprofit organization with previous successful experience in the development of housing similar to that proposed in the application. The project owner must provide a list of previous housing projects that the nonprofit organization has developed (10 points).

12.9(20) For elderly projects only, the project must not contain any units with three or more bedrooms (5 points).

12.9(21) At least 10 percent of the units in the project have three or more bedrooms and are suitable for occupancy by families with children (5 points).

12.9(22) At least 10 percent of the units in the project are specifically designed for persons with disabilities (5 points).

12.9(23) The project is designed for transitional housing for the homeless (5 points).

12.9(24) The project shall provide housing for persons on waiting lists for public housing. An applicant must submit a letter from the applicable public housing authority addressed to the project owner describing the public housing waiting list. The letter must indicate the number of persons on the list (5 points).

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12.9(25) The project shall serve tenants with maximum household incomes lower than the AGMI requirements of IRC Section 42(g). This is a federally mandated requirement pursuant to IRC Section 42(m)(1)(B)(ii)(I) and (II) (20 points).

12.9(26) The project shall be obligated to serve qualified tenants for additional years beyond the minimum 15-year compliance period required by IRC Section (42)(i)(l). A maximum of 35 points is possible for this item. Each additional year of compliance beyond the minimum 15-year requirement shall receive one additional point. This is a federally mandated requirement pursuant to IRC Section 42(m)(1)(B)(ii)(I) and (II).

265—12.10(16) Other considerations to award tax credit reservations. When the authority considers awarding tax credit reservations, at a minimum, it shall consider, during its public meeting, the relative scoring for each project, the sources and uses of funds, the location of the project and whether the developer is a nonprofit owner or a for-profit owner. In addition and irrespective of scoring and the location of a project, the authority may determine that a project shall not be funded for any of the reasons identified in this rule. In the event the authority elects to reject a project for the reasons identified herein, the reasons must be clearly identified during the public meeting where the authority considers applications for tax credits.

12.10(1) The project does not further the stated purposes and objectives of the low-income tax credit program as described in rule 12.2(16).

12.10(2) The project is in a market that is saturated with low-income housing projects. The authority may rely on information provided by the staff regarding the concentration of projects.

12.10(3) The project is not preferred by other state or federal governmental units or political subdivisions with an interest in housing. The authority may consider the recommendations of the HART team where relevant or any other comments received from other state or federal agencies regarding a proposed project. The authority may consider whether funding commitments made by other governmental units have been received by a project. The authority may consider oral or written presentations at the public meeting where the authority's board decides to award tax credit reservations.

12.10(4) The applicant has a history of noncompliance with IRC Section 42 and the Treasury regulations implementing IRC Section 42.

12.10(5) The applicant has failed to complete and place in service a previous allocation.

12.10(6) The project is in a county that has more than one project proposed for the county. The authority may consider the number of projects proposed for a certain county. The authority may allow no more than one or two projects per locality for each cycle of tax credits.

12.10(7) The project is one of several proposed by a single developer. The authority may consider the number of projects an applicant is awarded during any one cycle and limit the total amount of credits or projects awarded for any annual ceiling cap. No single applicant shall be awarded more than $500,000 in tax credits for multiple projects. No single applicant shall be awarded tax credits for more than three projects.

12.10(8) The project proposed by the applicant consumes a share of the total available state credit ceiling allowance in excess of 10 percent of the total per capita component. The authority may consider the size of a project. No developer shall be awarded tax credits that exceed 10 percent of the total state per capita component for any one project. The authority may ask a developer to phase a project if the project requires more than 10 percent of the state allocation ceiling.

265—12.11(16) Notice of the tax credit award. Once the authority has reserved credits, a written contingent notice of reservation shall be faxed and mailed to all approved applicants. The unsuccessful applicants shall be notified by fax and by mail that the authority did not select their projects. All notices shall be sent on the same day the awards are made. The reservations shall become final on the sixth day after the date of the notice of award sent to all approved applicants.

265—12.12(16) Postreservation requirements.

12.12(1) An applicant may amend its application after an award of tax credits is made for the purposes of showing changes in sources and uses of funds.

12.12(2) Each applicant receiving a reservation of credit is required to execute and record a declaration of land use restrictive covenants. The original recorded document must be recorded before an IRS Form 8609 shall be issued or a carryover agreement executed, whichever form of allocation is applicable.

12.12(3) All applicants receiving a carryover allocation must submit a carryover agreement and allocation and taxpayer's election statement and a certified public accountant's (CPA) cost certification evidencing that the taxpayer has accumulated at least 10 percent of its reasonably expected basis. In addition, all applicants receiving an IRS Form 8609 allocation must submit an IRS Form 8609 request package in its entirety, which includes a CPA cost certification evidencing final project costs, and pay the compliance monitoring fee before the IRS Form 8609 shall be issued.

265—12.13(16) Applicant appeals. Any applicant whose application has been timely filed and who is aggrieved by the award of the authority may appeal the decision by filing a written notice of appeal within five days before the Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309. The notice of appeal must actually be received at this address within the time frame specified to be considered timely. A written notice of appeal may also be filed by fax transmission at (515)242-4957 within five days of the date of the award, exclusive of Saturdays, Sundays, and state legal holidays. The notice of appeal shall state the grounds upon which the applicant challenges the authority's award.

12.13(1) Procedures for applicant appeal. The aggrieved applicant shall file a contested case and follow the procedure set out in this rule.

12.13(2) Hearing. Upon receipt of a notice of an applicant appeal, the authority may contact the department of inspections and appeals to arrange for a hearing. The department of inspections and appeals shall send a written notice of the date, time and location of the appeal hearing to the aggrieved applicant or applicants. The authority shall select a presiding officer and hold a hearing on the applicant appeal in conformance with its rules on contested cases within 30 days of the date the notice of appeal was received by the authority.

12.13(3) Discovery. Any discovery requests shall be served simultaneously on the parties within 15 days of the notice of appeal.

12.13(4) Witnesses and exhibits. Within 15 days following the notice of appeal, the parties shall contact each other regarding witnesses and exhibits. There is no requirement for witness and exhibit lists. However, the parties must meet prior to the hearing regarding the evidence to be presented in

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order to avoid duplication or the submission of extraneous materials. The parties may request a prehearing conference to discuss witnesses, exhibits or other matters relating to the hearing.

12.13(5) Evidence for a telephone or network hearing. If the hearing is conducted by telephone or on the fiberoptic network, all exhibits must be delivered to the office of the authority three days prior to the time the hearing is conducted. Any exhibits which have not been served on the opposing party should be served at least seven days prior to the hearing.

12.13(6) Contents of decision. The presiding officer shall issue a decision in writing that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case and shall conform with Iowa Code chapter 17A. The decision shall be sent to all parties by first-class mail.

12.13(7) Record requirements. The record of the contested case shall include all materials specified in Iowa Code subsection 17A.12(6). The record shall also include any request for a contested case hearing and other relevant procedural documents regardless of their form.

a. Oral proceedings in connection with an applicant appeal shall be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand reporters shall bear the costs of the reporter.

b. Oral proceedings in connection with a hearing in a case or any portion of the oral proceedings shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party.

c. Copies of tapes of oral proceedings may be obtained from the board at the requester's expense.

d. The recording or stenographic notes of oral proceedings or the transcription shall be filed and maintained by the board for at least two years from the date of the proposed decision.

12.13(8) Dismissal. A ruling dismissing all of a party's claims or a voluntary dismissal is a decision under Iowa Code section 17A.15.

12.13(9) Requests for rehearing. Requests for rehearing shall be made to the authority within 20 days of issuing a final decision. A rehearing may be granted when new legal issues are raised, new evidence is available, an obvious mistake is corrected, or when the decision fails to include adequate findings or conclusions on all issues. A request for rehearing is not necessary to exhaust administrative remedies.

12.13(10) Judicial review. Judicial review of the authority's final decisions may be sought in accordance with Iowa Code section 17A.19.

265—12.14(16) Monitoring procedures and record-keeping requirements.

12.14(1) The authority is required to establish procedures for monitoring compliance with the provisions of IRC Section 42 and for notifying the Internal Revenue Service of any noncompliance of which it becomes aware. In order to satisfy its monitoring and reporting obligations, the authority shall require each owner of a low-income housing project to comply with the requirements described in this rule.

12.14(2) For each year in the compliance period, the owner of an affordable housing project shall keep records for each qualified low-income building in the project that show the following:

a. The total number of residential rental units in the building including the number of bedrooms and the size in square feet of each residential rental unit;

b. The percentage of residential rental units in the building that are low-income units;

c. The rent charged on each residential rental unit in the building including any utility allowance;

d. The number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under IRC Section 42(g)(2) (as in effect before the amendments made by the Revenue Reconciliation Act of 1989);

e. The low-income unit vacancies in the building and information that shows when and to whom the next available units were rented;

f. The annual income certification of each low-income tenant per unit;

g. Documentation to support each low-income tenant's income certification (e.g., a copy of the tenant's federal income tax return, Form W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). Tenant income shall be calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937 ("Section 8"), and not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of this rule is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under IRC Section 42(g);

h. The eligible basis and qualified basis of the building at the end of the first year of the credit period; and

i. The character and use of the nonresidential portion of the building included in the building's eligible basis under IRC Section 42(d) (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

12.14(3) The owner of a low-income housing tax credit project shall retain the records described in subrule 12.14(2) for each building in the project for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the initial taxable year must be retained for at least six years after the due date for filing the federal income tax return for the last year of the compliance period of the building.

12.14(4) The owner of an affordable housing project shall certify at least annually to the authority that, for the preceding 12-month period:

a. The project met the requirements of:

(1) The 20-50 test under IRC Section 42(g)(1)(A) or the 40-60 test under IRC Section 42(g)(1)(B), whichever minimum set-aside test is applicable to the project, and

(2) If applicable to the project, the 15-40 test under IRC Sections 42(g)(4) and 142(d)(4)(B) for "deep rent skewed" projects;

b. There was no change in the applicable fraction (as defined in IRC Section 42(c)(1)(B)) of any building in the project, or that there was a change and a description of such change;

c. The owner has received an annual income certification from each low-income tenant and documentation to support that certification or, in the case of a tenant receiving Section 8 housing assistance payments, the statement from a public housing authority as described at 12.14(4)"g" shall satisfy the income verification requirement;

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d. Each low-income unit in the project was rent-restricted under IRC Section 42(g)(2);

e. All units in the project were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under IRC Section 42(i)(3)(B)(iii));

f. Each building in the project was suitable for occupancy, taking into account local health, safety and building codes;

g. There was no change in the eligible basis (as defined in IRC Section 42(d)) of any building in the project, or if there was a change, the nature of the change;

h. All tenant facilities included in the eligible basis under IRC Section 42(d) of any building in the project, such as swimming pools, other recreational facilities, and parking areas, are provided on a comparable basis without charge to all tenants in the building;

i. If a low-income unit in the project became vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or shall be rented to tenants not having a qualifying income;

j. If the income of tenants of a low-income unit in the project increased above the limit allowed in IRC Section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income; and

k. An extended affordable housing commitment as described in IRC Section 42(h)(6) was in effect (for buildings subject to Section 7108(c)(1) of the Revenue Reconciliation Act of 1989).

12.14(5) Review.

a. The authority shall review the certifications submitted under subrule 12.14(4) for compliance with the requirements of IRC Section 42.

b. The owners of all affordable housing projects shall submit to the authority each year general information on tenant income and rent for each low-income unit in the form and manner designated by the authority. Additionally, each year the authority shall select at least 20 percent of the tenants in at least 20 percent of the projects for whom the owners shall submit to the authority for compliance review a copy of the annual income certification, the documentation the owner has received to support that certification, and the rent records.

c. The authority may also inspect a reasonable number of projects each year, review on site the low-income tenant income certifications for that year, the documentation the owner has received to support those certifications, and the rent records for the project.

d. The authority shall determine which records are to be inspected or submitted by the owner for review. The records to be inspected pursuant to 12.14(5)"c" shall be chosen in a manner that shall not give owners of low-income housing tax credit projects advance notice that their records for a particular year are subject to inspection. However, the authority may give an owner reasonable notice that an inspection may occur so that the owner may assemble records.

12.14(6) The certifications and review of certifications described in subrules 12.14(4) and 12.14(5) shall be made at least annually covering each year of the 15-year compliance period under IRC Section 42(i)(1). The certifications shall be made under penalty of perjury. The authority may require that certifications and reviews be made more frequently, provided that all months within each 12-month period are subject to certification.

12.14(7) Exceptions for certain buildings.

a. If the authority has met the requirements of 12.14(7)"b," owners are not required to submit, and the authority is not required to review, the tenant income certification, supporting documentation, and rent records for:

1. Buildings financed by the USDA under the Section 515 program, or

2. Buildings of which 50 percent or more of the aggregate basis (taking into account the building and the land) is financed with tax-exempt bonds.

b. The authority shall enter into an agreement with USDA or the tax-exempt bond issuer pursuant to which USDA or the tax-exempt bond issuer agrees to provide information to the authority concerning the income and rent of the tenants in the building. The authority may assume the accuracy of the information provided by USDA or the tax-exempt bond issuer without verification. The authority shall review the information and determine that the income limitation and rent restriction of IRC Section 42(g)(1) and (2) are met. However, if the information provided by the USDA or tax-exempt bond issuer is not sufficient for the authority to make this determination, the authority shall request the necessary additional income or rent information from the owner of the buildings.

12.14(8) Inspection provisions. The authority shall have the right to perform an on-site inspection of any project at least through the end of the compliance period of the buildings in the project. The inspection provision of this rule is separate from any review of low-income certifications, supporting documentation and rent records under subrule 12.14(5). Advance notice to the owner is not necessary for purposes of the inspection provisions set forth in this rule.

12.14(9) Notification of noncompliance provisions. The authority is required to give the notice described in subrule 12.14(10) to the owner of an affordable housing project and the notice described in subrule 12.14(11) to the Internal Revenue Service.

12.14(10) Notice to owner. The authority shall provide prompt written notice to the owner of a low-income housing project if the authority does not receive the certification described in subrule 12.14(4) or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records described in subrule 12.14(5), or discovers by inspection, review, or in some other manner, that the project is not in compliance with the provisions of IRC Section 42.

12.14(11) Notice to Internal Revenue Service. The authority is required to file IRS Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition, with the Internal Revenue Service no later than 45 days after the end of the correction period (as described in subrule 12.14(12)), including extensions permitted under subrule 12.14(12), and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The authority must explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis under subrule 12.14(4) that results in a decrease in the qualified basis of the project under IRC Section 42(c)(1)(A) is noncompliance that must be reported to the Internal Revenue Service under subrule 12.14(9). If the authority reports on IRS Form 8823 that a building is entirely out of compliance and shall not be in

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compliance at any time in the future, the authority need not file IRS Form 8823 in subsequent years to report that building's noncompliance.

12.14(12) Authority retention of records. The authority shall retain records of noncompliance or failure to certify for six years beyond the authority's filing of the respective IRS Form 8823. In all other cases, the authority must retain the certifications and records described in this subrule for three years from the end of the calendar year for which the authority receives the certification and records.

12.14(13) Correction period. The correction period shall be a period not exceeding 90 days from the date of the notice to the owner described in subrule 12.14(10), during which the owner must supply any missing certifications and bring the project into compliance with the provisions of IRC Section 42. The authority may extend the correction period for up to six months, but only if the authority determines there is good cause for granting the extension.

12.14(14) Delegation of monitoring. The authority may retain an agent or other private contractor (the "authorized delegate") to perform compliance monitoring. The authorized delegate must be unrelated to the owner of any building that the authorized delegate monitors. The authorized delegate may be delegated all of the functions of the authority to monitor compliance, except for the responsibility of notifying the Internal Revenue Service under subrule 12.14(11). The authorized delegate must notify the authority of any noncompliance or failure to certify.

12.14(15) Limitations. The authority shall use reasonable diligence to ensure that any authorized delegate to whom compliance monitoring is delegated properly perform the delegated monitoring functions. Delegation of compliance monitoring functions by the authority to an authorized delegate does not relieve the authority of its obligation to notify the Internal Revenue Service of any noncompliance of which the authority becomes aware.

12.14(16) Liability. Compliance with the requirements of IRC Section 42 is the responsibility of the owner of the building for which the credit is allowable. The authority's obligation to monitor for compliance with the requirements of IRC Section 42 shall not make the authority liable for an owner's noncompliance.

12.14(17) Effective date. These procedures for monitoring for noncompliance became effective on January 1, 1992, were amended on February 3, 1993, and apply to buildings placed in service for which a low-income housing tax credit is, or has been, allowable at any time. Notwithstanding the effective date, if the authority becomes aware of noncompliance that occurred prior to January 1, 1992, it is required to notify the Internal Revenue Service of that noncompliance.

265—12.15(16) Tax-exempt bond financed projects. Pursuant to IRC Section 42(m)(2)(D), projects which do not receive an allocation from the state housing credit ceiling because they qualify pursuant to IRC Section 42(h)(4) and are financed with tax-exempt bond obligations issued after December 31, 1998, must satisfy the requirements for allocation of a housing dollar amount under the qualified allocation plan and these rules. These projects shall be subject to the threshold requirements and evaluation procedures of the qualified allocation plan as described in these rules. However, tax-exempt bond financed projects shall not participate in the competitive funding rounds. A project that qualifies for an allocation of tax credit pursuant to IRC Section 42(h)(4) shall be eligible only for an allocation at the 4 percent present value credit level.

These rules are intended to implement Iowa Code section 16.52.

ARC 9263A

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

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

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

Chapter 10 describes the guidelines for insurance eligibility. Rule 10.2(455G) lists the deductible options for the insurance coverage offered by the Board. Effective January 1, 1995, the Board restructured the deductible options.

This amendment corrects the existing deductible wording to reflect the Board's decision, whereby an insured site can obtain a policy with either a $5,000 or $10,000 deductible and the $25,000 deductible is eliminated.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 31, 1999. Such written comments should be directed to the Administrator, Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, 1000 Illinois Street, Suite B, Des Moines, Iowa 50314.

Persons who want to orally convey their views should contact Thomas J. Norris, Interim Administrator, Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, at (515)284-1616, during regular business hours.

There will be a public hearing on August 31, 1999, at 10 a.m. in the Conference Room of the Administrator's Office, 1000 Illinois Street, Suite B, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

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

This amendment is intended to implement Iowa Code section 455G.11.

The following amendment is proposed.

Amend rule 591—10.2(455G) as follows:

591—10.2(455G) Deductibles. The following deductibles are established under the Iowa plan:

10.2(1) ~~For locations with three tanks or less, there~~ *There* is a $5,000 deductible.

10.2(2) ~~For locations with more than three tanks, there~~ *There* is a $10,000 deductible ~~at minimum~~.

~~**10.2(3)** A $25,000 deductible may be used if it is determined that the scope of the risk warrants higher retention levels, at the discretion of the board or administrator.~~

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

~~10.2(4) Deductibles may be reduced from $10,000 to $5,000 for sites with more than three tanks for an additional premium payment of 50 percent of policy totals with administrative approval. There is no provision to buy down deductibles on sites with $5,000 or $25,000 deductibles.~~

ARC 9264A

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

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455G.4(3), 455G.6(15), 455G.9 and 455G.21, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (Board) hereby gives Notice of Intended Action to amend Chapter 11, "Remedial or Insurance Claims," Iowa Administrative Code.

Chapter 11 describes the guidelines for remedial or insurance claims. Subrule 11.1(3) lists the eligibility criteria for remedial and retroactive claimants. The purpose of these amendments is to broaden the rules in accordance with 1999 Iowa Acts, House File 442, which amended Iowa Code section 455G.9, subsection 1. This legislation provides for 100 percent of the cost of corrective action for a governmental subdivision in connection with a petroleum underground storage tank that the governmental subdivision did not own or operate when the release occurred and subsequently acquired the property via eminent domain after the release occurred.

This legislation also allows for reimbursement of reasonable expenses incurred by a governmental subdivision for treating, handling, or disposing, as required by the Department of Natural Resources, of petroleum-contaminated soil and groundwater encountered in a public right-of-way during the installation, maintenance or repair of a public improvement. The legislation provides the ability for the Board to seek full cost recovery from the responsible party for any and all such expenses paid for by the Fund. This will include the ability to place a lien on a property as provided under Iowa Code section 424.11.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 31, 1999. Such written comments should be directed to the Administrator, Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, 1000 Illinois Street, Suite B, Des Moines, Iowa 50314.

Persons who want to orally convey their views should contact Thomas J. Norris, Interim Administrator, Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, at (515)284-1616, during regular business hours.

There will be a public hearing on August 31, 1999, at 10 a.m. in the Conference Room of the Administrator's Office, 1000 Illinois Street, Suite B, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

These amendments will not necessitate additional annual expenditures exceeding $100,000 by political subdivisions or agencies and entities which contract with political subdivisions. Therefore, no fiscal note accompanies this notice.

These amendments are intended to implement Iowa Code sections 455G.9 and 455G.21.

The following amendments are proposed.

ITEM 1. Amend paragraph **11.1(3)"n"** by adding the following **new** subparagraph **(13)**:

(13) If the property is acquired via eminent domain by a governmental subdivision.

ITEM 2. Amend subrule **11.1(5)** by adding the following **new** paragraph **"g"**:

g. Costs incurred by a governmental subdivision for treating, handling or disposing as required by DNR, petroleum-contaminated soil and groundwater encountered in a public right-of-way during installation, maintenance or repair of a public improvement.

ARC 9269A

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 158.15, the Board of Barber Examiners hereby gives Notice of Intended Action to amend Chapter 20, "Barber Examiners," Iowa Administrative Code.

This amendment changes the renewal fee for barbershops to reflect 1999 Iowa Acts, House File 497, section 29, which became effective July 1, 1999. Barbershop licenses will now be renewed biennially instead of annually.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before August 31, 1999. Comments should be directed to Roxanne Sparks, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Fifth Floor, Des Moines, Iowa 50319-0075.

A public hearing will be held on August 31, 1999, from 8 to 9 a.m. in the Fifth Floor Professional Licensure Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

The Board has determined that this amendment will have no impact on small business within the meaning of Iowa Code section 17A.31 other than barbershop owners will be required to pay $60 every two years for renewal instead of $30 yearly.

This amendment is intended to implement Iowa Code section 158.9 as amended by 1999 Iowa Acts, House File 497, section 29.

The following amendment is proposed.

Amend subrule 20.214(9) as follows:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

20.214(9) ~~Renewal~~ *Biennial renewal* of barbershop license is ~~$30~~ *$60*. Penalty for late renewal is $10, in addition to renewal fee if not postmarked by the July 1 expiration date.

ARC 9270A

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 61, "Licensure of Salons and Schools of Cosmetology Arts and Sciences," and Chapter 62, "Fees," Iowa Administrative Code.

These amendments change the salon license renewal period from annually to biennially due to 1999 Iowa Acts, House File 497, section 28, which became effective on July 1, 1999. The renewal fee is revised to reflect the biennial renewal.

Any interested person may make written comments on the proposed amendments no later than August 31, 1999, addressed to Sharon Cook, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

There will be a public hearing on August 31, 1999, from 8 to 9 a.m. in Professional Licensure Board Room #525, Fifth Floor, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

The Board has determined that these amendments will not have impact on small business within the meaning of Iowa Code section 17A.31 other than that salon owners will be required to pay $70 every two years for renewal instead of $35 annually.

These amendments are intended to implement Iowa Code section 157.11 as amended by 1999 Iowa Acts, House File 497, section 28.

The following amendments are proposed.

ITEM 1. Adopt **new** paragraph **61.1(6)"f"** as follows:

f. A salon license shall be renewed on a biennial basis.

ITEM 2. Amend subrule 62.1(10) as follows:

62.1(10) Renewal of a salon license ~~and change of location of an existing salon is $35 annually~~ *is $70 biennially.*

ITEM 3. Amend subrule 62.1(20) as follows:

62.1(20) Fee for a name change of salon is $15. *Fee for change of location of an existing salon is $35.*

ARC 9258A

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

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

The amendments to Chapter 3 establish specific guidelines for approval of live classroom courses, distance education courses and home-study courses. Other amendments are for purposes of removing dates that have passed. An additional amendment clarifies that nonresident broker and broker associates and licensees who qualify under rule 193E—2.3(543B) or obtain a reciprocal license shall complete the brokerage management courses on a one-time-only basis, at the time of the licensee's first Iowa renewal, unless there is a reciprocal education agreement between the states.

Waivers from provisions of this rule may be sought pursuant to 193E—Chapter 8.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before August 31, 1999. Comments should be addressed to Susan Griffel, 1918 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to susan.griffel@comm7.state.ia.us.

A public hearing will be held on August 31, 1999, at 9 a.m. in the Professional Licensing Conference Room on the second floor of the Department of Commerce Building, 1918 S.E. Hulsizer, Ankeny, Iowa. Persons may present their views at the public hearing either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

These amendments are intended to implement Iowa Code chapter 543B.15.

The following amendments are proposed.

ITEM 1. Amend subrule 3.2(2) as follows:

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

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

ITEM 2. Amend subrule 3.2(3) as follows:

3.2(3) ~~Beginning January 1, 1996, the~~ *The* required course of study for the broker licensing examination shall consist of at least 72 classroom hours. Approved courses shall be completed within 24 months prior to taking the broker examination and shall include the following subjects:

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

Contract law and contract writing ..... 8 hours
Iowa real estate trust accounts ..... 8 hours
Principles of appraising and market analysis ... 8 hours
Real estate law and agency law ..... 8 hours
Real estate finance ..... 8 hours
Federal and state laws affecting Iowa practice .. 8 hours
Real estate office organization ..... 8 hours
Real estate office administration ..... 8 hours
Human resources management ..... 8 hours

ITEM 3. Amend subrule 3.3(2) as follows:

3.3(2) As a requirement of license renewal in an active status, each real estate licensee shall complete a minimum of 36 hours of approved programs, courses or activities. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license term.

Beginning with brokers and broker associates renewing December 2001 and thereafter and salespersons renewing December 1998 and thereafter, approved courses in the following subjects shall be completed to renew to active status, except in accordance with 3.2(2):

Law update ..... 8 hours
Ethics ..... 4 hours
Electives ..... 24 hours

~~Approved courses in the following subjects shall be completed one time only by all brokers and broker associates licensed prior to January 1,1998, beginning with those licensees renewing December 1998 and 1999, and ending with those licensees renewing December 2000:~~ *All brokers and broker associates licensed prior to January 1, 1998, shall complete courses in the following subjects on a one-time-only basis. Nonresident licensees are exempt if an education agreement is in place between Iowa and the nonresident state. Brokers and broker associates who have completed the brokerage management courses, as part of the 72-hour broker prelicense, are not required to repeat the courses and shall comply with the requirements of 3.3(2) to maintain active status.*

Real estate office administration ..... 8 hours
Real estate office organization ..... 8 hours
Human resources management ..... 8 hours
Electives ..... 12 hours

Substantially similar courses may be substituted in accordance with 3.2(5). To qualify for consideration, the course content must reflect current brokerage practices and should have been completed during the three calendar years of the license term, or within a reasonable period of time prior to expiration of the license.

ITEM 4. Amend subrule 3.4(1) as follows:

3.4(1) Qualifying activity. The commission may approve live *classroom* instruction, ~~and~~ distance education programs~~,~~ *and paper and pencil home-study* courses~~, and activities~~ subject to the following conditions:

a. The course pertains to real estate topics that are integrally related to the real estate industry; and

b. The course allows the participants to achieve a high level of competence in serving the objectives of consumers who engage the services of licensees; and

c. The course qualifies for at least three credit hours.~~; and~~

d. ~~The course application is accompanied by a comprehensive course outline that includes:~~ *Requirements for live instruction courses. The commission may approve live classroom programs, subject to the following requirements. The course application is accompanied by a comprehensive course outline that includes:*

(1) Course description.

(2) Course purpose.

(3) Difficulty level.

(4) ~~Learning~~ *Detailed learning* objectives for each major topic that specify the level of knowledge or competency the student should demonstrate upon completing the course.

(5) Description of the instructional methods utilized to accomplish the learning objectives.

(6) Copies of all instructor and student course materials.

(7) Course examination(s) or the diagnostic assessment methods(s) utilized to achieve the course learning objectives, when applicable.

(8) A description of the plan in place to periodically review course material with regard to changing national and state statutes.

(9) A statement of any attendance make-up policy that the school has in place.

e. The commission may approve distance education programs, subject to the following requirements:

(1) The provider's purpose or mission statement is available to the public.

(2) The course outline must include clearly stated learning objectives and desired student competencies for each module of instruction and a description of how the program promotes interaction between the learner and the program.

(3) Course content must be accurate and up to date. Provider must describe the plan in place to periodically review course material with regard to changing national and state statutes.

(4) Course must be designed to ensure that student progress is evaluated at appropriate intervals and mastery of the material is achieved before a student can progress through the course material.

(5) Qualified individuals are involved in the design of the course.

(6) Provider must list individuals who provide technical support to students and state the specific times that support is available.

(7) A manual shall be provided to each registered student. It shall include, but not be limited to, faculty contact information, student assignments and course requirements, broadcast schedules, testing information, passing scores, resource information, fee schedule and refund policy.

(8) Provider must retain a signed statement by the student that affirms that the student completed the required work and examinations.

(9) Providers must state in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.

(10) Courses submitted for approval must be sufficient in scope and content to justify the hours requested by the provider.

f. Requirements for paper and pencil home-study courses. The commission may approve paper and pencil home-study courses, subject to the following requirements:

(1) Courses must be arranged in chapter format and include a table of contents.

(2) Overview statements must be included for each chapter (a preview of the content of the chapter).

(3) Courses must be designed to ensure that student progress is evaluated at appropriate intervals. This assessment process shall measure what each student has learned and not learned at regular intervals throughout each module of the

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

course. Quizzes must be completed and returned to the provider to receive credit for the course.

(4) Final exams must contain a minimum of 30 questions for a three-hour course and 60 questions for a six-hour course.

(5) A passing score of 90 percent is required to receive credit for a course. There is no limit to the number of times a final exam may be taken to achieve a passing score.

(6) Licensees have six months from the date of purchase to complete all quizzes and assignments and to pass the final exam.

(7) Providers must include information that clearly informs the licensee of the course completion deadline, passing score required, chapter quiz completion requirements and any other relevant information regarding the course.

(8) Providers must state in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.

(9) Provider must retain a signed statement by the student that affirms that the student completed the required work and exams.

(10) Providers must be available to answer student questions or provide assistance as necessary during normal business hours.

(11) Courses submitted for approval must be sufficient in scope and content to justify the hours requested by the provider.

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

(1) and (2) No change.

~~f. to i. Rescinded IAB 7/3/96, effective 8/7/96.~~

ARC 9262A

REVENUE AND FINANCE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 421.17, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 6, "Organization, Public Inspection"; Chapter 11, "Administration"; Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest"; Chapter 38, "Administration"; Chapter 40, "Determination of Net Income"; Chapter 43, "Assessments and Refunds"; Chapter 51, "Administration"; Chapter 54, "Allocation and Apportionment"; Chapter 55, "Assessments, Refunds, Appeals"; Chapter 57, "Administration"; Chapter 59, "Determination of Net Income"; Chapter 63, "Administration"; Chapter 67, "Administration"; Chapter 68, "Motor Fuel and Undyed Special Fuel"; Chapter 81, "Administration"; Chapter 86, "Inheritance Tax"; Chapter 89, "Fiduciary Income Tax"; Chapter 103, "Hotel and Motel—Administration"; and Chapter 104, "Hotel and Motel—Filing Returns, Payment of Tax, Penalty, and Interest," Iowa Administrative Code.

These amendments reference rules in 701—Chapter 7, Division I, to the correct citation of such rules in 701—Chapter 7, Division II, which govern informal, formal, administrative, and judicial review procedures applicable to contested cases and other proceedings commenced on or after July 1, 1999. These amendments are proposed to implement changes in citation necessitated by Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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

There are no waiver provisions reflected in these rules because the Department lacks the statutory authority to grant waivers where rules are mainly an interpretation of statutes.

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 August 30, 1999, to the Policy Section, Compliance Division, 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 September 10, 1999. Such written comments should be directed to the Policy Section, Compliance Division, 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, 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 September 3, 1999.

These amendments are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

The following amendments are proposed.

ITEM 1. Amend rule 701—6.2(17A) as follows:

701—6.2(17A) Public inspection. Effective July 1, 1975, Iowa Code section 17A.3(1)"c" and "d" provides that the department shall index and make available for public inspection certain information. Pursuant to this requirement the department shall:

1. Make available for public inspection all rules;
2. Make available for public inspection and index by subject all written statements of law or policy, or interpretations formulated, adopted, or used by the department in the discharge of its functions;

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

3. Make available for public inspection and index by name and subject all final orders, decisions and opinions.

Section 17A.3(1)"c" and "d" also excepts certain matters from the public inspection requirement:

Except as provided by constitution or statute, or in the use of discovery or in criminal cases, the department shall not be required to make available for public inspection those portions of its staff manuals, instructions or other statements issued by the department which set forth criteria or guidelines to be used by its staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when the disclosure of such statements would: (1) enable law violators to avoid detection; or (2) facilitate disregard of requirements imposed by law; or (3) give a clearly improper advantage to persons who are in an adverse position to the state.

Identifying details which would clearly warrant an invasion of personal privacy or trade secrets will be deleted from any final order, decision or opinion which is made available for public inspection upon a proper showing by the person requesting such deletion as provided in 701—~~subrule 7.16(5)~~ *7.42(17A)*.

Furthermore, the department shall not make available for public inspection or disclose information deemed confidential under Iowa Code sections 422.20 and 422.72.

Unless otherwise provided by statute, by rule or upon a showing of good cause by the person filing a document, all information contained in any petition or pleading shall be made available for public inspection.

All information accorded public inspection treatment shall be made available for inspection in the office of the *Policy Section, Compliance Division,* Department of Revenue and Finance, P.O. Box ~~10460~~ *10457*, Des Moines, Iowa 50306, during established office hours.

These rules are intended to implement Iowa Code chapter 17A *as amended by 1998 Iowa Acts, chapter 1202.*

ITEM 2. Amend rule 701—6.4(17A) as follows:

701—6.4(17A) Copies of proposed rules. A trade or occupational association, which has registered its name and address with the department of revenue and finance, may receive, by mail, copies of proposed rules. Registration of the association's name and address with the department is accomplished by written notification to the ~~Deputy Director of Revenue and Finance, P.O. Box 10460,~~ *Administrator, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, Fourth Floor,* Des Moines, Iowa ~~50306~~ *50319*. In the written notification, the association must designate, by reference to rule 701—~~7.2(17A)~~ *7.36(421,17A)*, the type of proposed rules and the number of copies of each rule it wishes to receive. If the association wishes to receive copies of proposed rules not enumerated in rule 701—~~7.2(17A)~~ *7.36(421,17A)*, it may make a blanket written request at the time of registration or at any time prior to the adoption of such rules. A charge of 20 cents per single-sided page shall be charged to cover the actual cost of providing each copy of the proposed rule. In the event the actual cost exceeds 20 cents for a single-sided page, it will be billed accordingly.

This rule does not prevent an association which has registered with the department in accordance with this rule from changing its designation of types of proposed rules or number of copies of proposed rules which the association desires to receive. If an association makes such changed designation, it must do so by written notification to the ~~deputy director of revenue and finance~~ *Administrator, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, Fourth Floor, Des Moines, Iowa 50319.*

This rule is intended to implement Iowa Code section 17A.4 *as amended by 1998 Iowa Acts, chapter 1202.*

ITEM 3. Amend 701—6.5(17A) as follows:

701—6.5(17A) Regulatory flexibility analysis procedures. Any small business as defined in Iowa Code section 17A.31 or organization of small businesses which has registered its name and address with the department of revenue and finance shall receive by mail a copy or copies of any proposed rule which may have an impact on small business. Registration of the business's or organization's name and address with the department is accomplished by written notification to the ~~Deputy Director of Revenue and Finance, P.O. Box 10460,~~ *Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457,* Des Moines, Iowa 50306. In the written notification, the business or organization must state that it wishes to receive copies of rules which may have an impact on small business, the number of copies of each rule it wishes to receive, and must also designate, by reference to rule 701—~~7.2(17A)~~ *7.36(421,17A)*, the types of proposed rules it wishes to receive. If the small business or organization of small businesses wishes to receive copies of proposed rules not enumerated in rule 701—~~7.2(17A)~~ *7.36(421,17A)*, it may make a blanket written request at the time of registration or at any time prior to the adoption of the rules. A charge of 20 cents per single-sided page shall be imposed to cover the actual cost of providing each copy of the proposed rule. In the event the actual cost exceeds 20 cents for a single-sided page, it will be billed accordingly.

The administrative rules review committee, the governor, a political subdivision, at least 25 persons signing the request who qualify as a small business, or an organization representing at least 25 persons which is registered with the department as provided in this rule may request issuance of a regulatory flexibility analysis by writing to the ~~Director of Revenue and Finance, P.O. Box 10460,~~ *Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building,* Des Moines, Iowa ~~50306~~ *50319*. The request shall contain the following information: The name of the persons qualified as a small business and the name of the small business or the name of the organization as stated in its request for registration and an address; if a registered organization is requesting the analysis, a statement that the registered organization represents at least 25 persons; the proposed rule or portion of the proposed rule for which a regulatory flexibility analysis is requested; the factual situation which gives rise to the business's or organization's difficulties with the proposed rule; any of the methods for reducing the impact of the proposed rule on small business contained in Iowa Code section 17A.31(4) which may be particularly applicable to the circumstances; the name, address and telephone number of any person or persons knowledgeable regarding the difficulties which the proposed rule poses for small business and other information as the business or organization may deem relevant.

This rule is intended to implement Iowa Code sections 17A.31 to 17A.33 *as amended by 1998 Iowa Acts, chapter 1202.*

ITEM 4. Amend subrules 11.6(2) and 11.6(3) as follows:

11.6(2) Notice of assessment. If, after following the procedure outlined in subrule 11.6(1), paragraph "b," no agree-

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

ment is reached and the person does not pay the amount determined to be correct, a notice of the amount of tax due shall be sent to the person responsible for paying the tax. This notice of assessment shall bear the signature of the director and will be sent by mail.

If the notice of assessment is timely protested according to the provisions of rule 701—~~7.8(17A)~~ *7.41(17A)*, proceedings to collect the tax will not be commenced until the protest is ultimately determined, unless the department has reason to believe that a delay caused by the appeal proceedings will result in an irrevocable loss of tax ultimately found to be due and owing the state of Iowa. The department will consider a protest to be timely if filed no later than 30 days following the date of assessment notice. See rule 701—7.4(17A). For notices of assessment issued on or after January 1, 1995, the department will consider a protest to be timely if filed no later than 60 days following the date of the assessment notice or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—~~7.8~~ *7.41*(17A) and file a refund claim within the period provided by law for filing such claims.

11.6(3) Supplemental assessments and refund adjustments. The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—~~7.8(17A)~~ *7.41(17A)*) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

ITEM 5. Amend rule 701—12.9(422), excluding the examples, as follows:

701—12.9(422) Claim for refund of tax. Refunds of tax shall be made only to those who have actually paid the tax. A person or persons may designate the retailer who collects the tax as an agent for purposes of receiving a refund of tax. A person or persons who claim a refund shall prepare the claim on the prescribed form furnished by the department.

A claim for refund shall be filed with the department, stating in detail the reasons and facts and, if necessary, supporting documents for which the claim for refund is based. See 1968 O.A.G. 879. If the claim for refund is denied, and the person wishes to protest the denial, the department will consider a protest to be timely if filed no later than 30 days following the date of denial. See rule 701—~~7.8~~ *7.41*(17A). For refunds denied on or after January 1, 1995, the department will consider a protest to be timely if filed no later than 60 days following the date of denial.

When a person is in a position of believing that the tax, penalty, or interest paid or to be paid will be found not to be due at some later date, then in order to prevent the statute of limitations from running out, a claim for refund or credit must be filed with the department within the statutory period provided for in Iowa Code section 422.73(1). The claim must be filed requesting that it be held in abeyance pending the outcome of any action which will have a direct effect on the tax, penalty or interest involved. Nonexclusive examples of such action would be: court decisions, departmental orders and rulings, and commerce commission decisions.

ITEM 6. Amend rule 701—38.7(422) as follows:

701—38.7(422) Power of attorney. For information regarding power of attorney, see rule 701—7.34(421) *and 7.38(421,17A)*.

ITEM 7. Amend rule 701—38.11(422) as follows:

701—38.11(422) Appeals of notices of assessment and notices of denial of taxpayer's refund claims. A taxpayer may appeal to the director at any time within 60 days from the date of the notice of assessment of tax, additional tax, interest, or penalties. For assessments issued on or after January 1, 1995, if a taxpayer fails to timely appeal a notice of assessment, the taxpayer may pay the entire assessment and file a refund claim within the period provided by law for filing such claims. In addition, a taxpayer may appeal to the director at any time within 60 days from the date of notice from the department denying changes in filing methods, denying refund claims, or denying portions of refund claims. See rule 701—~~7.8~~ *7.41*(17A) for information on filing appeals or protests.

This rule is intended to implement Iowa Code sections 421.10 and 422.28 ~~and 1994 Iowa Acts, chapter 1133, section 1~~.

ITEM 8. Amend subrule **701—40.46(4)**, third unnumbered paragraph, as follows:

If the department rejects the team member's use of the alternative method, the team member may file a protest within 60 days of the date of the department's letter of rejection. The nonresident team member's protest of the department's rejection of the alternate formula must be made in accordance with rule 701—~~7.8~~ *7.41*(17A) and must state, in detail, why the method provided in this rule is not equitable, as well as why the alternative method for allocation of the compensation is more equitable than the method set forth in this rule.

ITEM 9. Amend rule **701—43.2(422)**, second unnumbered paragraph, as follows:

If an assessment or refund adjustment is appealed (protested under rule 701—~~7.8~~ *7.41*(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation. Nothing in this rule shall prevent the making of an assessment or refund adjustment for the purpose of taking into account the impact upon Iowa net income of federal audit adjustments.

ITEM 10. Amend rule 701—51.2(422) as follows:

Amend subrule **51.2(1)**, paragraph **"h,"** as follows:

h. The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—~~7.8~~ *7.41*(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation. Nothing in this rule shall prevent the making of an assessment or refund adjustment for the purpose of taking into account the impact upon Iowa net income of federal audit adjustments.

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

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code ~~section 422.30 and Iowa Code Supplement sections 422.25 and 422.35~~ *sections 422.25, 422.30 and 422.35*.

ITEM 11. Amend rule 701—51.8(422) as follows:

701—51.8(422) Power of attorney. For information regarding power of attorney, see rule 701—7.34(421) *and 7.38(421,17A)*.

ITEM 12. Amend subrule **54.6(1)**, paragraph **"f,"** last unnumbered paragraph, as follows:

If the taxpayer disagrees with the determination of the department, the taxpayer may file a protest within 60 days of the date of the letter setting forth the department's determination and the reasons therefor in accordance with rule 701—~~7.8~~ *7.41*(17A). The department's determination letter shall set forth the taxpayer's rights to protest the department's determination.

ITEM 13. Amend rule **701—54.9(422)**, eighth unnumbered paragraph, as follows:

If the taxpayer disagrees with the determination of the department, the taxpayer may file a protest within 60 days of the date of the letter setting the department's determination and the reasons therefor in accordance with rule 701—~~7.8~~ *7.41*(17A). The department's determination letter shall set forth the taxpayer's rights to protest the department's determination.

ITEM 14. Amend rule 701—55.4(422), introductory paragraph, as follows:

701—55.4(422) Abatement of tax. Iowa Code section 422.28 provides that a taxpayer may appeal to the director within ~~90 days, or~~ 60 days ~~for assessments issued on or after July 1, 1986,~~ *from the date of the assessment* any portion of tax, penalties or interest assessed against the taxpayer. If a taxpayer fails to appeal the assessment within the statutory period, the assessment becomes fixed as a matter of law. Iowa Department of Revenue v. Ingwersen, Des Moines County District Court, Case No. 17623, February 22, 1973; Commonwealth v. Kettenacker, 335 S.W. 2d 339 (Ky.); Heasley v. Engen, 124 N.W. 2d 398 (N.D.). If, however, the statutory period for appeal has expired, the director may abate any portion of tax, penalties or interest assessed which the director determines is excessive in amount or erroneously or illegally assessed. However, for notices of assessment issued on or after January 1, 1995, see rule 701—7.31(421) *and 7.38(421,17A)*.

ITEM 15. Amend rule 701—57.2(422) as follows:

Amend subrule **57.2(1)**, paragraph **"h,"** as follows:

h. The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—~~7.8~~ *7.41*(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation. Nothing in this rule shall prevent the making of an assessment or refund adjustment for the purpose of taking into account the impact upon Iowa net income of federal audit adjustments.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ sections 422.25 and 422.66.

ITEM 16. Amend rule **701—59.29(422)**, eighth unnumbered paragraph, as follows:

If the taxpayer disagrees with the determination of the department, the taxpayer may file a protest within 60 days of the date of the letter setting the department's determination and the reasons therefor in accordance with rule 701—~~7.8~~ *7.41*(17A). The department's determination letter shall set forth the taxpayer's rights to protest the department's determination.

ITEM 17. Amend rule **701—63.2(452A)**, second unnumbered paragraph, as follows:

If the assessment or refund adjustment is appealed (protested under rule 701—~~7.8~~ *7.41*(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

ITEM 18. Amend rule 701—63.22(452A) as follows:

701—63.22(452A) Time for filing protest. Any person wishing to contest an assessment, denial of all or any portion of a refund claim, or any other department action, except licensing, which may culminate in a contested case proceeding, shall file a protest with the ~~administrative law judge~~ *clerk of the hearings section for the department* pursuant to rule 701—~~7.8~~ *7.41*(17A) within 30 days of the issuance of the assessment, denial, or other department action contested. For notices of assessment or refund denial issued on or after January 1, 1995, the department will consider a protest to be timely filed if filed no later than 60 days following the date of the assessment notice or refund denial, or if a taxpayer failed to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—~~7.8~~ *7.41*(17A) and file a refund claim within the period provided by law for filing such claims.

This rule is intended to implement Iowa Code section 452A.64 ~~as amended by 1994 Iowa Acts, House File 2419~~.

ITEM 19. Amend rule **701—67.2(452A)**, second unnumbered paragraph, as follows:

If the assessment or refund adjustment is appealed (protested under rule 701—~~7.8~~ *7.41*(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

ITEM 20. Amend rule 701—67.20(452A) as follows:

701—67.20(452A) Time for filing protest. Any person wishing to contest an assessment, denial of all or any portion of a refund claim, or any other department action, except licensing, which may culminate in a contested case proceeding, must file a protest with the ~~administrative law judge~~ *clerk of the hearings section for the department* pursuant to rule 701—~~7.8~~ *7.41*(17A) within 60 days of the issuance of the assessment, denial, or other department action contested. If a taxpayer failed to timely appeal a notice of assessment, the taxpayer may make payments pursuant to rule 701—~~7.8~~

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

7.41(17A) and file a refund claim within the period provided by law for filing claims.

ITEM 21. Amend rule 701—67.23(452A) as follows:

Amend subrules 67.23(3) and 67.23(4) as follows:

67.23(3) Denial of a license. The department may deny a license to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax and will deny a permit of an individual if the department has received a certificate of noncompliance from the child support recovery unit in regard to an individual. If the applicant is a partnership, a license may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a license is a corporation, the department may deny the applicant a license if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the applicant corporation. See rule 701—13.16(422) for a characterization of the terms "tax administered by the department" and "substantially delinquent" in paying a tax. If the application for a license is denied, see rule 701—~~7.24~~ *7.55*(17A) for rights to appeal.

67.23(4) Revocation of a license. The department may revoke the license of any licensee who becomes substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax and will revoke a permit of an individual if the department has received a certificate of noncompliance from the child support recovery unit in regard to an individual. If a licensee is a corporation, the department may revoke the license if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the applicant corporation. If the licensee is a partnership, the license may not be revoked for a partner's substantial delinquency in paying any tax, penalty, or interest which is not a liability of the partnership. See rule 701—13.16(422) for characterizations of the terms "tax administered by the department" and "substantially delinquent" in paying a tax. The department may also revoke the license of any licensee who abuses the privileges for which the license was issued, who files a false report, or who fails to file a report (including supporting schedules), pay the full amount of tax due, produce records requested, or extend cooperation to the department. See rule 701—~~7.24~~ *7.55*(17A) for rights to appeal.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code sections 452A.4 and 452A.6 ~~as amended by 1995 Iowa Acts, chapter 155~~.

ITEM 22. Amend rule 701—68.11(452A) as follows:

701—68.11(452A) Revocation of refund permit. The following violations will result in the revocation of the permit: (1) using a false or altered invoice in support of a claim, (2) making a false statement in a claim for refund or in response to an investigation by the department of a claim for refund, (3) refusal to submit the claimant's books and records for examination by the department, and (4) nonuse for a period of one year. If the permit is revoked for reasons (1), (2), or (3) above, the permit will not be reissued for a period of at least one year. If the permit is revoked for reason (4) above, the permit will be reissued upon proper application. (See rule 701—~~7.24~~ *7.55*(17A) for revocation procedure.)

This rule is intended to implement Iowa Code section 452A.19.

ITEM 23. Amend rule **701—81.6(453A)**, third unnumbered paragraph, as follows:

If an assessment or refund adjustment is appealed (protested under rule 701—~~7.8~~ *7.41*(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

ITEM 24. Amend rule 701—81.11(453A) as follows:

Amend subrule 81.11(2) as follows:

81.11(2) Appeals—time limitations. For assessments or denials of refund claims made on or after July 1, 1987. An assessment or denial of all or any portion of a refund claim issued pursuant to Iowa Code section 453A.28 or 453A.46 may be appealed pursuant to rule 701—~~7.8~~ *7.41*(17A) and the protest must be filed within 30 days of the issuance of the assessment or denial of the refund claim. For notices of assessment or refund denial issued on or after January 1, 1995, the department will consider a protest to be timely filed if filed no later than 60 days following the date of the assessment notice or refund denial, or if the taxpayer failed to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—~~7.8~~ *7.41*(17A) and file a refund claim within the period provided by law for filing such claims.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code chapter 17A *as amended by 1998 Iowa Acts, chapter 1202,* and sections 453A.25, ~~and~~ 453A.28~~,~~ ~~sections~~ 453A.29, 453A.46, ~~and~~ 453A.48, ~~as amended by 1994 Iowa Acts, House File 2419,~~ and ~~section~~ 453A.49.

ITEM 25. Amend rule 701—81.12(453A) 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~~ *7.55*(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 recovery 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, chapter 115,~~ *Iowa Code chapter 252J* to revoke the permit of any retailer, who is an individual, if the board or council has received a certificate of noncompliance from the

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

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~~ *7.55*(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~~ *who* 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, chapter 115~~ *Iowa Code chapter 252J*.

ITEM 26. Amend subrule 86.3(4) as follows:

86.3(4) Supplemental assessments and refund adjustments. The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—~~7.8~~ *7.41*(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

ITEM 27. Amend rule 701—89.11(422) as follows:

701—89.11(422) Appeals to the director. An estate or trust has the right to appeal to the director for a revision of an assessment for additional tax due, the denial or reduction of a claim for refund, the denial of a request for a waiver of a penalty and the denial of a request for an income tax certificate of acquittance. The beneficiary of an estate or trust has the right to appeal a determination of the correct amount of income distributed and a determination of the correct allocation of deductions, credits, losses and expenses between the estate or trust and the beneficiary. The personal representative of an estate and the trustee of a trust have the right to appeal a determination of personal liability for income taxes required to be paid or withheld and for a penalty personally assessed. An appeal to the director must be in writing and must be made within 60 days of the notice of assessment and the other matters which are subject to appeal or for assessments issued on or after January 1, 1995, if the beneficiary of an estate or trust, the personal representative of an estate, or the trustee of a trust fails to timely appeal a notice of assessment, the person may pay the entire assessment and file a refund claim within the period provided by law for filing such claims. 701—Chapter 7 shall govern appeals to the director. See specifically rules 701—~~7.8~~ *7.41*(17A) to ~~7.23~~ *7.54*(17A) governing taxpayer protests.

~~These rules are~~ *This rule is* intended to implement Iowa Code ~~section~~ *chapter 17A as amended by 1998 Iowa Acts, chapter 1202 and sections 421.60 and* 422.28 ~~and chapter 17A and 1994 Iowa Acts, chapter 1133, section 1~~.

ITEM 28. Amend rule **701—103.2(422A)**, third unnumbered paragraph, as follows:

If an assessment or refund adjustment is appealed (protested under rule 701—~~7.8~~ *7.41*(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

ITEM 29. Amend subrule 103.6(2) as follows:

103.6(2) Notice of assessment. If, after following the procedure outlined in subrule 103.6(1)"b," no agreement is reached and the person does not pay the amount determined to be correct within 20 days, a notice of the amount of tax due shall be sent to the person responsible for paying the tax. This notice of assessment shall bear the signature of the director and will be sent by mail.

If the notice of assessment is timely protested according to the provisions of rule 701—~~7.8~~ *7.41*(17A) and Iowa Code subsection 422.54(2), proceedings to collect the tax will not be commenced until the protest is ultimately determined, unless the department has reason to believe that a delay caused by such appeal proceedings will result in an irrevocable loss of tax ultimately found to be due and owing the state of Iowa. The department will consider a protest to be timely if filed no later than ~~30~~ *60* days following the date of the assessment notice. See rule 701—~~7.8~~ *7.41*(17A).

ITEM 30. Amend rule 701—104.6(422A) as follows:

701—104.6(422A) Claim for refund of tax. Refunds of tax shall be made only to those who have actually paid the tax. A person or persons may designate the retailer to collect the tax as an agent for purposes of receiving a refund of tax. Anyone claiming a refund shall prepare the claim on the prescribed form furnished by the department.

A claim for refund shall be filed with the department within five years from the date the tax became due or one year from the date of payment, whichever is later, stating in detail the reasons and facts and, if necessary, attaching supporting documents ~~for~~ *on* which the claim for refund is based. If the claim for refund is denied, and the person wishes to protest the denial, the department will consider a protest to be timely if filed no later than ~~thirty (30)~~ *60* days following the date of denial. See rule 701—~~7.8~~ *7.41*(17A).

This rule is intended to implement Iowa Code sections 422.73 and 422A.1.

NOTICE—USURY

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

July 1, 1998 — July 31, 1998	7.75%
August 1, 1998 — August 31, 1998	7.50%
September 1, 1998 — September 30, 1998	7.50%
October 1, 1998 — October 31, 1998	7.25%
November 1, 1998 — November 30, 1998	6.75%
December 1, 1998 — December 31, 1998	6.50%
January 1, 1999 — January 31, 1999	6.75%
February 1, 1999 — February 28, 1999	6.75%
March 1, 1999 — March 31, 1999	6.75%
April 1, 1999 — April 30, 1999	7.00%
May 1, 1999 — May 31, 1999	7.25%
June 1, 1999 — June 30, 1999	7.25%
July 1, 1999 — July 31, 1999	7.50%
August 1, 1999 — August 31, 1999	8.00%

ARC 9266A

UTILITIES DIVISION[199]

Notice of Oral Presentation

The Utilities Board (Board) hereby gives notice that on July 15, 1999, the Board issued an order in Docket No. INU-99-3, In Re: U S WEST Communications, Inc., "Order Initiating Formal Notice and Comment Proceeding," pursuant to Iowa Code section 476.1D, to consider whether local exchange telecommunications services should be deregulated in certain areas where two facilities-based providers are alleged to be competing.

On May 25, 1999, U S WEST Communications, Inc. (U S West), filed a petition asking the Board to determine that certain portions of U S West's existing local exchange service area have become subject to effective competition and should be deregulated. U S West calls these areas "competitive zones." Pursuant to Iowa Administrative Code 199—subrule 5.3(1), the Board is initiating a formal notice and comment proceeding to determine whether all telecommunications services offered within the alleged competitive zones are subject to effective competition and should be deregulated. U S West's petition provides indications the criteria for effective competition in Iowa Administrative Code 199—subrule 5.6(1) may be met, including availability of comparable services from a choice of suppliers, inability of a single provider to determine or control prices, ease and likelihood of entry, and substitutability of one provider's service for another. The petition makes a sufficient initial showing of competition to justify these proceedings.

In order to ensure an adequate record is made in this proceeding, the Board asks all participants to, at a minimum, respond to the following questions:

1. What should constitute a "competitive zone"?
2. What (if any) specific criteria, beyond those listed in 199 IAC 5.6(1), should be used to determine whether a geographic area is subject to effective competition?
3. What (if any) communications services or facilities should the Board deem to be essential under Iowa Code section 476.1D(5) and 199 IAC 5.6(2)? What additional criteria beyond those listed in 199 IAC 5.6(2), if any, should the Board consider when determining whether a service or facility is essential?
4. What essential communications services or facilities warrant retention of service regulation, even if the Board concludes the rates should be deregulated?
5. What revisions to 199 IAC 5 are necessary or appropriate to accommodate deregulation on a less-than-statewide basis?

While the Board asks all participants to respond to each of these questions, the Board is not limiting statements to these issues. Each participant is free to include in its statement any information the participant believes to be relevant to the matter before the Board.

Copies of the Board's complete order initiating formal notice and comment proceedings may be obtained from the Board by calling (515)281-6240 or accessing the Board's Web site at http://www.state.ia.us/iub.

Any interested person may file, on or before September 10, 1999, a statement of position concerning deregulation of the listed services. Statements of position must substantially comply with 199 IAC 2.2(2). Ten copies must be filed with the original. All written statements should clearly state the author's name and address and should make specific reference to Docket No. INU-99-3.

Any person filing a statement of position may file a counterstatement replying to the comments of other participants no later than September 28, 1999. Ten copies must be filed with the original and copies must be served upon all participants filing statements to which the counterstatement responds. Counterstatements must substantially comply with 199 IAC 2.2(3).

All statements and counterstatements shall be sworn and directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

An oral presentation is scheduled, pursuant to 199 IAC 5.3(4) and 199 IAC 5.5(476), for the purpose of taking sworn testimony concerning the statements and counterstatements. The oral presentation shall be held October 12, 1999, beginning at 10 a.m. in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. All persons filing written statements shall have at least one witness available at the oral presentation who may be cross-examined on the subject matter of the written statement. Cross-examination may be by the Board, the Consumer Advocate Division of the Department of Justice, and other participants as the Board may deem appropriate to develop the record fully. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

ARC 9272A

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 476.1 and 476.2, the Utilities Board (Board) gives notice that on July

UTILITIES DIVISION[199](cont'd)

23, 1999, the Board issued an order in Docket No. RMU-99-6, Rule-Making Procedures, "Order Commencing Rule Making," to receive public comment on the adoption of revisions to the Board's existing rule-making procedures. The Board proposes to revise its existing procedures to reflect certain changes required by amendments to the Iowa Administrative Procedure Act, 1998 Iowa Acts, chapter 1202.

The Board previously conducted a rule-making inquiry, identified as Uniform Rules On Agency Procedure, Docket No. RMU-99-2, in which the Board sought public comment concerning the possible adoption of the state's uniform rule-making procedures. The comments received did not support adoption of the uniform rules; instead, they favored minimal modification of the Board's existing rules to accommodate the statutory changes. The Board is proposing to adopt the approach favored by the public comments, that is, modification of its existing rules.

The Board is proposing to revise and update all of its rule-making procedures. As a part of that process, various editorial and grammatical changes are proposed that do not affect the substance of the rules. The changes are intended to simplify the rules and make the language more consistent. In this proceeding, the Board invites comment on any part of its rule-making procedures, including but not limited to the changes proposed in this proceeding.

Waiver of rules can be considered to be a part of rule making. The Board's existing general waiver rule, 199 IAC 1.3(17A,474), permits the Board to waive any of its rules "to prevent undue hardship to a party to a proceeding." The term "party" is defined in 199 IAC 7.2(7) in terms of "complainants, petitioners, applicants, respondents, and intervenors." These categories may fail to accommodate all of the persons for whom a waiver may be appropriate. For example, an objector in a pipeline permit proceeding may seek a waiver of a filing requirement; the objector may not be a "party" as that term is defined, but the waiver may be perfectly appropriate because the purpose of the rule in question will not be served if it is enforced as to the objector. Because the definition of "party" may be unduly restrictive in this context, the Board is proposing to amend its waiver rule to permit waiver of any rule in appropriate circumstances.

The first proposed substantive amendment to the Board's rule-making procedures is the addition of a new rule providing for notices of inquiry, by which the Board may seek public comment on the subject matter of possible future rule-making activities. The Board has conducted numerous such proceedings in the past but does not have a rule explicitly providing for inquiry proceedings.

The second proposed substantive amendment is the addition of a new subrule relating to fiscal impact statements pursuant to Iowa Code section 25B.6 and providing for issuance of such statements when appropriate.

The third proposed substantive amendment is the addition of a rule explaining when, and to what extent, the Board may adopt rules that vary from the proposed rules contained in the Notice of Intended Action. This may occur in various situations recognized by Iowa law, such as differences that are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in the Notice.

The Board is proposing to delete its existing rule providing for regulatory flexibility analyses and to adopt new procedures for regulatory analysis. This reflects the repeal of Iowa Code section 17A.31 in 1998 Iowa Acts, chapter 1202, section 45, and the addition of section 17A.4A in 1998 Iowa Acts, chapter 1202, section 10. The new rules provide that the schedule for a rule-making proceeding will automatically be extended when a timely written request for a regulatory analysis is filed, to permit the Board time to prepare the analysis before public comment is received on the rules in question.

Finally, the proposed amendments include a new provision for review of the Board's existing rules upon the request of the administrative rules coordinator, as required by the revised statute.

Any interested person may file a written statement of position on the proposed amendments no later than September 3, 1999, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendments will be held at 10 a.m. on September 15, 1999, in the Board's hearing room at the address listed above.

These amendments are intended to implement Iowa Code section 476.2.

The following amendments are proposed.

ITEM 1. Rescind 199 IAC 1.3(17A,474) and adopt the following new rule in lieu thereof:

199—1.3(17A,474) Waiver of any rule. The board may, on its own motion or at the request of any party, waive any of its rules for good cause shown, unless otherwise provided by law.

ITEM 2. Amend 199 IAC 3 as follows:

CHAPTER 3
RULE MAKING

199—3.1(17A,474) Purpose and scope.

3.1(1) In general. These rules shall govern the practice and procedure in all rule-making proceedings of the Iowa utilities board (board).

3.1(2) Rules of construction. If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.

3.1(3) Waiver. The board may waive the application of any of these rules pursuant to 199 IAC 1.3(17A,474).

3.1(4) Forms and filing requirements. All rule-making filings shall substantially comply with the forms prescribed in 199 IAC 2.2(17A,474). All filings shall include an original and ten copies.

199—3.2(17A,474) Notice of inquiry. In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rule making by the board by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

199—3.2 3(17A,474) Petition for adoption of rules.

~~3.2(1) Petitioner.~~ Any interested person may petition the board for the adoption, amendment, or repeal of a rule.

~~3.2(2) Form of petition. A petition for rule making shall substantially comply with the form prescribed in 199—subrule 2.2(1). The original and ten copies of the petition shall be filed with the board.~~

~~This rule is intended to implement Iowa Code section 476.2.~~

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199—3.3 *4*(17A,474) Commencement of proceedings.

3.3 *4*(1) Commenced by order. Rule-making proceedings shall be commenced only upon written order of the board. The board may commence a rule-making proceeding by order upon its own motion or upon the filing of a petition for rule making by any interested person.

3.3 *4*(2) Board action on petition. Within 60 days after the filing of a petition for rule making, the board shall either deny the petition by written order on the merits, stating the reasons therefor, commence by written order a rule-making proceeding, or adopt by written order a rule pursuant to Iowa Code section 17A.4(2).

3.3 *4*(3) Notice of rule making. Upon the commencement by written order of a rule-making proceeding, the board shall~~, if required by law,~~ cause the required notice of the proceeding to be published in the Iowa Administrative Bulletin.

3.4(4) Fiscal impact statement. Pursuant to Iowa Code section 25B.6, a proposed rule that mandates additional combined expenditures exceeding $100,000 by all affected political subdivisions, or agencies and entities which contract with political subdivisions to provide services, shall be accompanied by a fiscal impact statement outlining the costs associated with the proposed rule. If the board determines at the time it adopts a rule that the earlier fiscal impact statement contains errors or that a fiscal impact statement should have been prepared but was not, the board will issue a corrected or delayed fiscal impact statement.

199—3.~~4~~ *5*(17A,474) Written statements of position.

3.~~4~~ *5*(1) Persons. Any interested person may file a written statement of position containing data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of a rule.

3.~~4~~ *5*(2) Filing. The time period~~, as directed by the board,~~ for filing ~~of~~ written statements of position shall be not less than 20~~, nor more than 30~~ calendar days after publication of the notice of rule making in the Iowa Administrative Bulletin. If the publication of a notice of rule making is not required by law, written statements of position may be filed as authorized by the board.

~~3.4(3) Form of written statement of position. A written statement of position shall substantially comply with the form prescribed in 199—subrule 2.2(2). The original and ten copies of a written statement of position shall be filed with the board.~~

3.~~4~~ *5*(~~4~~ *3*) Service. Written statements of position shall be served by the author upon the petitioner, if any, *and consumer advocate* at the time of filing.

~~This rule is intended to implement Iowa Code section 476.2.~~

199—3.5 *6*(17A,474) Counterstatements of position.

3.5 *6*(1) Petitioner. The petitioner, if any, may file a counterstatement of position with the board in response to written statements of position.

3.5 *6*(2) Filing. Counterstatements of position, if any, shall be filed with the board *prior to the oral presentation or, if no oral presentation is scheduled,* not later than 15 calendar days after the petitioner's receipt of the written statement of position to which the petitioner is responding.

~~3.5(3) Form of counterstatements of position. A counterstatement of position shall substantially comply with the form prescribed in 199—subrule 2.2(3). The original and ten copies of a counterstatement of position shall be filed with the board.~~

3.5 *6*(~~4~~ *3*) Service. Counterstatements of position shall be served by the petitioner at the time of filing upon the authors of written statements of position to which the petitioner is responding *and to consumer advocate.*

~~This rule is intended to implement Iowa Code section 476.2.~~

199—3.~~6~~ *7*(17A,474) Requests for oral presentation. *If an oral presentation is not scheduled by the board on its own motion, any interested person may file a request for an oral presentation.*

3.~~6~~ *7*(1) Filing. The time period, as directed by the board, for filing of requests for oral presentation shall be not less than 20~~, nor more than 30~~ calendar days after the publication of the notice of rule making in the Iowa Administrative Bulletin.

~~3.6(2) Form of requests for oral presentation. A request for oral presentation shall substantially comply with the form prescribed in 199—subrule 2.2(4). The original and ten copies of a request for oral presentation shall be filed with the board.~~

3.~~6~~ *7*(~~3~~ *2*) Action on proper request. Within 15 calendar days of the filing of a request for oral presentation, the board shall determine if the request is in accordance with Iowa Code section 17A.4. If the board determines that the request complies with section 17A.4, the board shall by written order schedule oral presentation on the rule making and shall cause a notice of the oral presentation to be published in the Iowa Administrative Bulletin. The notice shall state the date, time, and place of the oral presentation and shall briefly describe the subject matter of the rule-making proceeding. The oral presentation on the rule making shall be not less than ten calendar days after the publication of the notice. The board shall serve a similar notice on the party requesting oral presentation, *on any other persons filing written comments,* and on the petitioner, if any.

3.~~6~~ *7*(~~4~~ *3*) Action on improper request. If the board determines that a request for oral presentation does not comply with Iowa Code section 17A.4, it may by written order deny such request stating the reasons therefor, or it may, in its discretion, grant the request and schedule *an* oral presentation ~~in accordance with the procedures hereinbefore prescribed~~.

3.~~6~~ *7*(~~5~~ *4*) Action on own motion. The board may, on its own motion, schedule *an* oral presentation on the rule making ~~in accordance with the procedures hereinbefore prescribed~~.

~~This rule is intended to implement Iowa Code section 476.2.~~

199—3.~~7~~ *8*(17A,474) Rule-making oral presentation.

3.~~7~~ *8*(1) Written appearance. ~~Upon the filing of a written appearance, any~~ *Any* interested person may participate in rule-making oral presentations in person or by counsel. A written appearance ~~shall~~ *may* be filed not less than five calendar days prior to oral presentation. ~~The board may, in its discretion, waive the filing of a written appearance as a condition precedent to participation in said oral presentation. The general counsel shall not be required to file a written appearance.~~

~~3.7(2) Form of written appearance. A written appearance shall substantially comply with the form prescribed in 199—subrule 2.2(15). The original and ten copies of a written appearance shall be filed with the board.~~

3.~~7~~ *8*(~~3~~ *2*) Oral presentations. Participants in rule-making oral presentations may submit exhibits and present oral statements of position which may include data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of the rule. Participants shall not be required to take an oath and shall not be subject to cross-

examination.~~, provided however, that the~~ *The* board may, in its discretion, permit the questioning of participants by any interested person, ~~and provided further, that~~ *but* no participant shall be required to answer any question.

~~3.7~~*8*(~~4~~*3*) Rebuttal and limitations. The board may, in its discretion, permit rebuttal statements of position and request the filing of written statements of position subsequent to the adjournment of the rule-making oral presentation. The board may limit the time of any oral presentation and the length of any written presentation.

~~This rule is intended to implement Iowa Code section 476.2.~~

~~199—3.8~~ *9*(17A,474) **Rule-making decisions.**

~~3.8~~ *9*(1) Adoption, amendment, or repeal. The board shall by written order adopt, amend, or repeal the rule pursuant to the rule-making proceeding, or dismiss the proceeding in accordance with Iowa Code section 17A.4. *The written order shall include a preamble to the adopted rules explaining the principal reasons for the action taken and, if applicable, a brief explanation of any decision not to permit waiver of the adopted rules.* The board may, by order, specify the effective date of the adoption, amendment, or repeal of the rule.

3.9(2) Variance between adopted rule and proposed rule. The board may adopt a rule that differs from the rule proposed in the Notice of Intended Action in the following situations:

a. The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in the Notice;

b. The differences are a logical outgrowth of the contents of the Notice and the comments submitted in response thereto;

c. The Notice indicated that the outcome of the rule making could be the rule in question;

d. The differences are so insubstantial as to make additional notice and comment proceedings unnecessary; or

e. As otherwise permitted by law.

~~3.8~~ *9*(~~2~~*3*) Statements. Upon the adoption, amendment, or repeal of a rule or termination of a rule-making proceeding, and if timely written request is filed by any interested person *pursuant to Iowa Code section 17A.4(1)"b,"* the board shall, *within 35 days of the request,* issue a formal written statement of the principal reasons for and against the adoption, amendment, or repeal of the rule, or termination of the rule-making proceeding, including the reasons why the board overruled the positions in opposition to the board's decision. ~~A request for statement shall substantially comply with the form prescribed in 199—subrule 2.2(5).~~

~~199—3.9(17A,474) Regulatory flexibility analysis.~~

~~3.9(1) For purposes of these rules "small business" shall have the same definition as in Iowa Code section 17A.31(1).~~

~~3.9(2) Published notice of small business impact. If the board proposes a rule which may have an impact on small business, the notice of intended action shall expressly recite this possibility and describe the procedure to be followed for making a timely request for a regulatory flexibility analysis to the board.~~

~~3.9(3) Registration for the small business impact list. Small businesses or small business organizations as defined in Iowa Code section 17A.31 may register to be included on the board's small business impact list by making a specific, written request addressed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319. The request for registration shall state:~~

~~a. The name of the small business or small business organization.~~

~~b. Its address.~~

~~c. The name of a person authorized to transact business for the requesting party.~~

~~d. A description of the requesting party's business or its organizational purposes.~~

~~The board may request additional information from the applicant to determine whether the applicant is qualified as a small business or a small business organization. The board will send a letter every year to each small business or small business organization on the list asking whether the small business or organization wishes to remain on the list. The name of the small business or organization will be removed from the list if a negative response is received or if no response is received within one month after the letter is sent.~~

~~3.9(4) Mailed notice of small business impact. Prior to the publication of a notice of intended action described in subrule 3.9(2), the board shall notify small businesses or small business organizations on the small impact list, by ordinary first-class mail, of the changes it proposes to make to its rules. In the case of a rule made effective under Iowa Code section 17A.4(2) or 17A.5(2)"b," the board shall provide mailed notice to small businesses or small business organizations on the small business impact list within seven days after publication of the rule.~~

~~3.9(5) Request for regulatory flexibility analysis. Requests for regulatory flexibility analysis to reduce the impact of a rule on small business may be made within 20 days after the publication of the notice of intended action.~~

~~a. The board shall entertain a request for a regulatory flexibility analysis from:~~

~~(1) The governor.~~

~~(2) The administrative rules review committee.~~

~~(3) A political subdivision of the state.~~

~~(4) Twenty-five or more persons who sign the request, provided that each represents a different small business.~~

~~(5) An organization registered on the small business impact list which represents at least 25 persons.~~

~~b. A request for a regulatory flexibility analysis should specify the proposed rule or portion of the proposed rule for which the analysis is requested.~~

~~c. Upon the receipt of a timely valid request for a regulatory flexibility analysis, the board shall consider whether it may reduce the impact of the proposed rule on small business by considering each of the following methods:~~

~~(1) Establishing less stringent compliance or reporting requirements.~~

~~(2) Establishing less stringent schedules or deadlines for compliance or reporting requirements.~~

~~(3) Consolidating or simplifying compliance or reporting requirements.~~

~~(4) Replacing design or operational standards with performance standards.~~

~~(5) Exempting small business from any or all rule requirements.~~

~~(6) Considering the nature and cost of preparation of any required reports weighed against the benefits to be gained from such reports.~~

~~(7) Considering the nature and estimated cost of measures or investments required of small business for compliance, weighed against the benefits to be gained.~~

~~(8) Considering the nature and estimated cost of professional, legal, consulting or accounting services incurred for compliance, weighed against the benefits to be gained.~~

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~~(9) Considering the probable cost to the board or any other agency of the implementation and enforcement of the rule and its anticipated effect on state revenue.~~

~~(10) Comparing the possible cost and benefits which would accrue from a proposed rule as opposed to the probable effect of inaction.~~

~~(11) Determining whether the purposes sought by the board might be achieved by other less costly or less intrusive methods.~~

~~(12) Describing alternative methods seriously considered by the board, and the reasons that such methods were rejected in favor of the proposed rule.~~

~~(13) Considering any other method provided by a requesting party which is legal and feasible in meeting the statutory objective which is the basis of the proposed rule.~~

~~d. When the board is required to issue a regulatory flexibility analysis of a proposed rule, the board shall cause to be published a concise summary of the regulatory flexibility analysis in the Iowa Administrative Bulletin at least 20 days prior to the adoption of the proposed rule. In the case of a rule made effective under Iowa Code section 17A.4(2) or 17A.5(2)"b," the board shall publish the summary within 90 days after the publication of the rule. The published summary shall state how interested persons may obtain the full text of the board's analysis at cost. The published summary shall also fix a time and place where interested persons may make an oral presentation on the analysis.~~

~~These rules are intended to implement Iowa Code sections 474.1, 474.10, 476.2 and 546.7.~~

199—3.10(17A,474) Regulatory analysis.

3.10(1) Regulatory analysis. The board shall issue a regulatory analysis of a proposed rule, or of a rule adopted without prior notice and opportunity for public participation, when required by 1998 Iowa Acts, chapter 1202, section 10.

3.10(2) Request for regulatory analysis. A request for a regulatory analysis shall be in writing and shall specify the proposed rule or adopted rule for which the analysis is requested.

3.10(3) Schedule extended. Upon receipt of a timely written request for a regulatory analysis of a proposed rule, the time periods for filing written comments and for requesting an oral proceeding are extended to a date 20 days after publication of a concise summary of the regulatory analysis in the Iowa Administrative Bulletin. Any oral proceeding that may already have been scheduled will be rescheduled by the board to a date at least 20 days after publication of the summary.

199—3.11(17A,474) Review of rules. *Pursuant to Iowa Code section 17A.7, upon receipt from the administrative rules coordinator of a request for formal review of a specified rule, the board will determine whether the rule has been reviewed within the preceding five years. If such a review was conducted, the board will report that fact to the administrative rules coordinator. If no such review has been conducted, the board will consider whether the rule should be repealed or amended or a new rule adopted in its place. The board will prepare a written report summarizing its findings, supporting reasons, and proposed course of action. Copies of the report will be sent to the administrative rules review committee, the administrative rules coordinator, and will be made available for public inspection.*

These rules are intended to implement Iowa Code section 476.2.

ARC 9267A

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 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 section 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 476.2 and 1999 Iowa Acts, House File 588, section 1, the Utilities Board (Board) gives notice that on July 23, 1999, the Board issued an order in Docket No. RMU-99-7, Unauthorized Changes of Telecommunications Service, "Order Commencing Rule Making," to receive public comment on the adoption of proposed rules relating to changes in telephone services that are not authorized by the affected customer. On the same date, the Board also issued an order adopting many of the same proposed rules on an emergency basis and without notice and public participation, pursuant to Iowa Code section 17A.4(2), effective on August 2, 1999, pursuant to Iowa Code section 17A.5(2)"b." The emergency rule making, ARC 9268A, is being published simultaneously with this Notice of Intended Action. It is the Board's intention that the proposed rules contained in this Notice, modified if necessary based upon the comments received, will be adopted to replace the emergency rules.

These amendments are intended to implement a new statute contained in 1999 Iowa Acts, House File 588, which became effective on July 1, 1999. Entitled "An Act Prohibiting Unauthorized Changes in Telecommunications Service, Prohibiting Certain Acts in the Advertisement or Solicitation of Changes in Telecommunications Service, and Providing Remedies and Penalties," the new statute provides the Board with the authority to adopt rules to protect consumers from unauthorized changes in their telecommunications service, even if the service has been deregulated pursuant to Iowa Code section 476.1D. 1999 Iowa Acts, House File 588, also provides the Attorney General with additional remedies to address the issue of fraud in the sale of telecommunications services.

Unauthorized changes in telecommunications service may take a variety of forms. Unauthorized changes in a customer's preferred carrier are sometimes referred to as slamming, while the addition of unauthorized services to a customer's bill is sometimes called cramming. These activities represent a growing area of concern for telecommunications customers in Iowa.

In 1996, the Board deregulated most interexchange services, pursuant to Iowa Code section 476.1D. Since that time, the Board has had limited jurisdiction over the part of the telecommunications market where most slamming has occurred. Nonetheless, the Board continues to receive a significant number of complaints. In 1998, Board staff responded to 428 calls regarding slamming issues and 174 calls alleging cramming. In 1997, Board staff fielded 211 slamming calls (cramming complaints were not separately tracked).

The Consumer Protection Division of the Attorney General's Office also processes many complaints regarding telecommunications services. The Board understands that the Consumer Protection Division received about 275 such complaints in 1995, 480 complaints in 1996, 937 complaints

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in 1997, and approximately 1,300 complaints in 1998. The trend is clear and disturbing.

Pursuant to 1999 Iowa Acts, House File 588, the proposed new rules will apply with equal force to regulated and deregulated services. The Board's rules must be consistent with the regulations of the Federal Communications Commission (FCC) regarding procedures for verification of customer authorization of a change in service. The FCC verification procedures include written or electronic authorization or independent third-party verification. The Board's rules must also provide for (1) customer notification of any changes in service, (2) procedures for customer account change freezes, and (3) procedures for correcting unauthorized changes and compensating customers and other persons whose interests may be damaged by an unauthorized change in service. Finally, 1999 Iowa Acts, House File 588, gives the Board expanded remedial authority with respect to telecommunications service providers that make unauthorized changes, including civil penalties for any violations of the statute or rules and more severe penalties for patterns of violations.

On December 17, 1998, the FCC issued an order in The Matter of Implementation of the Subscriber Carrier Selection Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129 (the "FCC Order"), adopting new rules intended to protect each consumer's choice of telecommunications service providers. In this rule making, the Board proposes to adopt the FCC verification procedures by reference, so there can be no question regarding consistency.

Item 1 of the proposed rules adds a new rule 6.8(476) to the Board's rules, specifying certain special complaint procedures for allegations of unauthorized changes in telecommunications services. Generally, the complaints will be resolved pursuant to the Board's standard complaint procedures, with informal proceedings, a proposed resolution from Board staff, and an option for formal complaint proceedings in appropriate cases. However, a few special procedures will apply. For example, the time for the telephone utility's response to the initial complaint will be reduced to ten days, to be consistent with the FCC's verification procedures, and the proposed resolution may include an assessment of damages among the interested persons in each complaint proceeding, pursuant to 1999 Iowa Acts, House File 588, section 1. In this context, the Board interprets the term "assessment of damages" to mean, in most cases, only an allocation of the various telecommunications service charges at issue. Thus, the proposed resolution (or a Board order following formal complaint proceedings) will allocate responsibility for primary interexchange carrier (PIC) change charges, service charges, and other charges that have appeared or may appear on the customer's bill, but in the absence of unusual circumstances the proposed resolution or order will not assess among the parties any responsibility for incidental, consequential, punitive, or similar damages.

In Item 2, subrule 22.23(1) includes definitions of "slamming" (unauthorized changes in a consumer's preferred service provider), "cramming" (unauthorized additions or changes to the services on a customer account, for which a separate charge is made), and "jamming" (unauthorized account freezes that make it more difficult for a customer to change service providers upon demand).

Also in Item 2, proposed subrule 22.23(2) prohibits unauthorized changes in service and provides for verification of all changes to a customer account, along with customer notification of any such changes. Changes made at the request of a submitting service provider must be verified using one of the three FCC-approved verification procedures. Changes made as a result of a direct customer request to the executing service provider may be verified using the FCC procedures or through the internal records of the executing service provider, if those records contain sufficient information to establish the date and time of the request and the identity of the requesting customer. The proposed rules require that all verifications must be maintained for at least two years from the date the change is implemented. Verification of a preferred carrier freeze, however, must be maintained for the life of the freeze, since a customer may not be aware of an unauthorized freeze until the customer tries to change the service.

The proposed rules require customer notification of all changes in service within 30 days of the effective date of the change, as required by 1999 Iowa Acts, House File 588, section 1. The notice must clearly and conspicuously identify the change, any charge or fee associated with the change, and the name and toll-free contact number of the service provider responsible for the change. This information may be included as a line item in the billing portion of the customer's bill, as a separate written statement on the bill, in a separate mailing to the customer, or by such other means as will provide the required information in a clear and conspicuous manner.

The proposed rules adopt by reference the FCC regulations regarding preferred carrier freezes. The Board notes that the FCC rules do not make express provision for verification of the lifting of a freeze if that occurs separate from a change in service. The Board invites comment concerning the question of whether some form of verification is, or should be, required when a service freeze is lifted, especially if that change occurs separate from any other service changes.

Proposed subrule 22.23(3) requires that all carriers providing or billing for telecommunications services to customers located in Iowa register with the Board, using the form provided. This will allow the Board to assemble a directory of telephone service providers offering services in Iowa, permitting Board staff to contact each of them in the event a customer complaint is received. This directory is a critical part of the Board's power to enforce these rules. As noted previously, in 1998 the Board received 428 calls alleging slamming. These calls appeared to involve over 100 non-local service providers. In some cases, the service provider's name (as provided by the complaining customer) appears to be a variation on the name of another, often well-known, carrier. This sometimes makes it difficult for the Board to determine whether the alleged slammer is an established carrier or a new entrant that may have intentionally adopted a similar name in an attempt to confuse potential customers. The directory should help to resolve these issues more easily and quickly.

Proposed subrule 22.23(4) refers the reader to Chapter 6 of the Board's rules for the applicable complaint procedures.

Proposed subrule 22.23(5) provides penalties for violations of the anti-slamming statute or rules. These include civil penalties for any violation of the provisions of 1999 Iowa Acts, House File 588, or the proposed Board rules, along with more severe sanctions for behavior revealing a pattern of violations on the part of a telephone service provider. The Board is not proposing a specific number of violations that will establish a pattern of violations; the number may vary depending upon the circumstances. For example, a service provider that has only 10 customers in the state, all 10 of whom are the victims of slamming, may have demonstrated a pattern of violations sufficient to justify severe sanctions, while a service provider with hundreds of thou-

sands of customers in Iowa and 20 slamming complaints may be experiencing only a small percentage of inadvertently mishandled customer requests, which may not amount to a pattern of violations. Further complicating the question of what constitutes a pattern of violations is the fact that as service offerings become more numerous and complex, the resulting confusion is likely to produce more service order errors, both by customers and service providers. For these reasons, the Board proposes to determine whether a provider has shown a pattern of violations based upon the facts of each specific situation, after notice to the affected persons and an opportunity for hearing.

Finally, proposed subrule 22.23(7) includes provisions for addressing complaints between telephone service providers. 1999 Iowa Acts, House File 588, grants primary jurisdiction over this subject matter to the Board. The proposed rule includes a provision permitting any party to request that a matter be immediately docketed as a formal complaint proceeding, bypassing the informal process, in appropriate circumstances.

Any interested person may file a written statement of position on the proposed rules no later than October 4, 1999, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendments will be held at 10 a.m. on October 21, 1999, in the Board's hearing room at the address listed above.

These amendments are intended to implement Iowa Code sections 476.2 and 476.3(1) and 1999 Iowa Acts, House File 588.

The following amendments are proposed.

ITEM 1. Amend 199 IAC 6 by adopting the following new rule:

199—6.8(476) Special procedures for complaints alleging unauthorized changes in telecommunications services. Notwithstanding the deregulation of a communications service or facility pursuant to Iowa Code section 476.1D, complaints alleging an unauthorized change in telecommunications service (see rule 199—22.23(476)) will be processed pursuant to the rules set forth in this chapter with the following additional or substituted procedures:

6.8(1) Upon receipt of the written complaint and with the customer's acknowledgement, a copy of the complaint will be forwarded to the executing service provider and the preferred service provider as a request for a change in the subscriber's service to the subscriber's preferred service provider, unless the service has already been changed to the preferred service provider.

6.8(2) The complaint will also be forwarded to the alleged unauthorized service provider. That entity shall file a response to the complaint within ten days of the date the complaint was forwarded. The response must include proof of verification of the subscriber's authorization for a change in service or a statement that the unauthorized service provider does not have such proof of verification.

6.8(3) If the alleged unauthorized service provider includes with its response alleged proof of verification of the subscriber's authorization for a change in service, then the response will be forwarded to the customer. The customer will have ten days to challenge the verification or otherwise reply to the service provider's response.

6.8(4) As a part of the informal complaint proceedings, board staff may issue a proposed resolution to determine the potential liability, including assessment of damages, for unauthorized changes in service among the customer, the previous service provider, the executing service provider, and the submitting service provider, and any other interested person. In the event of a soft slam (as defined in 199 IAC 22.23(1)), board staff may also propose joint and several liability between the reseller and the facilities-based service provider. In all cases, the proposed resolution shall allocate responsibility among the interested persons on the basis of their relative responsibility for the events that are the subject matter of the complaint. For purposes of this rule and in the absence of unusual circumstances, the term "damages" means charges directly relating to the telecommunications services provided to the customer that have appeared or may appear on the customer's bill. The term "damages" does not include incidental, consequential, or punitive damages.

6.8(5) If the complainant, the service provider, consumer advocate, or any other interested person directly affected by the proposed decision is dissatisfied with the proposed resolution, a request for formal complaint proceedings may be filed. A request for civil penalties or for other penalties pursuant to 199 IAC 22.23(5) or (6) may also be filed with the request for formal complaint proceedings, although failure to request civil penalties as a part of the request for formal complaint proceedings does not preclude a later request for civil penalties. A request for formal complaint proceedings will be processed by the board pursuant to 199 IAC 6.5(476) et seq.

If no request for formal complaint proceedings is received by the board within 14 days after issuance of the proposed resolution, the proposed resolution will be deemed binding upon all persons notified of the informal proceedings and affected by the proposed resolution. Notwithstanding the binding nature of any proposed resolution as to the affected persons, the board may at any time and on its own motion initiate formal proceedings which may alter the allocation of liability and which may seek civil and other penalties.

6.8(6) No entity shall commence any actions to re-bill, directly bill, or otherwise collect any disputed charges for a change in service until after board action on the complaint is final. If final board action finds that the change in service was unauthorized and determines the customer should pay some amount less than the billed amount, the service provider is prohibited from re-billing or taking any other steps whatsoever to collect the difference between the allowed charges and the original charges.

ITEM 2. Amend 199 IAC 22 by adopting the following new rule:

199—22.23(476) Unauthorized changes in telephone service.

22.23(1) Definitions. As used in this rule, unless the context otherwise requires:

"Change in service" means the designation of a new provider of a telecommunications service to a consumer, including the initial selection of a service provider, and includes the addition or deletion of a telecommunications service for which a separate charge is made to a consumer account.

"Consumer" means a person other than a service provider who uses a telecommunications service.

"Cramming" means the addition or deletion of a product or service for which a separate charge is made to a telecommunications consumer account without the verified consent of the affected consumer. Cramming does not include the addition of extended area service to a customer account pursuant to board rules, even if an additional charge is made.

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"Executing service provider" means, with respect to any change in telecommunications service, a service provider who executes an order for a change in service received from another service provider or from its own customer.

"Jamming" means the addition of a preferred carrier freeze to a consumer's account without the verified consent of the consumer.

"Letter of agency" means a written document complying with the requirements of 47 CFR § 64.1160 (1999).

"Preferred carrier freeze" means the limitation of a consumer's account so as to prevent any change in preferred service provider for one or more services unless the consumer gives the service provider from which the freeze was requested the consumer's express consent.

"Service provider" means a person providing a telecommunications service, not including commercial mobile radio service.

"Slamming" means the designation of a new provider of a telecommunications service to a consumer, including the initial selection of a service provider, without the verified consent of the consumer.

"Soft slam" means an unauthorized change in service by a service provider that uses the carrier identification code (CIC) of another service provider, typically through the purchase of wholesale services for resale.

"Submitting service provider" means a service provider who requests another service provider to execute a change in service.

"Telecommunications service" means a local exchange or long distance telephone service other than commercial mobile radio service.

"Verified consent" means verification of a consumer's authorization for a change in service.

22.23(2) Prohibition of unauthorized changes in telecommunications service.

a. Verification required. No telecommunications carrier shall submit a preferred carrier change order or other change in service order to another service provider unless and until the change has first been confirmed in accordance with the procedures set forth in 47 CFR § 64.1150 (1999). No telecommunications carrier shall execute a change in service on one of its own customer accounts unless and until the change has first been confirmed in accordance with the procedures set forth in 47 CFR § 64.1150 (1999) or through maintenance of sufficient internal records to establish a valid customer request for the change in service. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification of the identification of the person requesting the change in service. The burden will be on the telecommunications carrier to show that its internal records are adequate to verify the customer's request for the change in service.

All verifications shall be maintained for at least two years from the date the change in service is implemented. Verification of service freezes shall be maintained for as long as the preferred carrier freeze is in effect.

b. Letter of agency form and content. A letter of agency must conform to the requirements of 47 CFR § 64.1160 (1999).

c. Customer notification. Every change in service shall be followed by a written notification to the affected customer to inform the customer of the change. Such notice shall be provided within 30 days of the effective date of the change. Such notice may include, but is not limited to, a conspicuous written statement on the customer's bill, a separate mailing to the customer's billing address, or a separate written statement included with the customer's bill. Each such statement shall clearly and conspicuously identify the change in service, any associated charges or fees, the name of the service provider associated with the change, and a toll-free number by which the customer may inquire about or dispute any provision in the statement.

d. Preferred carrier freezes. Preferred carrier freezes must comply with the requirements of 47 CFR § 64.1190 (1999).

22.23(3) Carrier registration.

a. Registration required. Each carrier that provides or bills for telecommunications services to customers located in Iowa shall register with the board and shall provide, at a minimum, the information specified in the form that appears in this subrule.

DEPARTMENT OF COMMERCE

UTILITIES BOARD

TELECOMMUNICATIONS SERVICE PROVIDER REGISTRATION

1. FULL NAME OF CARRIER PROVIDING SERVICE IN IOWA:

_____

2. CARRIER MAILING ADDRESS (including 9-digit zip code):

_____

_____

_____

3. NAME, TITLE, TELEPHONE NUMBER, AND FAX NUMBER OF CONTACT PERSON:

_____

_____

_____

_____

4. ALL TRADE NAMES OR D/B/A'S USED BY CARRIER IN IOWA OR IN ADVERTISING OR BILLING THAT MAY REACH IOWA CUSTOMERS:

_____

_____

_____

5. NAME, MAILING ADDRESS, AND TELEPHONE NUMBER OF AGENT IN IOWA AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF CARRIER:

_____

_____

_____

6. TYPES OF TELECOMMUNICATIONS SERVICE PROVIDED (CHECK ALL THAT APPLY):

____LOCAL EXCHANGE SERVICE
____INTEREXCHANGE SERVICE
____DATA TRANSMISSION
____ALTERNATIVE OPERATOR SERVICES ONLY
____OTHER—PLEASE SPECIFY:_____

7. ATTESTATION. I, _____, certify that I am the company officer responsible for this registration, that I have examined the foregoing registration, and that to the best of my knowledge, information, and belief the information is accurate and will be updated as required.

Dated ____/____/____
SIGNATURE_____

b. Failure to register. Failure to file and reasonably update a registration, or provision of false, misleading, or incomplete information, may result in civil penalties under subrule 22.23(5) and may be considered as evidence of a pattern or practice of violation of these rules.

22.23(4) Subscriber complaints regarding changes in service—procedures. When a telecommunications service pro-

vider is contacted by an Iowa customer alleging an unauthorized change in service, the service provider shall inform the customer of the customer's right to contact the board regarding the complaint. The service provider shall provide the customer with the board's toll-free number for complaints, (877)565-4450.

When a subscriber submits to the board a written complaint alleging an unauthorized change in service, the complaint will be processed by the board pursuant to 199—Chapter 6, "Complaint Procedures."

22.23(5) Civil penalties and assessment of damages.

a. Civil penalties. In addition to any applicable civil penalty set out in Iowa Code section 476.51, a service provider who violates a provision of the anti-slamming statute, a rule adopted pursuant to the anti-slamming statute, or an order lawfully issued by the board pursuant to the anti-slamming statute, is subject to a civil penalty, which, after notice and opportunity for hearing, may be levied by the board, of not more than $10,000 per violation. Each violation is a separate offense.

b. Amount. A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in a compromise, the board may consider the size of the service provider, the gravity of the violation, any history of prior violations by the service provider, remedial actions taken by the service provider, the nature of the conduct of the service provider, and any other relevant factors.

c. Collection. A civil penalty collected pursuant to this subrule shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the general fund of the state and to be used only for consumer education programs administered by the board.

d. Exclusion from regulated rates. A penalty paid by a rate-of-return regulated utility pursuant to this subrule shall be excluded from the utility's costs when determining the utility's revenue requirement and shall not be included either directly or indirectly in the utility's rates or charges to its customers.

e. Civil actions. The board shall not commence an administrative proceeding to impose a civil penalty under this rule for acts subject to a civil enforcement action pending in court under Iowa Code section 714D.7.

f. Assessment of damages among interested persons. As a part of formal complaint proceedings, the board may determine the potential liability, including assessment of damages, for unauthorized changes in service among the customer, the previous service provider, the executing service provider, the submitting service provider, and any other interested persons. In the event of a soft slam, the board may impose joint and several liability on the reseller and the facilities-based service provider. For purposes of this rule and in the absence of unusual circumstances, the term "damages" means charges directly relating to the telecommunications services provided to the customer that have appeared or may appear on the customer's bill. The term "damages" does not include incidental, consequential, or punitive damages.

22.23(6) Penalties for patterns of violations. If the board determines, after notice and opportunity for hearing, that a service provider has shown a pattern of violations of these rules, the board may by order do any of the following:

a. Prohibit any other service provider from billing charges to residents of Iowa on behalf of the service provider determined to have engaged in such a pattern of violations.

b. Prohibit certificated local exchange service providers from providing exchange access services to the service provider.

c. Limit the billing or access services prohibition under paragraph "a" or "b" above to a period of time. Such prohibition may be withdrawn upon a showing of good cause.

d. Revoke the certificate of public convenience and necessity of a local exchange service provider.

22.23(7) Service provider complaints regarding changes in service. When a service provider files a written complaint charging another service provider with causing unauthorized changes in end user services to the detriment of the complaining service provider, the complaint will be processed pursuant to 199—Chapter 6, "Complaint Procedures," except that any party to the proceeding may petition the board for an order initiating formal complaint proceedings at any time, regardless of the status of the informal complaint proceedings. The board will grant such petitions or enter such an order on its own motion if the board finds that informal complaint proceedings are unlikely to aid in the resolution of the complaint.

ARC 9246A

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

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

The amendments create a flexible contingency fund that reserves up to 5 percent of the federal allocation to address imminent threat situations and exceptional opportunities that communities may encounter outside the parameters of normal funding cycles of the Community Development Block Grant Program.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because the need exists to implement this provision immediately in order to address community responses to natural disasters occurring in the spring and summer of 1999. There are no waiver provisions in the rules because the Department does not want to delay the award of funds, and the Department is required by federal regulations to establish the method of allocation of funds prior to award.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments, 35 days after publication, should be waived and the rules be made effective on July 23, 1999. These amendments confer a benefit on the public by allowing the immediate ability to apply for funds to leverage other sources of state and federal funds in addressing threats to public health and safety.

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

The IDED Board adopted these amendments on July 22, 1999.

These amendments are also published herein under Notice of Intended Action as **ARC 9245A** to allow public comment.

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

These amendments became effective July 23, 1999.

The following amendments are adopted.

ITEM 1. Amend subrule 23.4(5) as follows:

23.4(5) ~~Imminent threat contingency fund. Up to $500,000 shall be reserved to fund projects that address an imminent threat to public health, safety or welfare that necessitates immediate corrective action.~~ *Contingency funds. IDED reserves the right to allocate up to 5 percent of funds for projects dedicated to addressing threats to public health and safety and opportunities that would be foregone without immediate assistance.*

ITEM 2. Rescind rule 261—23.10(15) and adopt the following **new** rule in lieu thereof:

261—23.10(15) Requirements for the contingency fund. The contingency fund is reserved for communities experiencing a threat to public health, safety or welfare that necessitates immediate corrective action sooner than can be accomplished through normal community development block grant procedures, or communities responding to an immediate community development opportunity that necessitates action sooner than can be accomplished through normal funding procedures. Up to 5 percent of CDBG funds may be used for this purpose.

23.10(1) Application procedure. Those local governments applying for contingency funds shall submit a written request to IDED, Division of Community and Rural Development, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the situation, the project budget including the amount of the request from IDED, projected use of funds and an explanation of the reason that the situation cannot be remedied through normal CDBG funding procedures.

23.10(2) Application review. Upon receipt of a request for contingency funding, IDED shall determine whether the project is eligible for funding and notify the applicant of its determination. A project shall be considered eligible if it meets the following criteria:

a. Projects to address a threat to health and safety.

(1) An immediate threat to health, safety or community welfare must exist that requires immediate action.

(2) The threat must be the result of unforeseeable and unavoidable circumstances or events.

(3) No known alternative project or action would be more feasible than the proposed project.

(4) Sufficient other local, state or federal funds either are not available or cannot be obtained in the time frame required.

b. Projects to address an exceptional opportunity.

(1) A significant opportunity exists for the state that otherwise would be forgone if not addressed immediately.

(2) The opportunity is such that it was neither possible to apply to the CDBG program in a previous normal application time frame, nor is it possible to apply in a future normal CDBG application time frame.

(3) The project meets the funding standards established by the funding criteria set forth in this rule.

(4) Applicants can provide adequate information to IDED on total project design and cost as requested.

23.10(3) Additional information. IDED reserves the right to request additional information on forms prescribed by IDED prior to making a final funding decision. IDED reserves the right to negotiate final project award and design components.

23.10(4) Future allocations. IDED reserves the right to reserve future funds anticipated from federal CDBG allocations to the contingency fund to offset current need for commitment of funds which may be met by amounts deferred from current awards.

[Filed Emergency 7/22/99, effective 7/23/99]
[Published 8/11/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9256A

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby amends Chapter 1, "Administration," Iowa Administrative Code.

This amendment clarifies and revises the cutoff dates for applications to take examinations. Applications for senior engineering students to take the Fundamentals of Engineering examination have been extended from August 1 to September 1 for the fall examination and from February 1 to March 1 for the spring examination. This revision is being made to set the deadline after school starts in the fall semester at the request of the engineering colleges and because these applications do not require board review. The cutoff dates for all other examinations remain the same at August 1 and February 1 because those applications require a more extensive review by administrative staff and the Board to determine eligibility to sit for the examinations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 16, 1999, as **ARC 9127A**. The adopted amendment is identical to the one published under Notice.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Board is filing this amendment Emergency After Notice because the Board believes that this amendment will confer a benefit and remove a restriction on a segment of the public by allowing senior student applications to be submitted a month later than previously allowed by rules.

This amendment is intended to implement Iowa Code section 542B.13.

This amendment will become effective July 23, 1999.

The following amendment is adopted.

Rescind rule 193C—1.5(542B) and adopt the following **new** rule in lieu thereof:

193C—1.5(542B) Cutoff dates for applications to take examinations. Applications for the Fundamentals of Engineering Examination from college seniors studying an Accreditation Board of Engineering and Technology (ABET) or Canadian Engineering Accreditation Board (CEAB) approved curriculum must be postmarked on or before September 1 of each year for the examination given in the fall and by March 1 of each year for the examination given in the spring. All other applications for the Fundamentals of Engineering, Fundamentals of Land Surveying, Principles and Practice of Engineering, and Principles and Practice of Land Surveying examinations require a more detailed review and must, therefore, be postmarked on or before August 1 of each year for the examination given in the fall and by February 1 of each year for the examination given in the spring.

[Filed Emergency After Notice 7/23/99, effective 7/23/99]
[Published 8/11/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9265A

HISTORICAL DIVISION[223]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3 and 303.1A, the Historical Division of the Department of Cultural Affairs proposes to amend Chapter 50, "Historic Site Preservation Grant Program," Iowa Administrative Code.

The amendments clarify procedures for the Historic Site Preservation Grant program as recommended by the grants advisory committee. The committee recommended the amendments to allow for more funding to be available to a variety of applicants in a broader distribution of counties in Iowa.

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 rule change to implement new provisions of the grants rules prior to this year's deadline of September 14.

The Department also 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 on July 23, 1999, as they confer a benefit on the public by allowing more funding for a variety of applicants.

These amendments are intended to implement Iowa Code sections 303.1A and 303.2.

These amendments became effective July 23, 1999.

The following amendments are adopted.

ITEM 1. Amend rule **223—50.2(303)**, definition of "Infrastructure," as follows:

"Infrastructure" is defined in Iowa Code section 8.57(5c) as "vertical infrastructure" and shall include only land acquisition ~~and~~ *for* construction, major rehabilitation of buildings, all appurtenant structures, utilities, and site developments.

ITEM 2. Amend subrule 50.3(2) as follows:

50.3(2) Eligible projects. Grants under this program shall be used for "vertical infrastructure" as defined in Iowa Code section 8.57(5c). Applicants shall submit only one grant application per funding cycle. Projects that received designated legislative earmarking of funds ~~as set forth in 1998 Iowa Acts, Senate File 2381, section 3,~~ *in the current fiscal year* shall not be eligible for funding through this program. *Projects that received funding from this program are ineligible to apply for three years from the date of grant award.*

ITEM 3. Amend subrule 50.3(6) as follows:

50.3(6) Assistance ceiling and cost share. Grants to any individual project shall not exceed ~~$200,000~~ *$100,000*. Project sponsors shall provide cash match at the rate of one dollar for each state grant dollar. An applicant shall certify that it has committed its share of project costs by the time final payment is made. State funds shall not be used as cash match for this program. Indirect costs and staff salaries shall not be used as match.

ITEM 4. Amend subrule 50.3(8) as follows:

50.3(8) Geographic distribution of funds. No more than ~~25 percent of the undesignated funds shall be~~ *two projects may be* awarded in any grant cycle ~~to projects~~ within a single county.

HISTORICAL DIVISION[223](cont'd)

ITEM 5. Amend subrule 50.6(4) as follows:

50.6(4) Disbursement of funds. All project moneys, including grant funds and matching funds, shall be expended within the period established by legislation. ~~Projects awarded during state fiscal year 1999 shall incur all costs, including the required cash match, by June 30, 2001.~~ Disbursement of grant funds shall be made on a schedule as determined in the contractual agreement.

ITEM 6. Adopt new subrule 50.6(9) as follows:

50.6(9) Technical assistance. The department may use up to 2 percent of the total appropriation for providing technical assistance to grant applicants and for administrative costs incurred in implementing the program.

[Filed Emergency 7/23/99, effective 7/23/99]
[Published 8/11/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9268A

UTILITIES DIVISION[199]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.4(2), 17A.5(2)"b"(2) and 476.2 and 1999 Iowa Acts, House File 588, section 1, the Utilities Board (Board) gives notice that on July 23, 1999, the Board issued an order in Docket No. RMU-99-8, Unauthorized Changes of Telecommunications Service (Emergency Rules), "Order Adopting Rules Without Notice and Providing for Early Effective Date," adopting procedural rules for complaints alleging changes in telephone services that are not authorized by the affected customer. On the same date, the Board also issued an order proposing to adopt the same rules (and other proposed rules, described below) through a regular notice-and-comment proceeding. A Notice of Intended Action, ARC 9267A, is being published simultaneously with this emergency filing. By this reference, the Board incorporates herein the preamble from the proposed rules to explain the reasons for adopting these rules. It is the Board's intention that the proposed rules, modified if necessary based upon the comments received, will be adopted to replace these emergency rules.

The Board finds it is appropriate to adopt these rules without notice and public participation, pursuant to Iowa Code section 17A.4(2), because it would be contrary to the public interest to delay the effectiveness of these rules while public comment is received. As described in the Notice of Intended Action for the proposed rules, the problems of unauthorized changes in telecommunications service, sometimes known as "slamming" and "cramming," are increasing rapidly. In 1999 Iowa Acts, House File 588, the Iowa General Assembly declares that unauthorized changes in telecommunications service are a form of consumer fraud. 1999 Iowa Acts, House File 588, gives the Board the authority to adopt rules prohibiting unauthorized changes and to hear and decide complaints alleging unauthorized changes. Without procedural rules, however, the Board cannot process those complaints. It would be contrary to the public interest to delay these procedural rules to receive public comment when the rules do little more than implement the new statute.

For similar reasons, the Board finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that these rules will confer a benefit on the public sufficient to justify an effective date of August 2, 1999, which is earlier than the effective date that would otherwise apply. With these rules, the Board will be able to offer Iowa telecommunications customers an efficient mechanism for resolving slamming and cramming complaints. Swift, certain resolution of these complaints will decrease or eliminate the existing economic incentive to engage in this particular form of consumer fraud, thereby conferring a benefit on all Iowans who use local or long-distance telephone services.

The rules being adopted on an emergency basis are described as follows:

Item 1 of the adopted rules adds a new rule 6.8(476) to the Board's rules, specifying the complaint procedures for allegations of unauthorized changes in telecommunications services. Generally, the complaints will be resolved pursuant to the Board's standard complaint procedures, with informal proceedings, a proposed resolution from Board staff, and an option for formal complaint proceedings in appropriate cases.

Item 2 of the adopted rules provides definitions applicable only to this particular type of utility action. Item 2 also includes subrule 22.23(2), which prohibits unauthorized changes in service and provides for verification of all changes to a customer account, along with customer notification of any such changes. Changes made at the request of a submitting service provider must be verified using one of the three FCC-approved verification procedures (written, electronic, and independent third party). Because the Board is adopting the existing FCC verification procedures, adoption of these emergency rules will not require any telephone service provider to change its existing verification procedures.

Changes made as a result of a direct customer request to the executing service provider may be verified using the FCC procedures or through the internal records of the executing service provider, if those records contain sufficient information to establish the date and time of the request and the identity of the requesting customer. Again, because all three FCC-approved verifications methods are permitted (along with an additional option), adoption of these emergency rules should not require any telephone service provider to change its existing verification procedures.

The adopted rules require customer notification of all changes in service within 30 days of the effective date of the change, as required by 1999 Iowa Acts, House File 588, section 1. The notice must clearly and conspicuously identify the change, any charge or fee associated with the change, and the name and toll-free contact number of the service provider responsible for the change. This information may be included as a line item in the billing portion of the customer's bill, as a separate written statement in the bill envelope, in a separate mailing to the customer, or by such other means as will provide the required information in a clear and conspicuous manner.

The next section of the adopted rules, identified as proposed subrule 22.23(4), requires each telephone service provider to inform complaining customers of their right to contact the Board and refers the reader to Chapter 6 of the Board's rules for the applicable complaint procedures.

Finally, adopted subrule 22.23(7) includes provisions for addressing complaints between telephone service providers. 1999 Iowa Acts, House File 588, grants primary jurisdiction over this subject matter to the Board. The rule includes a provision permitting any party to request that a matter be immediately docketed as a formal complaint proceeding, bypassing the informal process, in appropriate circumstances.

The proposed rules in Docket No. RMU-99-7, set forth in the companion Notice of Intended Action, ARC 9267A, in-

UTILITIES DIVISION[199](cont'd)

clude other provisions that the Board is not adopting on an emergency basis. These include a requirement that all telephone service providers in Iowa must register with the Board and various penalties applicable to a service provider that demonstrates a pattern of violations.

Because of the practice changes that will have to be implemented by telephone service providers as a result of these rules, the Board is taking steps to provide affected companies with immediate notice of these emergency-adopted rules. First, the Board will mail copies of this notice and the notice of proposed rule making to each telephone company that holds a certificate of public convenience and necessity under Iowa Code section 476.29, to each company that has an application for certificate pending, and to the Iowa Telecommunications Association. Second, the Board will post copies of this notice and the notice of proposed rule making on the Board's web page, http://www.state.ia.us/government/com/util/orders.htm. Finally, the Board will cause this notice to be published in the Iowa Administrative Bulletin.

These amendments became effective August 2, 1999.

These amendments are intended to implement Iowa Code sections 476.2 and 476.3(1) and 1999 Iowa Acts, House File 588.

The following amendments are adopted.

ITEM 1. Amend 199 IAC 6 by adopting the following new rule:

199—6.8(476) Special procedures for complaints alleging unauthorized changes in telecommunications services. Notwithstanding the deregulation of a communications service or facility pursuant to Iowa Code section 476.1D, complaints alleging an unauthorized change in telecommunications service (see rule 199—22.23(476)) will be processed pursuant to the rules set forth in this chapter with the following additional or substituted procedures:

6.8(1) Upon receipt of the written complaint and with the customer's acknowledgment, a copy of the complaint will be forwarded to the executing service provider and the preferred service provider as a request for a change in the subscriber's service to the subscriber's preferred service provider, unless the service has already been changed to the preferred service provider.

6.8(2) The complaint will also be forwarded to the alleged unauthorized service provider. That entity shall file a response to the complaint within ten days of the date the complaint was forwarded. The response must include proof of verification of the subscriber's authorization for a change in service or a statement that the unauthorized service provider does not have such proof of verification.

6.8(3) If the alleged unauthorized service provider includes with its response alleged proof of verification of the subscriber's authorization for a change in service, then the response will be forwarded to the customer. The customer will have ten days to challenge the verification or otherwise reply to the service provider's response.

6.8(4) As a part of the informal complaint proceedings, board staff may issue a proposed resolution to determine the potential liability, including assessment of damages, for unauthorized changes in service among the customer, the previous service provider, the executing service provider, and the submitting service provider, and any other interested person. In the event of a soft slam (as defined in 199 IAC 22.23(1)"j"), board staff may also propose joint and several liability between the reseller and the facilities-based service provider. In all cases, the proposed resolution shall allocate responsibility among the interested persons on the basis of their relative responsibility for the events that are the subject matter of the complaint. For purposes of this rule and in the absence of unusual circumstances, the term "damages" means charges directly relating to the telecommunications services provided to the customer that have appeared or may appear on the customer's bill. The term "damages" does not include incidental, consequential, or punitive damages.

6.8(5) If the complainant, the service provider, consumer advocate, or any other interested person directly affected by the proposed decision is dissatisfied with the proposed resolution, a request for formal complaint proceedings may be filed. A request for formal complaint proceedings will be processed by the board pursuant to 199 IAC 6.5(476) et seq.

If no request for formal complaint proceedings is received by the board within 14 days after issuance of the proposed resolution, the proposed resolution will be deemed binding upon all persons notified of the informal proceedings and affected by the proposed resolution. Notwithstanding the binding nature of any proposed resolution as to the affected persons, the board may at any time and on its own motion initiate formal proceedings which may alter the allocation of liability.

6.8(6) No entity shall commence any actions to re-bill, directly bill, or otherwise collect any disputed charges for a change in service until after board action on the complaint is final. If final board action finds that the change in service was unauthorized and determines the customer should pay some amount less than the billed amount, the service provider is prohibited from re-billing or taking any other steps whatsoever to collect the difference between the allowed charges and the original charges.

ITEM 2. Amend 199 IAC 22 by adopting the following new rule:

199—22.23(476) Unauthorized changes in telephone service.

22.23(1) Definitions. As used in this rule, unless the context otherwise requires:

"Change in service" means the designation of a new provider of a telecommunications service to a consumer, including the initial selection of a service provider, and includes the addition or deletion of a telecommunications service for which a separate charge is made to a consumer account.

"Consumer" means a person other than a service provider who uses a telecommunications service.

"Cramming" means the addition or deletion of a product or service for which a separate charge is made to a telecommunications consumer account without the verified consent of the affected consumer. Cramming does not include the addition of extended area service to a customer account pursuant to board rules, even if an additional charge is made.

"Executing service provider" means, with respect to any change in telecommunications service, a service provider who executes an order for a change in service received from another service provider or from its own customer.

"Jamming" means the addition of a preferred carrier freeze to a consumer's account without the verified consent of the consumer.

"Letter of agency" means a written document complying with the requirements of 47 CFR § 64.1160 (1999).

"Preferred carrier freeze" means the limitation of a consumer's account so as to prevent any change in preferred service provider for one or more services unless the consumer gives the service provider from which the freeze was requested the consumer's express consent.

UTILITIES DIVISION[199](cont'd)

"Service provider" means a person providing a telecommunications service, not including commercial mobile radio service.

"Slamming" means the designation of a new provider of a telecommunications service to a consumer, including the initial selection of a service provider, without the verified consent of the consumer.

"Soft slam" means an unauthorized change in service by a service provider that uses the carrier identification code (CIC) of another service provider, typically through the purchase of wholesale services for resale.

"Submitting service provider" means a service provider who requests another service provider to execute a change in service.

"Telecommunications service" means a local exchange or long distance telephone service other than commercial mobile radio service.

"Verified consent" means verification of a consumer's authorization for a change in service.

22.23(2) Prohibition of unauthorized changes in telecommunications service.

a. Verification required. No telecommunications carrier shall submit a preferred carrier change order or other change in service order to another service provider unless and until the change has first been confirmed in accordance with the procedures set forth in 47 CFR § 64.1150 (1999). No telecommunications carrier shall execute a change in service on one of its own customer accounts unless and until the change has first been confirmed in accordance with the procedures set forth in 47 CFR § 64.1150 (1999) or through maintenance of sufficient internal records to establish a valid customer request for the change in service. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification of the identification of the person requesting the change in service. The burden will be on the telecommunications carrier to show that its internal records are adequate to verify the customer's request for the change in service.

All verifications shall be maintained for at least two years from the date the change in service is implemented. Verification of service freezes shall be maintained for as long as the preferred carrier freeze is in effect.

b. Letter of agency form and content. A letter of agency must conform to the requirements of 47 CFR § 64.1160 (1999).

c. Customer notification. Every change in service shall be followed by a written notification to the affected customer to inform the customer of the change. Such notice shall be provided within 30 days of the effective date of the change. Such notice may include, but is not limited to, a conspicuous written statement on the customer's bill, a separate mailing to the customer's billing address, or a separate written statement included with the customer's bill. Each such statement shall clearly and conspicuously identify the change in service, any associated charges or fees, the name of the service provider associated with the change, and a toll-free number by which the customer may inquire about or dispute any provision in the statement.

d. Preferred carrier freezes. Preferred carrier freezes must comply with the requirements of 47 CFR § 64.1190 (1999).

22.23(3) Reserved.

22.23(4) Subscriber complaints regarding changes in service—procedures. When a telecommunications service provider is contacted by an Iowa customer alleging an unauthorized change in service, the service provider shall inform the customer of the customer's right to contact the board regarding the complaint. The service provider shall provide the customer with the board's toll-free number for complaints, (877)565-4450.

When a subscriber submits to the board a written complaint alleging an unauthorized change in service, the complaint will be processed by the board pursuant to 199—Chapter 6, "Complaint Procedures."

22.23(5) Reserved.

22.23(6) Reserved.

22.23(7) Service provider complaints regarding changes in service. When a service provider files a written complaint charging another service provider with causing unauthorized changes in end user services to the detriment of the complaining service provider, the complaint will be processed pursuant to 199—Chapter 6, "Complaint Procedures," except that any party to the proceeding may petition the board for an order initiating formal complaint proceedings at any time, regardless of the status of the informal complaint proceedings. The board will grant such petitions or enter such an order on its own motion if the board finds that informal complaint proceedings are unlikely to aid in the resolution of the complaint.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9274A

DENTAL EXAMINERS BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby amends Chapter 10, "General," and Chapter 29, "Deep Sedation/General Anesthesia, Conscious Sedation and Nitrous Oxide Inhalation Analgesia," Iowa Administrative Code.

Chapter 29 is being amended to clarify that dental hygienists may, under direct supervision, assist the dentist with the monitoring of nitrous oxide inhalation analgesia.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 19, 1999, as ARC 8996A. A public hearing was held on these amendments on June 23, 1999, and oral and written comments were received. The Board of Dental Examiners adopted these amendments on July 9, 1999.

In response to public comment, the Board has changed the first sentence in subrule 29.6(4) to read as follows: "Dental hygienists may under direct supervision, pursuant to 650—10.3(153) of these rules, assist the dentist with the monitoring of nitrous oxide inhalation analgesia, so long as the dentist has established an office protocol for taking vital signs, adjusting anesthetic concentrations, and addressing emergency situations that may arise during monitoring. The requirements of 29.6(2) and 29.6(5) must be satisfied."

Also, a technical change is required in Chapter 10 regarding the level of supervision required for the monitoring of nitrous oxide inhalation analgesia by dental hygienists. This amendment is included as a new Item.

These amendments are intended to implement Iowa Code sections 153.33 and 153.34.

These amendments will become effective on September 15, 1999.

The following amendments are adopted.

ITEM 1. Amend subrule 10.3(1) as follows:

10.3(1) The *monitoring of nitrous oxide inhalation analgesia pursuant to 650—29.6(153) and the* administration of local anesthesia shall only be provided under the direct supervision of a dentist. Direct supervision of the dental hygienist requires that the supervising dentist be present in the treatment facility, but it is not required that the dentist be physically present in the treatment room.

ITEM 2. Adopt the following new subrules:

29.6(4) Dental hygienists may under direct supervision, pursuant to 650—10.3(153) of these rules, assist the dentist with the monitoring of nitrous oxide inhalation analgesia, so long as the dentist has established an office protocol for taking vital signs, adjusting anesthetic concentrations, and addressing emergency situations that may arise during monitoring. The requirements of 29.6(2) and 29.6(5) must be satisfied. The dentist must carry out the appropriate physical evaluation of the patient. The dentist shall induce the nitrous oxide inhalation analgesia and shall be available for consultation or treatment during the rest of the procedure. It must be determined by the dentist that the patient is appropriately responsive and physiologically stable prior to discharge.

29.6(5) The dental hygienist shall satisfactorily complete a course of instruction in the use of nitrous oxide inhalation analgesia which includes both didactic and clinical instruction offered by a teaching institution accredited by the American Dental Association. The course of study shall include instruction in the theory of pain control, anatomy, medical history, pharmacology and emergencies and complications. Dental hygienists who have been assisting in the monitoring of nitrous oxide inhalation analgesia under the direct supervision of a licensed dentist in a competent manner for the previous 12-month period, but have not had the benefit of a formal course of instruction, may continue to assist with the monitoring of nitrous oxide inhalation analgesia under the direct supervision of a licensed dentist provided the dental hygienist meets the requirements of subrule 29.6(2).

29.6(6) If the dentist intends to achieve a state of conscious sedation from the administration of nitrous oxide inhalation analgesia, the rules for conscious sedation apply.

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ARC 9259A

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby adopts Chapter 9, "Student Loan Default/Noncompliance With Agreement for Payment of Obligation," Iowa Administrative Code.

These rules implement Iowa Code sections 261.121 to 261.127 [1998 Iowa Acts, chapter 1081] requiring the Educational Examiners Board to deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the College Student Aid Commission.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 1999, as ARC 8898A. A public hearing was held on May 4, 1999. No one attended this hearing, and no written comments were received. These rules are identical to those published under Notice.

These rules are intended to implement Iowa Code chapters 261 and 272.

These rules will become effective on September 15, 1999.

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 [Ch 9] is being omitted. These rules are identical to those published under Notice as ARC 8898A, IAB 4/7/99.

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ARC 9261A

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 12, "Criteria of Professional Practices," Iowa Administrative Code.

This amendment clarifies the subrule which defines sexual involvement with a student.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 5, 1999, as ARC 8961A. A public hearing was held on May 27, 1999. No one appeared at the public hearing. There was one public comment objecting to the amendment as being unnecessary.

This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective on September 15, 1999.

The following amendment is adopted.

Amend subrule 12.2(1), paragraph "c," as follows:

c. ~~Sexual involvement with a minor student with the intent to commit or the commission of the acts and practices proscribed by the following provisions of the Criminal Code of Iowa: sections: 709.2 to 709.4, 709.8, 725.1 to 725.3, and 728.12(1).~~ *Sexual involvement with a student. Sexual involvement includes the following acts, whether consensual or nonconsensual: fondling or touching the inner thigh, groin, buttocks, anus, or breasts of a student; permitting or causing to fondle or touch the practitioner's inner thigh, groin, buttocks, anus, or breasts; or the commission of any sex act as defined in Iowa Code section 702.17.*

[Filed 7/23/99, effective 9/15/99]
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ARC 9260A

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendments create a subrule that relates to a late renewal fee for the current Chapter 14, which would become effective September 1, 2000, and for the new Chapter 14, which would become effective August 31, 2001.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 5, 1999, as ARC 8960A. A public hearing was held on May 27, 1999. No one appeared at the public hearing, and there were no written comments received.

These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective on September 15, 1999.

The following amendments are adopted.

ITEM 1. Amend 282—14.32(272) of the current Chapter 14 by adopting the following new subrule:

14.32(6) Late renewal fee. Effective September 1, 2000, an additional fee of $25 per calendar month, not to exceed $100, shall be imposed if a renewal application is submitted after the date of expiration of a practitioner's license. The board may waive a late renewal fee upon application for waiver of the fee by a practitioner. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

ITEM 2. Amend 282—14.21(272), as effective August 31, 2001, by adopting the following new subrule:

14.21(6) Late renewal fee. An additional fee of $25 per calendar month, not to exceed $100, shall be imposed if a renewal application is submitted after the date of expiration of a practitioner's license. The board may waive a late renewal fee upon application for waiver of the fee by a practitioner. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

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ARC 9257A

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Adopted and Filed

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 4, "Discipline and Professional Conduct of Licensees," Iowa Administrative Code.

Item 1 revises the authority of the peer review committee by removing the word "reputation" with regard to investigation of the respondent and changing it to "practice." This will clarify that peer review committees should limit their investigation to the practice of the respondent rather than an investigation of the individual's reputation.

Item 2 provides notice to licensees of factors that the board will take into consideration when deciding to impose civil penalties and the amount of penalty to be imposed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 16, 1999, as ARC 9126A. The adopted amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code section 272C.3.

These amendments will become effective September 15, 1999.

The following amendments are adopted.

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

ITEM 1. Amend subrule 4.5(2), introductory paragraph, as follows:

4.5(2) Authority. The committee's investigation may include activities such as interviewing the complainant, the respondent, individuals with knowledge of the alleged violation, and individuals with knowledge of the respondent's ~~reputation~~ *practice* in the community; gathering documents; site visits; and independent analyses as deemed necessary.

ITEM 2. Amend rule 193C—4.36(542B) by adding **new** subrule 4.36(5) as follows:

4.36(5) In addition to other disciplinary options, the board may assess civil penalties of up to $1000 per violation against licensees who violate any provision of rule 4.3(542B). Factors the board may consider when determining whether and in what amount to assess civil penalties include:

a. Whether other forms of discipline are being imposed for the same violation.

b. Whether the amount imposed will be a substantial economic deterrent to the violation.

c. The circumstances leading to the violation.

d. The severity of the violation and the risk of harm to the public.

e. The economic benefits gained by the licensee as a result of the violation.

f. The interest of the public.

g. Evidence of reform or remedial action.

h. Time elapsed since the violation occurred.

i. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.

j. The clarity of the issue involved.

k. Whether the violation was willful and intentional.

l. Whether the licensee acted in bad faith.

m. The extent to which the licensee cooperated with the board.

n. Whether the licensee practiced professional engineering or land surveying with a lapsed, inactive, suspended or revoked license.

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ARC 9250A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 455A.6, the Environmental Protection Commission hereby rescinds Chapter 4, "Agency Procedure for Rule Making," and adopts a new Chapter 4 with the same title; rescinds Chapter 5, "Petitions for Rule Making," and adopts and new Chapter 5 with the same title; and rescinds Chapter 6, "Declaratory Rulings," and adopts a new Chapter 6, "Declaratory Orders," Iowa Administrative Code.

The purpose of rescinding and adopting new chapters is to adopt the revised Uniform Rules on Agency Procedure and to allow the Department's rules to conform to the recent changes in the Iowa Administrative Procedure Act, Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 19, 1999, as **ARC 9038A**. No comments were received. No changes have been made from the rules published in the Notice.

The Commission adopts by reference the Department of Natural Resources rules in 561—Chapters 4, 5, and 6. These rules were Adopted and Filed and published in the Iowa Administrative Bulletin on July 28, 1999, as **ARC 9230A**.

These rules are intended to implement Iowa Code section 455A.6 and Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

These rules will become effective on September 15, 1999.

The following rules are adopted.

ITEM 1. Rescind 567—Chapter 4, "Agency Procedure for Rule Making," and adopt the following **new** chapter in lieu thereof:

CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING

567—4.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 4, Iowa Administrative Code.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

ITEM 2. Rescind 567—Chapter 5, "Petitions for Rule Making," and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
PETITIONS FOR RULE MAKING

567—5.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 5, Iowa Administrative Code.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

ITEM 3. Rescind 567—Chapter 6, "Declaratory Rulings," and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
DECLARATORY ORDERS

567—6.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 6, Iowa Administrative Code.

This rule is intended to implement Iowa Code chapter 17A as amended by1998 Iowa Acts, chapter 1202.

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ARC 9248A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

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," Iowa Administrative Code.

These amendments include a brief contents listing of each chapter pertaining to public and private drinking water supply rules. New definitions are added for the following terms: acute, community water system, consecutive public water supply, customers, department, director, drinking water state revolving fund, health advisory, health-based standard, maximum contaminant level goal, nonacute, noncommunity water system, special irrigation district, transient noncommunity water system, and water distribution system. Definitions are amended for the following terms: Act, best available technology, compliance cycle, compliance period, confluent growth, diatomaceous earth filtration, EPA methods, manmade beta particle and photon emitters, nontransient noncommunity water system, point-of-use treatment device, population served, public water supply system, service connections, standard methods, Ten States Standards, and unregulated contaminant.

The mailing address of the Wallace State Office Building is corrected, and the construction permit fee references are rescinded. The public water supply operation permit application procedures are amended to include the annual operation fee due date and reasons for denial of an operation permit. Two new rules are adopted to comply with U.S. EPA regulations: the drinking water state revolving loan fund application procedures and the viability assessment procedures.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 1999, as ARC 8903A. Public hearings were held and two comments were received. These comments have been addressed in a responsiveness summary which is available from Diana Hansen, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; telephone (515)281-6267.

Two changes have been made to the Notice of Intended Action as a result of comments received during the public comment period:

1. In 567—40.2(455B), the definition of a consecutive public water supply was changed to clarify that a system purchasing only a portion of its water from another water system is included in the definition.

2. In 567—40.5(17A,455B), the new language added for reasons for denial of an operation permit was changed to more accurately reflect the Department's intent that the operation permit may be denied for the listed reasons, and not automatically denied.

These amendments are intended to implement Iowa Code section 17A.3(1)"b" and chapter 455B, division III, part 1.

These amendments will become effective on September 15, 1999.

The following amendments are adopted.

ITEM 1. Amend rule 567—40.1(455B) as follows:

567—40.1(455B) Scope of division. The department conducts the public water supply program, *provides grants to counties,* and establishes minimum standards for the construction of private water supply systems. The public water supply program includes *the following:* the establishment of drinking water standards, including maximum contaminant levels, treatment techniques, *action levels,* monitoring, *viability assessment, consumer confidence reporting,* ~~and~~ public notice requirements, *public water supply system operator certification standards, environmental drinking water laboratory certification program, and a state revolving loan program* consistent with the federal Safe Drinking Water Act, and the establishment of construction standards. The construction, modification and operation of any public water supply system requires a specific permit from the department. Certain construction permits are issued upon certification by a registered professional engineer that a project meets standards, and in certain instances permits are issued by local authorities pursuant to 567—Chapter 9. Private water supplies are regulated by local boards of health.

~~This chapter includes rules of practice, including forms, applicable to the public in the department's administration of the subject matter of this division. The lead and copper provisions also establish a treatment technique that includes requirements for corrosion control treatment, source water treatment, lead service line replacement, and public education. These requirements are triggered, in some cases, by lead and copper action levels measured in samples collected at consumers' taps.~~

~~Chapter 41 contains the drinking water standards and specific monitoring and record-keeping requirements for the public water supply program. Chapter 83 contains provisions for the certification of laboratories to provide environmental testing of drinking water supplies. Chapter 43 contains specific design, construction, and operating requirements for the public water supply program. Chapter 47 contains provisions for county grants for creating programs for (1) the testing of private water supply wells and (2) the proper closure of private, abandoned wells within the jurisdiction of the county. Chapter 49 provides minimum standards for the construction of private water wells.~~

Chapter 40 includes rules of practice, including designation of forms, applicable to the public in the department's administration of the subject matter of this division.

Chapter 41 contains the drinking water standards and specific monitoring requirements for the public water supply program.

Chapter 42 contains the public notification, public education, consumer confidence reporting, and record-keeping requirements for the public water supply program.

Chapter 43 contains specific design, construction, fee, operating, and operation permit requirements for the public water supply program.

Chapter 44 contains the drinking water state revolving fund program for the public water supply program.

Chapter 47 contains provisions for county grants for creating programs for (1) the testing of private water supply wells, (2) rehabilitation of private wells, and (3) the proper closure of private, abandoned wells within the jurisdiction of the county. Chapter 39 contains requirements for the proper closure or abandonment of wells.

Chapter 49 provides minimum standards for construction of private water wells, and private well construction permits may be issued by local county authorities pursuant to 567—Chapter 38.

Chapter 81 contains the provisions for the certification of public water supply system operators.

Chapter 83 contains the provisions for the certification of laboratories to provide environmental testing of drinking water supplies.

ITEM 2. Amend rule **567—40.2(455B)** by amending the definitions as shown and adopting the following <u>new</u> definitions in alphabetical order:

"Act" means the Public Health Service Act as amended by the Safe Drinking Water Act ~~and the 1986 Amendments to the Safe Drinking Water Act (Pub. L. No. 93-523,88 Stat.~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

~~(1860) 42 U.S.C. §300f et seq., and Pub. L. No. 99-339, 100 Stat. 642),~~ *Public Law 93-523.*

"Acute" means the health effect of a contaminant which is an immediate rather than a long-term risk to health.

"Best available technology" or "BAT" means the best technology, treatment techniques, or other means which the state finds, after ~~examinations~~ *examination*, for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration).

"Community water system (CWS)" means a public water supply system which has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Compliance cycle" means the nine-year (calendar year) cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle begins January 1, 1993, and ends December 31, 2001; the second begins January 1, 2002, and ends December 31, 2010; the third begins January 1, 2011, and ends December 31, 2019, *and continues every nine years thereafter.*

"Compliance period" means a three-year (calendar year) period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993, to December 31, 1995; the second from January 1, 1996, to December 31, 1998; the third from January 1, 1999, to December 31, 2001, *and continues every three years thereafter.*

"Confluent growth" means a continuous bacterial growth ~~cornering~~ *covering* the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

"Consecutive public water supply" means an active public water supply which purchases or obtains all or a portion of its water from another, separate public water supply.

"Customers" in consumer confidence reports are defined as billing units or service connections to which water is delivered by a community water system.

"Department" means the Iowa department of natural resources, which has jurisdiction over all nontribal public water systems in Iowa.

"Diatomaceous earth filtration" means a process resulting in substantial particulate removal in which (1) *a* precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum), and (2) while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

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

"Drinking water state revolving fund (DWSRF)" means the department-administered fund intended to develop drinking water revolving loans to help finance drinking water infrastructure improvements, source water protection, system technical assistance, and other activities intended to encourage and facilitate public water supply system rule compliance and public health protection established by Iowa Code sections 455B.291 to 455B.299.

~~"EPA Methods" means "Methods for Chemical Analysis of Water and Wastes," U.S. Environmental Protection Agency, EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio, revised March 1983.~~ *"EPA methods" means methods listed in the Manual for the Certification of Laboratories Analyzing Drinking Water, 4th edition, EPA document 815-B-97-001, March 1997.*

"Health advisory (HA)" means a group of levels set by EPA below which no harmful effect is expected from a given contaminant. The HAs used by the department are listed in the most current edition of the EPA "Drinking Water Regulations and Health Advisories" bulletin. The lifetime HA is the concentration of a chemical in drinking water that is not expected to cause any adverse noncarcinogenic effects over a lifetime of exposure, with a margin of safety. The long-term HA is the concentration of a chemical in drinking water that is not expected to cause any adverse noncarcinogenic effects up to approximately seven years (10 percent of an individual's lifetime of exposure), with a margin of safety.

"Health-based standard" means a standard regulating the amount of allowable contaminant in drinking water, and includes maximum contaminant levels, action levels, treatment techniques, and health advisory levels.

"Man-made beta particle and photon emitters" means all radionuclides emitting beta particles or photons or both listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, NBS Handbook 69, ~~as amended August 1963, U.S. Department of Commerce,~~ except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum contaminant level goal (MCLG)" means the nonenforceable concentration of a drinking water contaminant that is protective of adverse human health effects and allows an adequate margin of safety.

"Nonacute" means the health effect of a contaminant which is a long-term rather than immediate risk to health.

"Noncommunity water system" means a public water system that is not a community water system. A noncommunity water system is either a "transient noncommunity water system (TNC)" or a "nontransient noncommunity water system (NTNC)."

"Nontransient noncommunity water system" or ~~"NTNCWS"~~ *"NTNC"* means a public water system other than a community water system which regularly serves at least 25 of the same persons four hours or more per day, for four or more days per week, for 26 or more weeks per year. Examples of ~~NTNCWSs~~ *NTNCs* are schools, day-care centers, factories, offices and other public water systems which provide water to a fixed population of 25 or more people. In addition, other service areas, such as hotels, resorts, hospitals and restaurants, are considered as ~~NTNCWSs~~ *NTNCs* if they employ 25 or more people and are open for 26 or more weeks of the year.

"Point-of-use treatment device" is a treatment device applied to a single ~~tap~~ *or multiple taps* used for the purpose of reducing contaminants in drinking water at ~~that one tap~~ *those taps, but is not intended to treat all of the water in the facility.*

"Population served" means the total number of persons served by a public water supply that provides water intended for human consumption. For municipalities *which serve only the population within their incorporated boundaries,* 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 municipalities which also serve outside their incorporated boundaries, the served population must be added to the official census population determined either by verifiable count or by the 2.5 persons per service connection occupancy factor.* 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.

~~"Public water supply system" (also referred to as a system or a water system) means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the supplier of water and used primarily in connection with such system, and (2) any collection (including wells) or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water supply system is either a "community water system" or a "noncommunity water system."~~

~~1. "Community water system" means a public water supply system which has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.~~

~~2. "Noncommunity water system" means a public water supply system that is not a community water system.~~

"Public water supply system control" is defined as one of the following forms of authority over a service line. ~~Authority~~: *authority* to set standards for construction, repair, or maintenance of the service line; authority to replace, repair, or maintain the service line; or ownership of the line. Contaminants added to the water under circumstances controlled by the water consumer or user, with the exception of those contaminants resulting from the corrosion of piping and plumbing caused by water quality, are excluded from this definition of control.

"Public water supply system (PWS)" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system."

"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. *Connections to a system that delivers water by a constructed conveyance other than a pipe are excluded from the definition, if:*

1. The water is used exclusively for purposes other than human consumption;

2. The department determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for human consumption; or

3. The department determines that the water provided for human consumption is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

"Special irrigation district" means an irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with 567—Chapters 40 through 43.

"Standard methods" means "Standard Methods for the Examination of Water and Wastewater," ~~Seventeenth edition,~~ American Public Health Association, 1015 15th Street, NW, Washington, DC 20005 ~~(1989)~~.

"Ten States Standards" means the "Recommended Standards for Water Works," ~~1992~~ *1997* edition as adopted by the Great Lakes—Upper Mississippi River Board of State Sanitary Engineers.

"Transient noncommunity water system (TNC)" means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per calendar year.

"Unregulated contaminant" means a contaminant for which no MCL has been set, but which does have monitoring requirements set in 567—~~41.11(455B)~~ *subrule 41.11(2)*.

"Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer, including any storage facilities and pumping stations.

ITEM 3. Amend rule 567—40.3(17A,455B), introductory paragraph, as follows:

567—40.3(17A,455B) Forms. The following forms are used by the public to apply for department approvals and to report on activities related to the public water supply program of the department. All forms may be obtained from the Environmental Protection Division, Administrative Support Station, Department of Natural Resources, Henry A. Wallace Building, ~~900 East Grand Avenue, Des Moines, Iowa 50319-0032~~ *502 East Ninth Street, Des Moines, Iowa 50319-0034*. Properly completed application forms shall be submitted to the Water Supply Section, Environmental Protection Division. Water supply system monthly and other operation reporting forms shall be submitted to the appropriate field office (see ~~rule 567—43.7(455B)~~ *567—subrule 42.4(3)*). Properly completed laboratory forms (reference 567—~~43.3(3)"b"~~ *Chapter 83*) shall be submitted to the University Hygienic Laboratory or as otherwise designated by the department.

ITEM 4. Amend subrule 40.3(1), first two table entries, as follows:

Schedule No.	Name of Form	Form Number
~~"1"~~ *"1a"*	General Information	542-3178
~~"1a"~~	~~Fee Schedule~~	~~542-3179~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 5. Amend subrule 40.4(1), introductory paragraph, as follows:

40.4(1) General procedures. Applications for written approval from the department for any new construction or for reconstruction pursuant to 567—Chapter 41 shall consist of complete plans and specifications~~, application fee,~~ and appropriate water supply construction permit application schedules. Upon review, the department will issue a construction permit for approval of a project if the review shows that the project meets all departmental design standards in accordance with 567—Chapter 43. Approval of a project which does not meet all department design standards will be denied unless a variance as provided by 567—paragraph 43.3(2)"c" is granted. A variance may be requested at the time plans and specifications are submitted or after the design discrepancy is pointed out to the applicant.

ITEM 6. Amend subrule **40.4(2)**, paragraph **"b,"** as follows:

b. Completed Schedule ~~1~~ *1a*— General Information

ITEM 7. Amend rule 567—40.5(17A,455B) as follows:

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.~~ *Upon receipt of a completed application, the department will review the application and, if approved, will prepare and issue a water supply operation permit or draft permit, as applicable, and transmit it to the applicant. An annual operation fee pursuant to 567—subrule 43.2(1) is due by September 1 of each year.* A permit or renewal will be denied when the applicant does not meet one or more requirements for issuance or renewal of this permit. *An operation permit my be denied for any of the following reasons: system failed to pay the operation fee; system is not viable; system is not in compliance with the applicable maximum contaminant levels, treatment techniques, or action levels; system is in significant noncompliance with the provisions of 567—Chapter 41, 42, or 43.*

ITEM 8. Amend 567—Chapter 40 by adopting the following new rules:

567—40.6(455B) Drinking water state revolving fund loan application procedures. A person requesting a drinking water state revolving fund loan pursuant to 567—44.7(455B) must complete the appropriate application form, which will be provided by the department. The department will review the application package pursuant to 567—44.9(455B). Eligible projects will be ranked according to priority, with the highest-ranked projects receiving funding priority.

567—40.7(455B) Viability assessment procedures. A person required to complete a viability assessment pursuant to 567—43.8(455B) must submit the appropriate information as outlined in 567—43.8(455B) to the department. Self-assessment worksheets which can be used to prepare the viability assessment are available from the Water Supply Section, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034.

[Filed 7/23/99, effective 9/15/99]
[Published 8/11/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9249A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 41, "Water Supplies," Iowa Administrative Code.

These amendments comply with U.S. EPA requirements for coverage, analytical methods, minor technical corrections, and maximum contaminant levels (arsenic, nitrate at noncommunities, nickel). The arsenic MCL applies to community public water supplies and schools and daycares which are nontransient noncommunity public water supplies. The nitrate MCL of 10 mg/l applies to all public water supplies; however, an allowance can be made for noncommunity water supplies meeting certain criteria to have nitrate levels up to 20 mg/l. The nickel MCL has been remanded, as has the nickel public notification language.

Other changes make grammatical corrections; add catchwords to paragraphs and subparagraphs; require schools and daycares to comply with the fluoride maximum contaminant level since the affected population is children under age nine; require monthly monitoring for nitrate and nitrite for systems exceeding the MCL with no confirmation sample allowance; correct the nitrate sample holding time; move the reporting, public notification, and public education requirements to Chapter 42; move the previously duplicated best available technology tables to Chapter 43, making the disinfectant residual entering the system requirement for surface waters and influenced groundwater systems consistent with current requirements in Chapter 43.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 1999, as **ARC 8902A**. Public hearings were held and two comments were received. These comments have been addressed in a responsiveness summary available from Diana Hansen, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; telephone (515)281-6267. One change has been made to the Notice of Intended Action as a result of a comment received during the public comment period:

In Item 2, 41.2(1)"c"(5)"3" was changed to correct an error in the public notification requirements in the situation where a violation of the coliform bacteria maximum contaminant level has not occurred. This paragraph now reads as follows:

"3. If fecal coliforms or E. coli are detected in a routine or repeat sample, the system must notify the department by telephone by the end of the day when the system is notified of the test result, unless the system is notified of the result after the department office is closed, in which case the system must notify the department before the end of the next business day. If the detection of fecal coliform or E. coli in a

sample causes a violation of the MCL, the system is required to notify the public in accordance with 567—paragraphs 42.1(1)"a" and "b.""

These amendments are intended to implement Iowa Code section 17A.3(1)"b" and chapter 455B, division III, part 1.

These rules will become effective on September 15, 1999.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [41.1 to 41.5, 41.7 to 41.11] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 8902A**, IAB 4/7/99.

[Filed 7/23/99, effective 9/15/99]
[Published 8/11/99]

[For replacement pages for IAC, see IAC Supplement 8/11/99.]

ARC 9255A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby adopts Chapter 42, "Public Notification, Public Education, Consumer Confidence Reports, Reporting, and Record Maintenance," Iowa Administrative Code.

Chapter 42 is a new chapter that contains the requirements for public notification, public education, reporting, record maintenance, and consumer confidence reports. Portions of these requirements were previously contained in Chapters 41 and 43. The consumer confidence report is a new requirement, to comply with the U.S. EPA regulations. Additional changes include: minor technical corrections; compliance with ANSI/NSF Chemical Application Standard 60; standardizing the records retention periods to 5- and 10-year increments; public notification requirements for health advisory exceedance and for failure to comply with an operation permit schedule, administrative order, or court order; allowance for immediate public notification in cases of imminent risk to health; requiring influenced groundwater supplies and supplies which blend water sources to maintain compliance with a health-based standard to submit monthly operation reports; and exemption of noncommunity systems from self-monitoring requirements for cation-exchange and iron/manganese removal "off-the-shelf" treatment, as long as no violation of a health-based standard exists.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 1999, as **ARC 8901A**. Public hearings were held and 21 comments were received. These comments have been addressed in a responsiveness summary available from Diana Hansen, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; telephone (515) 281-6267. The following changes have been made to the Notice of Intended Action as a result of the comments received during the public comment period:

1. In 42.1(2)"a"(4), the basis of determining when the Department would require the public notification for detection of an unregulated contaminant was requested to be included in the rule.
2. In 42.1(2)"b" and "c," the time period and method for the public notice have been clarified to make the requirements consistent with the federal guidance.
3. In 42.3(2)"a," the paragraph on reporting frequency contained information on the CCR report contents which conflicted with 42.3(3)"c"(1)"1," and since the latter citation was more correct, the erroneous sentences were removed from the former citation.
4. In 42.3(2)"c," department staff have been asked to clarify the responsibilities of the supplier systems to a second consecutive supply regarding provision of the mandatory CCR information.
5. In 42.3(3)"c," clarification about where the Cryptosporidium requirements were located was requested and added.
6. Clarification was requested and added to specify the year in which the mailing waiver would be revoked in 42.3(4)"c" and "d."
7. Clarification of the "daily monitoring" requirement was requested, which entailed the amending of 42.4(3)"a"(2)"2" and "4."
8. In 42.4(3)"b," introductory paragraph, the effective date for this standard was requested so that current chemical contracts can be honored.
9. In 42.4(3)"b"(3), the chemical name hydrofluosilicic acid has been changed, in order that the rule be amended to reflect current practice in the water industry.

These rules are intended to implement Iowa Code section 17A.3(1)"b" and chapter 455B, division III, part 1.

These rules will become effective on September 15, 1999.

The following chapter is adopted.

Adopt the following **new** chapter:

CHAPTER 42
PUBLIC NOTIFICATION, PUBLIC EDUCATION, CONSUMER CONFIDENCE REPORTS, REPORTING, AND RECORD MAINTENANCE

567—42.1(455B) Public notification. Any public water supply system which incurs a violation of any type must conduct an initial notification of the public for that violation, as required in this rule. Public water supply systems with an acute violation must follow the public notification provisions of both 42.1(1)"a" and "b."

42.1(1) Maximum contaminant level (MCL), treatment technique, compliance schedule, and health advisory violations. The owner or operator of a public water supply system which fails to comply with an applicable MCL established by 567—41.2(455B) through 567—41.8(455B), treatment technique established by 567—subrule 43.3(10), fails to comply with the requirements of any compliance schedule prescribed in an operation permit, administrative order, or court order pursuant to 567—subrule 43.2(5), or fails to comply with a health advisory as determined by the department, shall notify persons served by the system as follows:

a. Distribution of public notice.

(1) Daily newspaper and mail delivery. Notice shall be given by publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure, and by mail delivery (by direct mail, with the water bill, or by hand delivery) not later than 45 days after the violation or failure. The department may waive mail delivery if it determines that the owner or operator of the public water system

in violation has corrected the violation or failure within the 45-day period. The department must issue the waiver in writing and within the 45-day period.

(2) Weekly newspaper and mail delivery. If the area served by a public water supply system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area and by mail delivery.

(3) Separable distribution systems. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the department may allow the system to give public notice only to the area served by that portion of the system which is out of compliance.

b. Additional acute MCL violation notification requirements (electronic media). For violations of the MCLs of contaminants that may pose an acute risk to human health, the owner or operator of a public water supply system shall, as soon as possible but in no case later than 72 hours after the violation, furnish a copy of the notice to the radio and television stations serving the area served by the public water system in addition to meeting the requirements of 42.1(1)"a." The following violations are acute violations:

(1) Any violations specified by the department as posing an acute risk to human health.

(2) Violation of the MCL for nitrate, nitrite, or combined nitrate and nitrite as established in 567—paragraph 41.3(1)"b" and determined according to 567—paragraph 41.3(1)"c."

(3) Violation of the MCL for total coliforms, when fecal coliforms or E. coli are present in the water distribution system, as specified in 567—paragraph 41.2(1)"b"(2).

(4) Occurrence of a waterborne disease outbreak.

For contaminants which pose an acute or immediate threat to public health, the department may require immediate public notification for a boil water order or where to obtain bottled water, via electronic media or door-to-door delivery of the notices.

c. Repeat nonacute MCL violation public notice requirements. Following the initial notice given under 42.1(1)"a," the owner or operator of the public water supply system must give notice at least once every three months by mail delivery (by direct mail, with the water bill, or by hand delivery), for as long as the violation or failure exists.

d. Additional public notice distribution methods. The owner or operator of a community water system in an area that is not served by a daily or weekly newspaper of general circulation must, in lieu of the requirements of 42.1(1)"a," "b," and "c," give notice within 14 days (72 hours for an acute violation) after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Hand delivery must be repeated every three months or posting must continue for as long as the violation or failure exists.

e. Noncommunity water system public notice distribution requirements. The owner or operator of a noncommunity water system may, in lieu of the requirements of 42.1(1)"a," "b," and "c," give notice within 14 days (72 hours for an acute violation) after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Hand delivery must be repeated every three months or posting must continue for as long as the violation or failure exists.

f. Notice to new billing units. The owner or operator of a community water system must give a copy of the most recent public notice for any outstanding violation of any health-based standard, treatment technique, or compliance schedule to all billing units or new service connections prior to or at the time service begins.

42.1(2) Other violations.

a. Applicability. This subrule applies to all public water supply systems which incur a violation due to:

(1) Failure to perform monitoring required in 567—Chapter 41, this chapter, and 567—Chapter 43;

(2) Failure to comply with a testing procedure established in 567—Chapter 41;

(3) Failure to comply with an interim contaminant level;

(4) Detection of an unregulated contaminant that exceeds the federal health advisory and the department advises that public notification is necessary;

(5) Failure to report the required data to the department;

(6) Failure to meet the requirements of this chapter for public notification, public education, or the development and distribution of the consumer confidence report.

b. Initial notification. The public water supply system must notify, by newspaper and by mail delivery (by direct mail, with the water bill, or by hand delivery), persons served by the system within three months of the violation by the methods described in 42.1(1)"a" or by applicable methods described in 42.1(1)"d" or "e."

c. Repeat notification. Following the initial notice given under 42.1(2)"b," the owner or operator of the public water supply system must give notice at least once every three months by mail delivery (by direct mail, with the water bill, or by hand delivery), for as long as the violation or failure exists.

42.1(3) Notice of available information for synthetic organic chemicals. The owner or operator of a public water supply system shall notify persons served by the system of the availability of the results of sampling conducted for synthetic organic chemicals, under 567—paragraphs 41.11(1)"b" and "c," by including a notice in the first set of water bills issued by the system after the receipt of the results or by written notice within three months. The public water supply may use the annual consumer confidence report to comply with this requirement. For surface water supply systems, public notification is required only after the first quarter's monitoring and must include a statement that additional monitoring will be conducted for three or more quarters with the results available upon request. The owner or operator shall also provide to all new billing units or new hookups, prior to or at the time service begins, a copy of the most recent public notice for any outstanding violation of any maximum contaminant level established by 567— 41.2(455B) through 567—41.8(455B), results of sampling conducted under 567—paragraphs 41.11(1)"b" and "c," any notice of a treatment technique requirement established by 567—subrule 43.2(5) and notice of any failure to comply with the requirements of any schedule prescribed pursuant to 567—subrule 43.2(5). The notice shall provide the name and telephone number of a person to contact for information.

42.1(4) General content of public notice. Each notice required by this rule must provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct the violation, the necessity for seeking alternative water supplies, if any, and any pr8eventive measures the consumer should take until the violation is corrected. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, language intended to diminish the importance of the notice, or similar problems that frustrate the purpose of the

notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water supply system as a source of additional information concerning the notice. Where appropriate, the notice shall be multilingual.

42.1(5) Mandatory health effects language. When providing the information on potential adverse health effects required by 42.1(4) in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of interim contaminant levels or compliance schedules, or notices of failure to comply with an interim contaminant level or compliance schedule, the owner or operator of the public water system shall include the language specified in Appendix A for each contaminant. (If language for a particular contaminant is not specified in Appendix A at the time notice is required and is not provided by the department, this subrule does not apply.)

42.1(6) Operation permit compliance schedule public notice requirements. When the director determines that a public water supply system cannot promptly comply with one or more health-based standards of 567—Chapters 41 and 43, and that there is no immediate, unreasonable risk to the health of persons served by the system, a draft operation permit or modified permit will be formulated, which may include interim contaminant levels or a compliance schedule. Prior to issuance of a final permit, notice and opportunity for public participation must be given in accordance with this subrule. The notice shall be circulated in a manner designed to inform interested and potentially interested persons of any proposed interim contaminant level or compliance schedule.

a. Preparation of notice. The public notice shall be prepared by the department and circulated by the applicant within its geographical area as described in 42.1(1)"a." The public notice shall be mailed by the department to any person upon request.

b. Public comment period. The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the operation permit. All written comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director's final determination with respect to the operation permit. The period for comment may be extended at the discretion of the department.

c. Content of notice. The contents of the public notice of a proposed operation permit shall include at least the following:

(1) The name, address, and telephone number of the department.

(2) The name and address of the applicant.

(3) A statement of the department's tentative determination to issue the operation permit.

(4) A brief description of each applicant's water supply operations which necessitate the proposed permit conditions.

(5) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by 42.1(6)"b."

(6) The right to request a public hearing pursuant to this paragraph and any other means by which interested persons may influence or comment upon those determinations.

(7) The address and telephone number of places at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to this paragraph, and inspect and copy the application forms and related documents.

d. Public hearings on proposed operation permits. The applicant or any interested agency, person or group of persons may request or petition for a public hearing with respect to the proposed action. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the 30-day period prescribed in 42.1(6)"b" and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the system, or other appropriate area at the discretion of the director, and may, as appropriate, consider related groups of permit applications.

e. Public notice of public hearings.

(1) Public notice of any hearing held pursuant to this paragraph shall be circulated at least as widely as the notice under 42.1(6)"a" at least 30 days in advance of the hearing.

(2) The contents of the public notice of any hearing held pursuant to this paragraph shall include at least the following:

1. The name, address, and telephone number of the department;

2. The name and address of each applicant whose application will be considered at the hearing;

3. A brief reference to the public notice previously issued, including identification number and date of issuance;

4. Information regarding the time and location for the hearing;

5. The purpose of the hearing;

6. A concise statement of the issues raised by the person requesting the hearing;

7. The address and telephone number of the premises where interested persons may obtain further information, request a copy of the draft operation permit or modification prepared pursuant to this paragraph, and inspect and copy the application forms and related documents; and

8. A brief description of the nature of the hearing, including the rules and procedures to be followed.

f. Decision by the director. Within 30 days after the termination of the public hearing held pursuant to this paragraph or if no public hearing is held within 30 days after the termination of the period for requesting a hearing, the director shall issue or deny the operation permit.

567—42.2(455B) Public education for lead action level exceedance.

42.2(1) Applicability. A water system that exceeds the lead action level based on tap water samples collected in accordance with 567—paragraph 41.4(1)"c" shall deliver the public education materials contained in 42.2(2) in accordance with the requirements in 42.2(4).

42.2(2) Content of written materials. A water system shall include the following text in all of the printed materials it distributes through its lead public education program. Any additional information presented by a system shall be consistent with the information below and be easily understood by laypersons.

a. Introduction. The United States Environmental Protection Agency (EPA) and (insert name of water supplier)

are concerned about lead in your drinking water. Although most homes have very low levels of lead in their drinking water, some homes in the community have lead levels above the EPA action level of 15 parts per billion (ppb), or 0.015 milligrams of lead per liter of water (mg/L). Under federal law we are required to have a program in place to minimize lead in your drinking water by (insert date when corrosion control will be completed for your system). This program includes corrosion control treatment, source water treatment, and public education. We are also required to replace each lead service line that we control if the line contributes lead concentrations of more than 15 ppb after we have completed the comprehensive treatment program. If you have any questions about how we are carrying out the requirements of the lead regulation, please give us a call at (insert water system's phone number). This brochure explains the simple steps you can take to protect you and your family by reducing your exposure to lead in drinking water.

b. Health effects of lead. Lead is a common metal found throughout the environment in lead-based paint, air, soil, household dust, food, certain types of pottery, porcelain and pewter, and water. Lead can pose a significant risk to your health if too much of it enters your body. Lead builds up in the body over many years and can cause damage to the brain, red blood cells and kidneys. The greatest risk is to young children and pregnant women. Amounts of lead that won't hurt adults can slow down normal mental and physical development of growing bodies. In addition, a child at play often comes into contact with sources of lead contamination—such as dirt and dust—that rarely affect an adult. It is important to wash children's hands and toys often, and to try to make sure they only put food in their mouths.

c. Lead in drinking water.

(1) Lead in drinking water, although rarely the sole cause of lead poisoning, can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The EPA estimates that drinking water can make up 20 percent or more of a person's total exposure to lead.

(2) Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies such as rivers and lakes. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass and chrome-plated brass faucets, and in some cases, pipes made of lead that connect your house to the water main (service lines). In 1986, Congress banned the use of lead solder containing greater than 0.2 percent lead and restricted the lead content of faucets, pipes and other plumbing materials to 8.0 percent.

(3) When water stands for several hours or more in lead pipes or plumbing systems containing lead, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning, or later in the afternoon after returning from work or school, can contain fairly high levels of lead.

d. Steps you can take in the home to reduce exposure to lead in drinking water.

(1) Despite our best efforts mentioned earlier to control water corrosivity and remove lead from the water supply, lead levels in some homes or buildings can be high. To find out whether you need to take action in your own home, have your drinking water tested to determine if it contains excessive concentrations of lead. Testing the water is essential because you cannot see, taste, or smell lead in drinking water. Some local laboratories that can provide this service are listed at the end of this booklet. For more information on having your water tested, please call (insert phone number of water system).

(2) If a water test indicates that the drinking water drawn from a tap in your home contains lead above 15 ppb, then you should take the following precautions:

Let the water run from the tap before using it for drinking or cooking anytime the water in a faucet has gone unused for more than six hours. The longer water resides in your home's plumbing the more lead it may contain. Flushing the tap means running the cold water faucet until the water gets noticeably colder, usually about 15 to 30 seconds. If your house has a lead service line to the water main, you may have to flush the water for a longer time, perhaps one minute, before drinking. Although toilet flushing or showering flushes water through a portion of your home's plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your family's health. It usually uses less than one or two gallons of water and costs less than (insert a cost estimate based on flushing two times a day for 30 days) per month. To conserve water, fill a couple of bottles for drinking water after flushing the tap, and whenever possible, use the first flush water to wash the dishes or water the plants. If you live in a high-rise building, letting the water flow before using it may not work to lessen your risk from lead. The plumbing systems have more, and sometimes larger, pipes than smaller buildings. Ask your landlord for help in locating the source of the lead and for advice on reducing the lead level.

Try not to cook with, or drink water from, the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and heat it on the stove.

Remove loose lead solder and debris from the plumbing materials installed in newly constructed homes, or homes in which the plumbing has recently been replaced, by removing the faucet strainers from all taps and running the water from three to five minutes. Thereafter, periodically remove the strainers and flush out any debris that has accumulated over time.

If your copper pipes are joined with lead solder that has been installed illegally since it was banned in 1986, notify the plumber who did the work and request that the plumber replace the lead solder with lead-free solder. Lead solder looks dull gray and, when scratched with a key, looks shiny. In addition, notify the Iowa department of natural resources about the violation.

Determine whether or not the service line that connects your home or apartment to the water main is made of lead. The best way to determine if your service line is made of lead is by either hiring a licensed plumber to inspect the line or by contacting the plumbing contractor who installed the line. You can identify the plumbing contractor by checking the city's record of building permits which should be maintained in the files of the (insert name of department that issues building permits). A licensed plumber can at the same time check to see if your home's plumbing contains lead solder, lead pipes, or pipe fittings that contain lead. The public water system that delivers water to your home should also maintain records of the materials located in the distribution system. If the service line that connects your dwelling to the water main contributes more than 15 ppb to drinking water, after our comprehensive treatment program is in place, we are required to replace the line. If the line is only partially

controlled by the (insert name of the city, county, or water system that controls the line), we are required to provide you with information on how to replace your portion of the service line, and offer to replace that portion of the line at your expense and take a follow-up tap water sample within 14 days of the replacement. Acceptable replacement alternatives include copper, steel, iron, and plastic pipes.

Have an electrician check your wiring. If grounding wires from the electrical system are attached to your pipes, corrosion may be greater. Check with a licensed electrician or your local electrical code to determine if your wiring can be grounded elsewhere. DO NOT attempt to change the wiring yourself because improper grounding can cause electrical shock and fire hazards.

(3) The steps described above will reduce the lead concentrations in your drinking water. However, if a water test indicates that the drinking water coming from your tap contains lead concentrations in excess of 15 ppb after flushing, or after we have completed our actions to minimize lead levels, then you may want to take the following additional measures:

Purchase or lease a home treatment device. Home treatment devices are limited in that each unit treats only the water that flows from the faucet to which it is connected, and all of the devices require periodic maintenance and replacement. Devices such as reverse osmosis systems or distillers can effectively remove lead from your drinking water. Some activated carbon filters may reduce lead levels at the tap. However, all lead reduction claims should be investigated. Be sure to check the actual performance of a specific home treatment device before and after installing the unit.

Purchase bottled water for drinking and cooking.

(4) You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with information about the health effects of lead. State and local government agencies that can be contacted include: (insert the name of city or county department of public utilities) at (insert phone number) can provide you with information about your community's water supply, and a list of local laboratories that have been certified by EPA for testing water quality; (insert the name of city or county department that issues building permits) at (insert phone number) can provide you with information about building permit records that should contain the names of plumbing contractors that plumbed your home; and (insert the Iowa department of public health) at (insert phone number) or the (insert the name of the city or county health department) at (insert phone number) can provide you with information about the health effects of lead and how you can have your child's blood tested.

(5) The following is a list of some approved laboratories in your area that you can call to have your water tested for lead. (Insert names and phone numbers of at least two laboratories.)

42.2(3) Content of broadcast materials. A water system shall include the following information in all public service announcements submitted under its lead public education program to television and radio stations for broadcasting:

a. Why should everyone want to know the facts about lead and drinking water? Because unhealthy amounts of lead can enter drinking water through the plumbing in your home. That's why I urge you to do what I did. I had my water tested for (insert "free" or dollar amount per sample). You can contact the (insert the name of the city or water system) for information on testing and on simple ways to reduce your exposure to lead in drinking water.

b. To have your water tested for lead, or to get more information about this public health concern, please call (insert the phone number of the city or water system).

42.2(4) Delivery of a public education program.

a. In communities where a significant proportion of the population speaks a language other than English, public education materials shall be communicated in the appropriate language(s).

b. A community water system that fails to meet the lead action level on the basis of tap water samples collected in accordance with 567—paragraph 41.4(1)"c" shall, within 60 days:

(1) Insert notices in each customer's water utility bill containing the information in 42.2(2) along with the following alert on the water bill itself in large print: "SOME HOMES IN THIS COMMUNITY HAVE ELEVATED LEAD LEVELS IN THEIR DRINKING WATER. LEAD CAN POSE A SIGNIFICANT RISK TO YOUR HEALTH. PLEASE READ THE ENCLOSED NOTICE FOR FURTHER INFORMATION."

(2) Submit the information in 42.2(2) to the editorial departments of the major daily and weekly newspapers circulated throughout the community.

(3) Deliver pamphlets or brochures that contain the public education materials in 42.2(2) to facilities and organizations, including the following: public schools and local school boards; city or county health departments; Women, Infants, and Children and Head Start program(s) whenever available; public and private hospitals and clinics; pediatricians; family planning clinics; and local welfare agencies.

(4) Submit the public service announcement in 42.2(3) to at least five of the radio and television stations with the largest audiences that broadcast to the community served by the water system.

c. A community water system shall repeat the tasks in 42.2(4)"b"(1) to (3) every 12 months and the tasks in 42.2(4)"b"(4) every 6 months for as long as the system exceeds the lead action level.

d. Within 60 days after it exceeds the lead action level, a nontransient noncommunity water system shall deliver the public education materials in 42.2(2)"a," "b," and "d" as follows:

(1) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

(2) Distribute informational pamphlets or brochures on lead in drinking water to each person served by the nontransient noncommunity water system.

e. A nontransient noncommunity water system shall repeat the tasks in 42.2(4)"c" at least once during each calendar year in which the system exceeds the lead action level.

f. A water system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to 567—paragraph 41.4(1)"c." Such a system shall recommence public education in accordance with this subrule if it subsequently exceeds the lead action level during any monitoring period.

42.2(5) Supplemental monitoring and notification of results. A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with 567—paragraph 41.4(1)"c" shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

42.2(6) Special lead ban public notice.

a. Applicability of public notice requirement.

(1) The owner or operator of each community water system and each nontransient noncommunity water system shall, except as provided in 42.2(6)"b," issue a notice to persons served by the system that may be affected by lead contamination of their drinking water. The department may require subsequent notices. The owner or operator shall provide notice under this subparagraph even if there is no violation of the lead action level as prescribed in 567—paragraph 41.4(1)"b."

(2) Notice required under 42.2(6)"a" is not required if the system demonstrates to the department that the water system, including the residential and nonresidential portions connected to the water system, are lead-free as defined in 567—40.2(455B).

b. Manner of notice. Notice shall be given to persons served by the system either by three newspaper notices (one for each of three consecutive months); or once by mailing the notice with the water bill or in a separate mailing; or once by hand delivery. For nontransient noncommunity water systems, notice may be given by continuous posting. If posting is used, the notice shall be posted in a conspicuous place in the area served by the system and must continue to be posted for three months.

c. General content of public notice.

(1) Notices issued under this subparagraph shall provide a clear and readily understandable explanation of the potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, any steps the water system is taking to mitigate lead content in drinking water, and the necessity for seeking alternative water supplies, if any. Use of the mandatory language in 42.2(6)"d" in the notice will be sufficient to explain potential adverse health effects.

(2) Each notice shall also include specific advice on how to determine if materials containing lead have been used in homes or the water distribution system and how to minimize exposure to water likely to contain high levels of lead. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall contain the telephone number of the owner, operator, or designee of the public water system as a source of additional information regarding the notice. Where appropriate, the notice shall be multilingual.

d. Mandatory health effects information. When providing the information in public notices required under 42.2(6)"c" on the potential adverse health effects of lead in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lead is a health concern at certain levels of exposure. There is currently a standard of 0.050 parts per million (ppm). Based on new health information, EPA is likely to lower the standard significantly.

"Part of the purpose of this notice is to inform you of the potential adverse health effects of lead. This is being done even though your water may not be in violation of the current standard.

"EPA and others are concerned about lead in drinking water. Too much lead in the human body can cause serious damage to the brain, kidneys, nervous system, and red blood cells. The greatest risk, even with short-term exposure, is to young children and pregnant women.

"Lead levels in your drinking water are likely to be highest:

—if your home or water system has lead pipes, or

—if your home has copper pipes with lead solder, or

—if your home is less than five years old, or

—if you have soft or acidic water, or

—if water sits in the pipes for several hours."

e. Public notification by the department. The department may give notice to the public required by this subrule on behalf of the owner or operator of the public water system if the department complies with the requirements of this subrule. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this subrule are met.

567—42.3(455B) Consumer confidence reports.

42.3(1) Applicability and purpose. This rule applies to all community public water supply systems. The purpose of this rule is to establish the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants in the drinking water in an accurate and understandable manner. The department may assign public notification requirements and assess administrative penalties to any community public water supply system which fails to fulfill the requirements of this rule.

42.3(2) Reporting frequency.

a. Existing community water systems. Existing community water systems must deliver the first report by October 19, 1999; the second report by July 1, 2000; and subsequent reports annually by July 1 thereafter.

b. New community water systems. New community water systems must deliver their first report by July 1 of the year after their first full calendar year in operation, and annually thereafter.

c. CWS which sells water to another CWS. A community water system that sells water to another community water system must deliver the applicable information required in subrule 42.3(3) to the buyer system:

(1) No later than April 19, 1999, for the 1998 report; by April 1, 2000, for the 1999 report; and annually by April 1 thereafter, or

(2) On a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

When a consecutive system sells water to another community water system, the seller must provide all applicable information in 42.3(3) to the CWS buying the water from them.

42.3(3) Content of the reports. Each annual consumer confidence report must contain the following information, at a minimum:

a. Source water identification. The report must identify the source(s) of water delivered by the community public water supply system, including the following:

(1) Type of water (e.g., surface water, groundwater, groundwater purchased from another public water supply).

(2) Commonly used name of the aquifer, reservoir, or river (if any) and location of the body (or bodies) of water.

(3) If a source water assessment has been completed, notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water as-

sessment from the department, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the department or its designee, or written by the owner or operator.

b. Definitions. Each report must include the following definitions:

(1) "Maximum Contaminant Level Goal (MCLG)" means the level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(2) "Maximum Contaminant Level (MCL)" means the highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(3) "Variances and exemptions" means state permission not to meet an MCL or a treatment technique under certain conditions. This definition is only required for a water system which has been granted a variance, an exemption, or a compliance schedule extension through an operation permit, administrative order, or court order.

(4) A report which contains data on a contaminant for which EPA has set a treatment technique or an action level must include one or both of the following definitions, as applicable:

1. "Treatment technique" means a required process intended to reduce the level of a contaminant in drinking water.
2. "Action level" means the concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(5) "Detected." For the purposes of this subrule, "detected" means at or above the levels prescribed by the following Chapter 41 references:

1. Inorganic contaminants:
   567—paragraph 41.3(1)"e"(1).
2. Volatile organic contaminants:
   567—paragraph 41.5(1)"b."
3. Synthetic organic contaminants:
   567—paragraph 41.5(1)"b."
4. Radionuclide contaminants:
   567—paragraph 41.9(1)"c."
5. Other contaminants with health advisory levels, as assigned by the department.

c. Information on detected contaminants. This paragraph specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium, which is listed in 42.3(3)"c"(2)). It applies to the following: contaminants subject to an MCL, action level, or treatment technique (regulated contaminants); contaminants for which monitoring is required by 567—41.3(1)"f," 567—41.11(455B), and 567—41.15(455B) (unregulated and special contaminants); and disinfection by-products or microbial contaminants for which monitoring is required by 567—Chapters 40 to 43, except as provided under 42.3(3)"e"(1), and which are detected in the finished water.

(1) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

1. The data must be derived from data collected to comply with departmental monitoring and analytical requirements during calendar year 1998 for the first report and subsequent calendar years thereafter. Where a system is allowed to monitor for contaminants less often than once a year, the table(s) must include the results and date of the most recent sampling and a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than five years need be included.
2. For detected regulated contaminants, which are listed in Appendix D, the table(s) must contain:
   - The MCL for that contaminant, expressed as a number equal to or greater than 1.0 (as provided in Appendix C);
   - The MCLG for that contaminant, expressed in the same units as the MCL;
   - If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definition for treatment technique or action level, as appropriate, specified in 42.3(3)"b"(4).
3. For contaminants subject to an MCL, except turbidity and total coliforms, the table must contain the highest contaminant level used to determine compliance with a primary drinking water standard and the range of detected levels, as follows:
   - When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL (such as inorganic compounds).
   - When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL (such as organic compounds and radionuclides).
   - When compliance with an MCL is determined on a systemwide basis by calculating a running annual average of all samples at all sampling points: the average and range of detection expressed in the same units as the MCL (such as total trihalomethane compounds).

   NOTE: When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Appendix C.
4. For turbidity:
   - When it is reported pursuant to 567—paragraph 41.7(1)"b": the highest average monthly value.
   - When it is reported pursuant to 567—43.5(455B): the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in 567—43.5(455B) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.
5. For lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level.
6. For total coliform:
   - The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or
   - The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.
7. For fecal coliform:
   - The total number of positive samples; and
   - The likely source(s) of detected contaminants to the best of the owner's or operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments. If the owner or operator lacks specific information on the likely contaminant source, the report must include one or more of the typical sources for that contaminant listed in Appendix D, which are most applicable to the system.

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8. If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems may produce separate reports tailored to include data for each service area.

9. The table(s) must clearly identify any data indicating violations of a health-based standard, and the report must contain a clear and readily understandable explanation of the violation including:

- The length of the violation,
- The potential adverse health effects,
- Actions taken by the system to address the violation, and
- The relevant language from Appendix E to describe the potential health effects.

10. For detected unregulated contaminants for which monitoring is required, except Cryptosporidium, the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

11. For public water supply systems which have fluoride levels greater than or equal to 2.0 mg/L and less than or equal to 4.0 mg/L, the report may contain the language listed in Appendix F, which is intended to alert families about dental problems that might affect children under nine years of age, instead of providing a separate public notification.

12. Community public water supply systems may list the most recent results of the special sodium monitoring requirement according to 567—subrule 41.11(3) in the annual report, instead of providing a separate public notification.

13. If a contaminant which does not have an MCL, TT, or AL is detected in the water, the PWS must contact the department for the specific health effects language, health advisory level, and contamination sources.

(2) If monitoring indicates that Cryptosporidium may be present in the source water or the finished water, or that radon may be present in the finished water, the report must include:

1. A summary of the results of the monitoring;
2. An explanation of the significance of the results.

(3) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, the system must report any results which may indicate a health concern. To determine if results may indicate a health concern, the community public water supply can determine if there is a current or proposed health-based standard by contacting the department or by calling the national Safe Drinking Water Hotline (800-426-4791). The department considers the detection of a contaminant above a proposed MCL or health advisory to indicate possible health concerns. For such contaminants, the report should include:

1. The results of the monitoring; and
2. An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

d. Compliance with 567—Chapters 40, 41, 42, and 43. In addition to the requirements of 567—paragraph 42.3(3)"c"(1)"9," the report must note any violation that occurred during the year covered by the report of a requirement listed below and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation. Note any violation of the following requirements:

(1) Monitoring and reporting of compliance data pursuant to 567—Chapters 41 and 43, which includes any contaminant with a health-based standard;

(2) Treatment techniques:

1. Filtration and disinfection prescribed by 567—43.5(455B). For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

2. Lead and copper control requirements. For systems which fail to take one or more actions prescribed by 567—Chapters 41 to 43 pertaining to lead and copper, the report must include the applicable language of Appendix E to this chapter for lead or copper, or both.

3. Acrylamide and epichlorohydrin control technologies prescribed by 567—paragraph 41.5(1)"b"(3). For systems which violate the requirements of 567—paragraph 41.5(1)"b"(3), the report must include the relevant language from Appendix E to this chapter.

(3) Record keeping of compliance data pursuant to 567—Chapters 40 to 43;

(4) Special monitoring requirements; and

(5) Violation of the terms of operation permit compliance schedule, or an administrative order or judicial order.

e. Operation permit or administrative order with a schedule which extends the time period in which compliance must be achieved. If a system has been issued a compliance schedule with an extension for compliance, the report must contain:

(1) An explanation of the reasons for the extension;

(2) The date on which the extension was issued;

(3) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms of the compliance schedule; and

(4) A notice of any opportunity for public input in the review or renewal of the compliance schedule.

f. Mandatory report language for explanation of contaminant occurrence. The reports must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language of the following subparagraphs (1) to (3). Subparagraph (4) is provided as a minimal alternative to subparagraphs (1) to (3). Systems may also develop their own comparable language. The report also must include the language of 42.3(3)"g."

(1) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally occurring minerals and radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

(2) Contaminants that may be present in source water include:

1. Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

2. Inorganic contaminants, such as salts and metals, which can be naturally occurring or result from urban storm

runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

3. Pesticides and herbicides, which may come from a variety of sources such as agriculture, storm water runoff, and residential uses.

4. Organic chemical contaminants, including synthetic and volatile organics, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban storm water runoff and septic systems.

5. Radioactive contaminants, which can be naturally occurring or be the result of oil and gas production and mining activities.

(3) In order to ensure that tap water is safe to drink, the department prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. The United States Food and Drug Administration regulations establish limits for contaminants in bottled water which must provide the same protection for public heath.

(4) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the national Safe Drinking Water Hotline (800-426-4791).

g. Required additional health information.

(1) All systems. All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. The guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the national Safe Drinking Water Hotline (800-426-4791).

(2) Arsenic levels greater than half the MCL (25 μg/L). A system which detects arsenic at levels above 25 μg/L, but below the MCL:

1. Must include in its report a short information statement about arsenic, using language such as: EPA is reviewing the drinking water standard for arsenic because of special concerns that it may not be stringent enough. Arsenic is a naturally occurring mineral known to cause cancer in humans at high concentrations.

2. May write its own educational statement, but only in consultation with the department.

(3) Nitrate levels greater than half the MCL (5 mg/L). A system which detects nitrate at levels above 5 mg/L, but below the MCL:

1. Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

2. May write its own education statement, but only in consultation with the department.

(4) Nitrite levels greater than half the MCL (0.5 mg/L). A system which detects nitrite at levels above 0.5 mg/L, but below the MCL:

1. Must include a short informational statement about the impacts of nitrite on children using language such as: Nitrite in drinking water at levels above 1 ppm is a health risk for infants of less than six months of age. High nitrite levels in drinking water can cause blue baby syndrome. If you are caring for an infant you should ask advice from your health care provider.

2. May write its own education statement, but only in consultation with the department.

(5) Lead 95th percentile levels above the action level (0.015 mg/L). Systems which detect lead above the action level in more than 5 percent (95th percentile) but fewer than 10 percent (90th percentile) of homes sampled:

1. Must include a short informational statement about the special impact of lead on children using language such as: Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791).

2. May write its own educational statement, but only in consultation with the department.

(6) Total trihalomethane (TTHM) levels above 0.080 mg/L but less than the MCL. Systems that detect TTHMs above 0.080 mg/L, but below the MCL in 567—subrule 41.5(1), as an annual average, monitored and calculated under the provisions of 567—paragraph 41.5(1)"e," must include the health effects language for total trihalomethanes listed in Appendix E.

h. Additional mandatory report requirements.

(1) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report.

(2) In communities with a large proportion of non-English speaking residents, as determined by the department, the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(3) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water.

(4) The systems may include such additional information as they deem necessary for the public education consistent with, and not detracting from, the purpose of the report.

42.3(4) Report delivery.

a. Required report recipients. Each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(1) The system must make a good-faith effort to reach consumers who do not get water bills, using means recommended by the department. An adequate good-faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good-faith effort to reach consumers would include a mix of methods appropriate to the particular system such as:

1. Posting the reports on the Internet;

2. Mailing to postal patrons in metropolitan areas;

3. Advertising the availability of the report in the news media;
4. Publication in a local newspaper;
5. Posting in public places such as cafeterias or lunchrooms of public buildings;
6. Delivery of multiple copies for distribution by single-billed customers such as apartment buildings or large private employers;
7. Delivery to community organizations.

(2) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the department, followed within three months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the department.

(3) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the department, such as the Iowa department of public health or county board of health.

b. Availability of report. Each community water system must make its report available to the public upon request. Each community water system serving 100,000 or more persons must post its current year's report to a publicly accessible site on the Internet.

c. Waiver from mailing requirements for systems serving fewer than 10,000 persons. All community public water supply systems with fewer than 10,000 persons served will be granted the waiver, except for those systems which have the following: one or more exceedances of a health-based standard; an administrative order; court order; significant noncompliance with monitoring or reporting requirements; or an extended compliance schedule contained in the operation permit. Even though a public water supply system has been granted a mailing waiver, paragraphs 42.3(4)"a"(2) to (4) and 42.3(4)"b" still apply to all community public water supply systems. A mailing waiver is not allowed for the report covering the year during which one of the previously listed exceptions occurred. Systems which use the mailing waiver must:

(1) Publish the reports in one or more local newspapers serving the area in which the system is located;

(2) Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the department; and

(3) Make the reports available to the public upon request.

d. Waiver from mailing requirements for systems serving 500 or fewer in population. All community public water supply systems serving 500 or fewer persons will be granted the waiver, except for those systems which have the following: one or more exceedances of a health-based standard; an administrative order; court order; significant noncompliance with monitoring or reporting requirements; or an extended compliance schedule contained in the operation permit. Systems serving 500 or fewer persons which use the waiver may forego the requirements of subparagraphs 42.3(4)"c"(1) and (2) if they provide notice at least once per year to their customers by mail, door-to-door delivery, or by posting that the report is available upon request, in conspicuous places within the area served by the system acceptable to the department. A mailing waiver is not allowed for the report covering the year during which one of the previously listed exceptions occurred. Even though a public water supply system has been granted a mailing waiver, paragraphs 42.3(4)"a"(2) to (4) and 42.3(4)"b" still apply to all community public water supply systems.

567—42.4(455B) Reporting.

42.4(1) Reporting requirements other than for lead and copper.

a. When required by the department, the supplier of water shall report to the department within ten days following a test, measurement or analysis required to be made by 567—Chapter 40, 41, 42, or 43 the results of that test, measurement or analysis in the form and manner prescribed by the department. This shall include reporting of all positive detects within the same specific analytical method.

b. Except where a different reporting period is specified in this rule or 567—Chapters 41 and 43, the supplier of water shall report to the department within 48 hours after any failure to comply with the monitoring requirements set forth in 567—Chapters 41 and 43. The supplier of water shall also notify the department within 48 hours of failure to comply with any primary drinking water regulations.

c. The public water supply system, within ten days of completion of each public notification required pursuant to 42.1(455B), shall submit to the department a representative copy of each type of notice distributed, published, posted, or made available to the persons served by the system or to the media.

42.4(2) Lead and copper reporting requirements. All water systems shall report all of the following information to the department in accordance with this subrule.

a. Reporting requirements for tap water monitoring for lead and copper and for water quality parameter monitoring.

(1) A water system shall report the information specified below for all tap water samples within the first ten days following the end of each applicable monitoring period specified in 567—41.4(455B) (i.e., every six months, annually, or every three years).

1. The results of all tap samples for lead and copper including the location of each site and the criteria under which the site was selected for the system's sampling pool;

2. A certification that each first draw sample collected by the water system is one liter in volume and, to the best of the collector's knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least six hours;

3. Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures specified in 567—paragraph 41.4(1)"c"(2)"2";

4. The 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period (calculated in accordance with 567—paragraph 41.4(1)"b"(3));

5. With the exception of initial tap sampling conducted pursuant to 567—paragraph 41.4(1)"c"(4)"1," the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed;

6. The results of all tap samples for pH and, where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under 567—paragraphs 41.4(1)"d"(2) through (5);

7. The results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters under 567—paragraphs 41.4(1)"d"(2) and (5).

(2) By the applicable date in 567—paragraph 41.4(1)"c"(4)"1" for commencement of monitoring, each community water system which does not complete its tar-

geted sampling pool with tier 1 sampling sites meeting the criteria in 567—paragraph 41.4(1)"c"(1)"3" shall send a letter justifying its selection of tier 2 and tier 3 sampling sites under 567—paragraphs 41.4(1)"c"(1)"4" and "5," whichever is applicable.

(3) By the applicable date in 567—paragraph 41.4(1)"c"(4)"1" for commencement of monitoring, each nontransient noncommunity water system which does not complete its sampling pool with tier 1 sampling sites meeting the criteria in 567—paragraph 41.4(1)"c"(1)"6" shall send a letter to the department justifying its selection of sampling sites under 567—paragraph 41.4(1)"c"(1)"7."

(4) By the applicable date in 567—paragraph 41.4(1)"c"(4)"1" for commencement of monitoring, each water system with lead service lines that is not able to locate the number of sites served by such lines required under 567—paragraph 41.4(1)"c"(1)"8" shall send a letter to the department demonstrating why it was unable to locate a sufficient number of such sites based upon the information listed in 567—paragraph 41.4(1)"c"(1)"2."

(5) Each water system that requests that the department reduce the number and frequency of sampling shall provide the information required under 567—paragraph 41.4(1)"c"(4)"4."

b. Source water monitoring reporting requirements.

(1) A water system shall report the sampling results for all source water samples collected in accordance with 567—paragraph 41.4(1)"e" within the first ten days following the end of each source water monitoring period (i.e., annually, per compliance period or per compliance cycle) specified in 567—paragraph 41.4(1)"e."

(2) With the exception of the first round of source water sampling conducted pursuant to 567—paragraph 41.4(1)"e"(2), the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

c. Corrosion control treatment reporting requirements. By the applicable dates under 567—subrule 43.7(1), systems shall report the following information:

(1) For systems demonstrating that they have already optimized corrosion control, information required in 567—paragraph 43.7(1)"b"(2) or (3).

(2) For systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment under 567—paragraph 43.7(2)"a."

(3) For systems required to evaluate the effectiveness of corrosion control treatments under 567—paragraph 43.7(2)"c," the information required by that paragraph.

(4) For systems required to install optimal corrosion control designated by the department under 567—paragraph 43.7(2)"d," a letter certifying that the system has completed installing that treatment.

d. Source water treatment reporting requirements. By the applicable dates in 567—paragraph 43.7(3)"b"(1), systems shall provide the following information to the department:

(1) If required under 567—paragraph 43.7(3)"b"(1), their recommendation regarding source water treatment;

(2) For systems required to install source water treatment under 567—paragraph 43.7(3)"b"(1), a letter certifying that the system has completed installing the treatment designated by this department within 24 months after the department designated the treatment.

e. Lead service line replacement reporting requirements. Systems shall report the following information to demonstrate compliance with the requirements of 567—subrule 43.7(4):

(1) Within 12 months after a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)"a," the system shall demonstrate in writing to the department that it has conducted a materials evaluation, including the evaluation pursuant to 567—paragraph 41.4(1)"c"(1) to identify the initial number of lead service lines in its distribution system, and shall provide the department with the system's schedule for replacing annually at least 7 percent of the initial number of lead service lines in its distribution system.

(2) Within 12 months after a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)"a" and every 12 months thereafter, the system shall demonstrate in writing that the system has either:

1. Replaced in the previous 12 months at least 7 percent of the initial lead service lines (or a greater number of lines specified by the department under 567—paragraph 43.7(4)"f" in its distribution system), or

2. Conducted sampling which demonstrates that the lead concentration in all service line samples from individual line(s), taken pursuant to 567—paragraph 41.4(1)"c"(2)"3," is less than or equal to 0.015 mg/L. In such cases, the total number of lines replaced and which meet the criteria in 567—paragraph 43.7(4)"c" shall equal at least 7 percent of the initial number of lead lines identified under 567—paragraph 43.7(4)"c" or the percentage specified by the department under 567—paragraph 43.7(4)"f."

(3) The annual letter submitted to the department under 42.4(2)"e"(2) shall contain the following information:

1. The number of lead service lines scheduled to be replaced during the previous year of the system's replacement schedule;

2. The number and location of each lead service line replaced during the previous year of the system's replacement schedule;

3. If measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling.

(4) As soon as practicable, but in no case later than three months after a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)"a," any system seeking to rebut the presumption that it has control over the entire lead service line pursuant to 567—paragraph 43.7(4)"d" shall submit a letter to the department describing the legal authority (e.g., state statutes, municipal ordinances, public service contracts or other applicable legal authority) which limits the system's control over the service lines and the extent of the system's control.

f. Public education program reporting requirements. By December of each year, a water system that is subject to the public education requirements in 42.2(455B) shall submit a letter to the department demonstrating that the system has delivered the public education materials that meet the content requirements in 42.2(2) and 42.2(3) and the delivery requirements in 42.2(4). This information shall include a list of all the newspapers, radio stations, television stations, facilities and organizations to which the system delivered public education materials during the previous year. The water system shall submit the letter annually for as long as it exceeds the lead action level.

g. Reporting of additional monitoring data. A system which collects sampling data in addition to that required by 567—Chapters 41 and 43 shall report the results to the department within the first ten days following the end of the

applicable monitoring period under 567—paragraphs 41.4(1)"c," "d," and "e" during which the samples are collected.

42.4(3) Operation and maintenance for PWS.

a. Required records of operation.

(1) Applicability. Monthly records of operation shall be completed by all public water supplies, on forms provided by the department or on similar forms, unless a public water supply meets all of the following conditions:

1. Supplies an annual average of not more than 25,000 gpd or serves no more than an average of 250 individuals daily;

2. Is a community public water supply and does not provide any type of treatment, or is a noncommunity system (NTNC and TNC) which has only a cation-exchange softening or iron/manganese removal treatment unit, and meets the requirements of 42.4(3)"a"(2)"7";

3. Does not utilize either a surface water or a groundwater under the direct influence of surface water either in whole or in part as a water source.

4. Does not use a treatment technique such as blending to achieve compliance with health-based standards.

The reports shall be completed as described in 42.4(3)"a"(2) and maintained at the facility for inspection by the department for a period of five years. For CWS and NTNC PWSs, the monthly operation report must be signed by the certified operator in direct responsible charge or the certified operator's designee. For TNC PWSs, the monthly operation report, if required by the department, must be signed by the owner or the owner's designee.

(2) Contents. Monthly operation reports shall be completed as follows:

1. Pumpage or flow. Noncommunity supplies shall measure and record the total water used each week. It is recommended that a daily measurement and recording be made. Community supplies shall measure and record daily water used. Reporting of pumpage or flow may be required in an operation permit where needed to verify MCL compliance.

2. Treatment effectiveness. Where treatment is practiced, the intended effect of the treatment shall be measured at locations and by methods which best indicate effectiveness of the treatment process. These measurements shall be made pursuant to Appendix B of this chapter. Daily monitoring is seven days a week unless otherwise specified by the department.

3. Treatment effectiveness for a primary standard. Where the raw water quality does not meet the requirements of 567—Chapters 41 and 43 and treatment is practiced for the purpose of complying with a health-based standard drinking water standard, daily measurement of the primary standard constituent or an appropriate indicator constituent designated by the department shall be recorded. The department will require reporting of these results in the operation permit to verify MCL compliance.

4. Treatment effectiveness for a secondary standard. Where treatment is practiced for the purpose of achieving the recommended level of any constituent designated in the federal secondary standards, measurements shall be measured and recorded at a frequency specified in Appendix B. Daily monitoring is seven days a week unless otherwise specified by the department.

5. Chemical application. Chemicals such as fluoride, iodine, bromine and chlorine, which are potentially toxic in excessive concentration, shall be measured and recorded daily. Recording shall include the amount of chemical applied each day. Where the supplier of water is attempting to maintain a residual of the chemical throughout the system, such as chlorine, the residual in the system shall be recorded daily. The quantity of all other chemicals applied shall be measured and recorded at least once each week.

6. Static water levels and pumping water levels must be measured and recorded once per month for all groundwater sources. More or less frequent measurements may be approved by the department where historical data justifies it.

7. Noncommunity systems (NTNC and TNC) are exempt from the self-monitoring requirements for cation-exchange softening and iron/manganese removal if the treatment unit:

- Is a commercially available "off-the-shelf" unit designed for home use;
- Is self-contained, requiring only a piping connection for installation;
- Operates throughout a range of 35 to 80 psi; and
- Has not been installed for the purpose of removing a contaminant which has a health-based standard.

b. Chemical quality and application. Any drinking water system chemical which is added to raw, partially treated, or finished water must be suitable for the intended use in a potable water system. Effective on October 1, 2000, the chemical must be certified to meet the current American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 60, if such certification exists for the particular product, unless certified chemicals are not reasonably available for use, in accordance with guidelines provided by the department. If the chemical is not certified by the ANSI/NSF Standard 60 or no certification is available, the person seeking to supply or use the chemical must prove to the satisfaction of the department that the chemical is not toxic or otherwise a potential hazard in a potable public water supply system.

The supplier of water shall keep a record of all chemicals used. This record should include a clear identification of the chemical by brand or generic name and the dosage rate. When chemical treatment is applied with the intent of obtaining an in-system residual, the residuals will be monitored regularly. When chemical treatment is applied and in-system residuals are not expected, the effectiveness of the treatment will be monitored through an appropriate indicative parameter.

(1) Continuous disinfection.

1. When required. Continuous disinfection must be provided at all public water supply systems, except for the following: groundwater supplies that have no treatment facilities or have only fluoride, sodium hydroxide or soda ash addition and that meet the bacterial standards as provided in 567—41.2(455B) and do not show other actual or potential hazardous contamination by microorganisms.

2. Method. Chlorine is the preferred disinfecting agent. Chlorination may be accomplished with liquid chlorine, calcium or sodium hypochlorites or chlorine dioxide. Other disinfecting agents will be considered, provided a residual can be maintained in the distribution system, reliable application equipment is available and testing procedures for a residual are recognized in Standard Methods for the Analysis of Water and Wastewater.

3. Chlorine residual. A minimum free available chlorine residual of 0.3 mg/L or a minimum total available chlorine residual of 1.5 mg/L must be continuously maintained throughout the water distribution system, except for those points on the distribution system that terminate as dead ends or areas that represent very low use when compared to usage

throughout the rest of the distribution system as determined by the department.

4. Test kit. A test kit capable of measuring free and combined chlorine residuals in increments no greater than 0.1 mg/L in the range below 0.5 mg/L, and in increments no greater than 0.2 mg/L in the range from 0.5 mg/L to 1.0 mg/L, and in increments no greater than 0.3 mg/L in the range from 1.0 mg/L to 2.0 mg/L must be provided at all chlorination facilities. The test kit must use a method of analysis that is recognized in Standard Methods for the Analysis of Water and Wastewater.

5. Leak detection, control and operator protection. A bottle of at least 56 percent ammonium hydroxide must be provided at all gas chlorination installations for leak detection. Leak repair kits must be available where ton chlorine cylinders are used.

6. Other disinfectant residuals. If an alternative disinfecting agent is approved by this department, the residual levels and type of test kit used will be assigned by the department in accordance with and based upon analytical methods contained in Standard Methods for the Analysis of Water and Wastewater.

(2) Phosphate compounds.

1. When phosphate compounds are to be added to any public water supply system which includes iron or manganese removal or ion-exchange softening, such compounds must be applied after the iron or manganese removal or ion-exchange softening treatment units, unless the director has received and approved an engineering report demonstrating the suitability for addition prior to these units in accordance with the provisions of 567—subrule 43.3(2). The department may require the discontinuance of phosphate addition where it interferes with other treatment processes, the operation of the water system or if there is a significant increase in microorganism populations associated with phosphate application.

2. The total phosphate concentration in the finished water must not exceed 10 mg/L as PO_4.

3. Chlorine shall be applied to the phosphate solution in sufficient quantity to give an initial concentration of 10 mg/L in the phosphate solution. A chlorine residual must be maintained in the phosphate solution at all times.

4. Test kits capable of measuring polyphosphate and orthophosphate in a range from 0.0 to 10.0 mg/L in increments no greater than 0.1 mg/L must be provided.

5. Continuous application or injection of phosphate compounds directly into a well is prohibited.

(3) Fluorosilicic acid. Where fluorosilicic acid (H_2SiF_6, also called hydrofluosilicic acid) is added to a public water supply, the operator shall be equipped with a fluoride test kit with a minimum range of from 0.0 to 2.0 mg/L in increments no greater than 0.1 mg/L. Distilled water and standard fluoride solutions of 0.2 mg/L and 1.0 mg/L must be provided.

c. Reporting and record-keeping requirements for systems using surface water and groundwater under the direct influence of surface water. In addition to the monitoring requirements required by 42.4(3)"a" and "b," a public water system that uses a surface water source or a groundwater source under the direct influence of surface water must report monthly to the department the information specified in this subrule beginning June 29, 1993, or when filtration is installed, whichever is later.

(1) Turbidity measurements as required by 567—subrules 41.7(1) and 43.5(3) must be reported within ten days after the end of each month the system serves water to the public. Information that must be reported includes:

1. The total number of filtered water turbidity measurements taken during the month.

2. The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in 567—paragraph 41.7(1)"b" for the filtration technology being used.

3. The date and value of any turbidity measurements taken during the month which exceed 5 NTU. If at any time the turbidity exceeds 5 NTU, the system must inform the department as soon as possible, but no later than the end of the next business day. This requirement is in addition to the monthly reporting requirement, pursuant to 567—43.5(455B).

(2) Disinfection information specified in 567—subrule 41.7(2) and 567—paragraph 42.4(3)"b" must be reported to the department within ten days after the end of each month the system serves water to the public. Information that must be reported includes:

1. For each day, the lowest measurement of residual disinfectant concentration in mg/L in water entering the distribution system.

2. The date and duration of each period when the residual disinfectant concentration in water entering the distribution system fell below 0.3 mg/L and when the department was notified of the occurrence. If at any time the residual falls below 0.3 mg/L in the water entering the distribution system, the system must notify the department as soon as possible, but no later than by the end of the next business day. The system also must notify the department by the end of the next business day whether or not the residual was restored to at least 0.3 mg/L within four hours. This requirement is in addition to the monthly reporting requirement, pursuant to 567—43.5(455B).

3. The information on the samples taken in the distribution system in conjunction with total coliform monitoring listed in 567—paragraph 43.5(2)"d" and pursuant to 567—paragraph 41.2(1)"c."

567—42.5(455B) Record maintenance.

42.5(1) Record maintenance requirements. Any owner or operator of a public water system subject to the provisions of this rule shall retain on its premises or at a convenient location near its premises the following records:

a. Analytical records.

(1) Actual laboratory reports shall be kept, or data may be transferred to tabular summaries, provided that the following information is included:

1. The date, place, and time of sampling, and the name of the person who collected the sample;

2. Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or process water sample or other special purpose sample;

3. Date of analysis;

4. Laboratory and person responsible for performing analysis;

5. The analytical technique or method used; and

6. The results of the analysis.

(2) Record retention for specific analytes.

1. Bacteria. Records of bacteriological analyses made pursuant to this subrule shall be kept for not less than five years.

2. Chemical: radionuclide, inorganic compounds, organic compounds. Records of chemical analyses made pursuant to 567—Chapter 41 shall be kept for not less than ten years. Additional lead and copper requirements are listed in 42.5(1)"b."

b. Lead and copper record-keeping requirements. A system subject to the requirements of 42.4(2) shall retain on its premises original records of all data and analyses, reports, surveys, public education, letters, evaluations, schedules, and any other information required by 567—41.4(455B) and 567—Chapter 43. Each water system shall retain the records required by this subrule for ten years.

c. Records of action (violation correction). Records of action taken by the system to correct violations of primary drinking water regulations (including administrative orders) shall be kept for not less than five years after the last action taken with respect to the particular violation involved.

d. Reports and correspondence relating to sanitary surveys. Copies of any written reports, summaries, or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, state or federal agency, shall be kept for a period of not less than ten years after completion of the sanitary survey involved.

e. Operation or construction permits. Records concerning an operation or a construction permit issued pursuant to 567—Chapter 43 to the system shall be kept for a period ending not less than ten years after the system achieves compliance with the health-based standard or after the system in question completes the associated construction project.

f. Public notification. Records of public notification, including the consumer confidence report, public notification examples, and reports requiring certification of who received the public notification, must be kept for at least five years.

g. Self-monitoring requirement records. The monthly records of operation must be completed as described in 42.4(3)"a"(2) and maintained at the facility for inspection by the department for a period of at least five years.

42.5(2) Reserved.

APPENDIX A
MANDATORY HEALTH EFFECTS LANGUAGE FOR PUBLIC NOTIFICATION

1. Acrylamide. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that acrylamide is a health concern at certain levels of exposure. Polymers made from acrylamide are sometimes used to treat water supplies to remove particulate contaminants. Acrylamide has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. Sufficiently large doses of acrylamide are known to cause neurological injury. EPA has set the drinking water standard for acrylamide using a treatment technique to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. This treatment technique limits the amount of acrylamide in the polymer and the amount of the polymer which may be added to drinking water to remove particulates. Drinking water systems which comply with this treatment technique have little to no risk and are considered safe with respect to acrylamide.

2. Alachlor. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that alachlor is a health concern at certain levels of exposure. This organic chemical is a widely used pesticide. When soil and climatic conditions are favorable, alachlor may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for alachlor at 0.002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to alachlor.

3. Aldicarb. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that aldicarb is a health concern at certain levels of exposure. Aldicarb is a widely used pesticide. Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), aldicarb may leach into groundwater after normal agricultural applications to crops such as potatoes or peanuts or may enter drinking water supplies as a result of surface runoff. This chemical has been shown to damage the nervous system in laboratory animals such as rats and dogs exposed to high levels. EPA has set the drinking water standard for aldicarb at 0.003 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to aldicarb.

4. Aldicarb sulfoxide. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that aldicarb sulfoxide is a health concern at certain levels of exposure. Aldicarb is a widely used pesticide. Aldicarb sulfoxide in groundwater is primarily a breakdown product of aldicarb. Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), aldicarb sulfoxide may leach into groundwater after normal agricultural applications to crops such as potatoes or peanuts or may enter drinking water supplies as a result of surface runoff. This chemical has been shown to damage the nervous system in laboratory animals such as rats and dogs exposed to high levels. EPA has set the drinking water standard for aldicarb sulfoxide at 0.004 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to aldicarb sulfoxide.

5. Aldicarb sulfone. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that aldicarb sulfone is a health concern at certain levels of exposure. Aldicarb is a widely used pesticide. Aldicarb sulfone is formed from the breakdown of aldicarb and is considered for registration as a pesticide under the name aldoxycarb. Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), aldicarb sulfone may leach into groundwater after normal agricultural applications to crops such as potatoes or peanuts or may enter drinking water supplies as a result of surface runoff. This chemical has been shown to damage the nervous system in laboratory animals such as rats and dogs exposed to high levels. EPA has set the drinking water standard for aldicarb sulfone at 0.002 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to aldicarb sulfone.

6. Antimony. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that antimony is a health concern at certain levels of exposure. This inorganic chemical occurs naturally in soils, groundwater and surface waters and is often used in the flame-retardant industry. It is also used in ceramics, glass, batteries, fireworks and explosives. It may get into drinking

water through natural weathering of rock, industrial production, municipal waste disposal or manufacturing processes. This chemical has been shown to decrease longevity and to alter blood levels of cholesterol and glucose in laboratory animals such as rats exposed to high levels during their lifetimes. EPA has set the drinking water standard for antimony at 0.006 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to antimony.

7. Asbestos. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that asbestos fibers greater than 10 micrometers in length are a health concern at certain levels of exposure. Asbestos is a naturally occurring mineral. Most asbestos fibers in drinking water are less than 10 micrometers in length and occur in drinking water from natural sources and from corroded asbestos-cement pipes in the distribution system. The major uses of asbestos were in the production of cements, floor tiles, paper products, paint, and caulking; in transportation-related applications; and in the production of textiles and plastics. Asbestos was once a popular insulating and fire-retardant material. Inhalation studies have shown that various forms of asbestos have produced lung tumors in laboratory animals. The available information on the risk of developing gastrointestinal tract cancer associated with the ingestion of asbestos from drinking water is limited. Ingestion of intermediate-range chrysotile asbestos fibers greater than 10 micrometers in length is associated with causing benign tumors in male rats. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for asbestos at 7 million long fibers per liter to reduce the potential risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to asbestos.

8. Atrazine. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that atrazine is a health concern at certain levels of exposure. This organic chemical is a herbicide. When soil and climatic conditions are favorable, atrazine may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to affect offspring of rats and the hearts of dogs. EPA has set the drinking water standard for atrazine at 0.003 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to atrazine.

9. Barium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that barium is a health concern at certain levels of exposure. This inorganic chemical occurs naturally in some aquifers that serve as sources of groundwater. It is also used in oil and gas drilling muds, automotive paints, bricks, tiles and jet fuels. It generally gets into drinking water after dissolving from naturally occurring minerals in the ground. This chemical may damage the heart and cardiovascular system and is associated with high blood pressure in laboratory animals such as rats exposed to high levels during their lifetimes. In humans, EPA believes that effects from barium on blood pressure should not occur below 2 parts per million (ppm) in drinking water. EPA has set the drinking water standard for barium at 2 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to barium.

10. Benzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that benzene is a health concern at certain levels of exposure. This chemical is used as a solvent and degreaser of metals. It is also a major component of gasoline. Drinking water contamination generally results from leaking underground gasoline and petroleum tanks or improper waste disposal. This chemical has been associated with significantly increased risks of leukemia among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for benzene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

11. Benzo(a)pyrene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that benzo(a)pyrene is a health concern at certain levels of exposure. Cigarette smoke and charbroiled meats are common sources of general exposure. The major source of benzo(a)pyrene in drinking water is the leaching from coal tar lining and sealants in water storage tanks. This chemical has been shown to cause cancer in animals such as rats and mice when the animals are exposed at high levels. EPA has set the drinking water standard for benzo(a)pyrene at 0.0002 parts per million (ppm) to protect against the risk of cancer. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to benzo(a)pyrene.

12. Beryllium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that beryllium is a health concern at certain levels of exposure. This inorganic metal occurs naturally in soils, groundwater and surface waters and is often used in electrical equipment and electrical components. It generally gets into water from runoff from mining operations, discharge from processing plants and improper waste disposal. Beryllium compounds have been associated with damage to the bones and lungs and induction of cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. There is limited evidence to suggest that beryllium may pose a cancer risk via drinking water exposure. Therefore, EPA based the health assessment on noncancer effects with an extra uncertainty factor to account for possible carcinogenicity. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for beryllium at 0.004 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to beryllium.

13. Cadmium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that cadmium is a health concern at certain levels of

exposure. Food and the smoking of tobacco are common sources of general exposure. This inorganic metal is a contaminant in the metals used to galvanize pipe. It generally gets into water by corrosion of galvanized pipes or by improper waste disposal. This chemical has been shown to damage the kidneys in animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the kidneys. EPA has set the drinking water standard for cadmium at 0.005 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to cadmium.

14. Carbofuran. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbofuran is a health concern at certain levels of exposure. This organic chemical is a pesticide. When soil and climatic conditions are favorable, carbofuran may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the nervous and reproductive systems of laboratory animals such as rats and mice exposed at high levels over their lifetimes. Some humans who were exposed to relatively large amounts of this chemical during their working careers also suffered damage to the nervous system. Effects on the nervous system are generally rapidly reversible. EPA has set the drinking water standard for carbofuran at 0.04 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to carbofuran.

15. Carbon tetrachloride. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbon tetrachloride is a health concern at certain levels of exposure. This chemical was once a popular household cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for carbon tetrachloride at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

16. Chlordane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that chlordane is a health concern at certain levels of exposure. This organic chemical is a pesticide used to control termites. Chlordane is not very mobile in soils. It usually gets into drinking water after application near water supply intakes or wells. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for chlordane at 0.002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to chlordane.

17. Chromium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that chromium is a health concern at certain levels of exposure. This inorganic metal occurs naturally in the ground and is often used in the electroplating of metals. It generally gets into water from runoff from old mining operations and improper waste disposal from plating operations. This chemical has been shown to damage the kidneys, nervous system, and the circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels. Some humans who were exposed to high levels of this chemical suffered liver and kidney damage, dermatitis and respiratory problems. EPA has set the drinking water standard for chromium at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to chromium.

18. Coliforms: Fecal coliforms/E. coli (to be used when there is a violation of 567—paragraph 41.2(1)"b"(2) or both 567—paragraphs 41.2(1)"b"(1) and (2)). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the presence of fecal coliforms or E. coli is a serious health concern. Fecal coliforms and E. coli are generally not harmful themselves, but their presence in drinking water is serious because they usually are associated with sewage or animal wastes. The presence of these bacteria in drinking water is generally a result of a problem with water treatment or the pipes which distribute the water and indicates that the water may be contaminated with organisms that can cause disease. Disease symptoms may include diarrhea, nausea, and possibly jaundice, and associated headaches and fatigue. These symptoms, however, are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than the drinking water. EPA has set an enforceable drinking water standard for fecal coliforms and E. coli to reduce the risk of these adverse health effects. Under this standard all drinking water samples must be free of these bacteria. Drinking water which meets this standard is associated with little or none of this risk and should be considered safe. State and local health authorities recommend that consumers take the following precautions: (to be inserted by the public water supply system, according to instructions from state or local authorities).

19. Coliforms: Total coliforms (to be used when there is a violation of 567—paragraph 41.2(1)"b"(1) and not a violation of 567—paragraph 41.2(1)"b"(2)). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the presence of total coliforms is a possible health concern. Total coliforms are common in the environment and are generally not harmful themselves. The presence of these bacteria in drinking water, however, generally is a result of a problem with water treatment or the pipes which distribute the water and indicates that the water may be contaminated with organisms that can cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however, are not just associated with disease-causing organisms in drinking water but also may be caused by a number of factors other than the drinking water. EPA has set an enforceable drinking water standard for total coliforms to reduce the risk of these adverse health effects. Under this standard, no more than 5.0 percent of the samples collected during a month can contain

these bacteria, except that systems collecting fewer than 40 samples per month that have one total coliform-positive sample per month are not violating the standard. Drinking water which meets this standard is usually not associated with a health risk from disease-causing bacteria and should be considered safe.

20. Copper. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that copper is a health concern at certain exposure levels. Copper, a reddish-brown metal, is often used to plumb residential and commercial structures that are connected to water distribution systems. Copper contaminating drinking water as a corrosion by-product occurs as the result of the corrosion of copper pipes that remain in contact with water for a prolonged period of time. Copper is an essential nutrient, but at high doses it has been shown to cause stomach and intestinal distress, liver and kidney damage, and anemia. Persons with Wilson's disease may be at a higher risk of health effects due to copper than the general public. EPA's national primary drinking water regulation requires all public water systems to install optimal corrosion control to minimize copper contamination resulting from the corrosion of plumbing materials. Public water systems serving 50,000 people or fewer that have copper concentrations below 1.3 parts per million (ppm) in more than 90 percent of tap water samples (the EPA "action level") are not required to install or improve their treatment. Any water system that exceeds the action level must also monitor their source water to determine whether treatment to remove copper in source water is needed.

21. Cyanide. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that cyanide is a health concern at certain levels of exposure. This inorganic chemical is used in electroplating, steel processing, plastics, synthetic fabrics and fertilizer products. It usually gets into water as a result of improper waste disposal. This chemical has been shown to damage the spleen, brain and liver of humans fatally poisoned with cyanide. EPA has set the drinking water standard for cyanide at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to cyanide.

22. 2,4-D. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 2,4-D is a health concern at certain levels of exposure. This organic chemical is used as a herbicide and to control algae in reservoirs. When soil and climatic conditions are favorable, 2,4-D may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the liver and kidneys of laboratory animals such as rats exposed at high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for 2,4-D at 0.07 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to 2,4-D.

23. Dalapon. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that dalapon is a health concern at certain levels of exposure. This organic chemical is a widely used herbicide. It may get into drinking water after application to control grasses in crops, drainage ditches and along railroads. This chemical has been shown to cause damage to the kidneys and liver in laboratory animals when the animals are exposed to high levels over their lifetimes. EPA has set the drinking water standard for dalapon at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to dalapon.

24. Dibromochloropropane (DBCP). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that DBCP is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, dibromochloropropane may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for DBCP at 0.0002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to DBCP.

25. 1,2-Dichlorobenzene (ortho-Dichlorobenzene). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that o-dichlorobenzene is a health concern at certain levels of exposure. This organic chemical is used as a solvent in the production of pesticides and dyes. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, kidneys and the blood cells of laboratory animals such as rats and mice exposed to high levels during their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the liver, nervous system, and circulatory system. EPA has set the drinking water standard for o-dichlorobenzene at 0.6 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to o-dichlorobenzene.

26. 1,4-Dichlorobenzene (para-Dichlorobenzene). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that para-dichlorobenzene is a health concern at certain levels of exposure. This chemical is a component of deodorizers, mothballs, and pesticides. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed to high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for para-dichlorobenzene at 0.075 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

27. 1,2-Dichloroethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2-dichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaning fluid for fats, oils, waxes, and resins. It generally

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gets into drinking water from improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,2-dichloroethane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

28. 1,1-Dichloroethylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1-dichloroethylene is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1-dichloroethylene at 0.007 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

29. cis-1,2-Dichloroethylene. The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that cis-1,2-dichloroethylene is a health concern at certain levels of exposure. This organic chemical is used as a solvent and intermediate in chemical production. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when exposed at high levels over their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for cis-1,2-dichloroethylene at 0.07 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to cis-1,2-dichloroethylene.

30. trans-1,2-Dichloroethylene. The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that trans-1,2-dichloroethylene is a health concern at certain levels of exposure. This organic chemical is used as a solvent and intermediate in chemical production. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and the circulatory system of laboratory animals such as rats and mice when exposed at high levels over their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for trans-1,2-dichloroethylene at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to trans-1,2-dichloroethylene.

31. Dichloromethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that dichloromethane (methylene chloride) is a health concern at certain levels of exposure. This organic chemical is a widely used solvent. It is used in the manufacture of paint remover, as a metal degreaser and as an aerosol propellant. It generally gets into drinking water after improper discharge of waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for dichloromethane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe with respect to dichloromethane.

32. 1,2-Dichloropropane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2-dichloropropane is a health concern at certain levels of exposure. This organic chemical is used as a solvent and pesticide. When soil and climatic conditions are favorable, 1,2-dichloropropane may get into drinking water by runoff into surface water or by leaching into groundwater. It may also get into drinking water through improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for 1,2-dichloropropane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to 1,2-dichloropropane.

33. Di(2-ethylhexyl)adipate. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that di(2-ethylhexyl)adipate is a health concern at certain levels of exposure. Di(2-ethylhexyl)adipate is a widely used plasticizer in a variety of products, including synthetic rubber, food packaging materials and cosmetics. It may get into drinking water after improper waste disposal. This chemical has been shown to damage liver and testes in laboratory animals such as rats and mice exposed to high levels. EPA has set the drinking water standard for di(2-ethylhexyl)adipate at 0.4 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to di(2-ethylhexyl)adipate.

34. Di(2-ethylhexyl)phthalate. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that di(2-ethylhexyl)phthalate is a health concern at certain levels of exposure. Di(2-ethylhexyl)phthalate is a widely used plasticizer, which is primarily used in the production of polyvinyl chloride (PVC) resins. It may get into drinking water after improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice exposed to high levels over their lifetimes. EPA has set the drinking water standard for di(2-ethylhexyl)phthalate at 0.006 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals.

Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to di(2-ethylhexyl)phthalate.

35. Dinoseb. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that dinoseb is a health concern at certain levels of exposure. Dinoseb is a widely used pesticide and generally gets into drinking water after application on orchards, vineyards and other crops. This chemical has been shown to damage the thyroid and reproductive organs in laboratory animals such as rats exposed to high levels. EPA has set the drinking water standard for dinoseb at 0.007 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to dinoseb.

36. Diquat. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that diquat is a health concern at certain levels of exposure. This organic chemical is a herbicide used to control terrestrial and aquatic weeds. It may get into drinking water by runoff into surface water. This chemical has been shown to damage the liver, kidneys and gastrointestinal tract and causes cataract formation in laboratory animals such as dogs and rats exposed at high levels over their lifetimes. EPA has set the drinking water standard for diquat at 0.02 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to diquat.

37. Endothall. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that endothall is a health concern at certain levels of exposure. This organic chemical is a herbicide used to control terrestrial and aquatic weeds. It may get into water by runoff into surface water. This chemical has been shown to damage the liver, kidneys, gastrointestinal tract and reproductive system of laboratory animals such as rats and mice exposed at high levels over their lifetimes. EPA has set the drinking water standard for endothall at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to endothall.

38. Endrin. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that endrin is a health concern at certain levels of exposure. This organic chemical is a pesticide no longer registered for use in the United States. However, this chemical is persistent in treated soils and accumulates in sediments and aquatic and terrestrial biota. This chemical has been shown to cause damage to the liver, kidneys and heart in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for endrin at 0.002 parts per million (ppm) to protect against the risk of these adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to endrin.

39. Epichlorohydrin. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that epichlorohydrin is a health concern at certain levels of exposure. Polymers made from epichlorohydrin are sometimes used in the treatment of water supplies as a flocculent to remove particulates. Epichlorohydrin generally gets into drinking water by improper use of these polymers. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for epichlorohydrin using a treatment technique to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. This treatment technique limits the amount of epichlorohydrin in the polymer and the amount of the polymer which may be added to drinking water as a flocculent to remove particulates. Drinking water systems which comply with this treatment technique have little to no risk and are considered safe with respect to epichlorohydrin.

40. Ethylbenzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined ethylbenzene is a health concern at certain levels of exposure. This organic chemical is a major component of gasoline. It generally gets into water by improper waste disposal or leaking gasoline tanks. This chemical has been shown to damage the kidneys, liver, and nervous system of laboratory animals such as rats exposed to high levels during their lifetimes. EPA has set the drinking water standard for ethylbenzene at 0.7 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to ethylbenzene.

41. Ethylene dibromide (EDB). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that EDB is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, EDB may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for EDB at 0.00005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to EDB.

42. Fluoride. The U.S. Environmental Protection Agency requires that we send you this notice on the level of fluoride in your drinking water. The drinking water in your community has a fluoride concentration of _____ (the public water supply shall insert the compliance result which triggered notification under this subrule) milligrams per liter (mg/L).

Federal regulations require that fluoride, which occurs naturally in your water supply, not exceed a concentration of 4.0 mg/L in drinking water. This is an enforceable standard called a Maximum Contaminant Level (MCL), and it has been established to protect the public health. Exposure to drinking water levels above 4.0 mg/L for many years may result in some cases of crippling skeletal fluorosis, which is a serious bone disorder.

Federal law also requires that we notify you when monitoring indicates that the fluoride in your drinking water exceeds 2.0 mg/L. This is intended to alert families about dental problems that might affect children under nine years of

age. The fluoride concentration of your water exceeds this federal guideline.

Fluoride in children's drinking water at levels of approximately 1 mg/L reduces the number of dental cavities. However, some children exposed to levels of fluoride greater than about 2.0 mg/L may develop dental fluorosis. Dental fluorosis, in its moderate and severe forms, is a brown staining or pitting of the permanent teeth.

Because dental fluorosis occurs only when developing teeth (before they erupt from the gums) are exposed to elevated fluoride levels, households without children are not expected to be affected by this level of fluoride. Families with children under the age of nine are encouraged to seek other sources of drinking water for their children to avoid the possibility of staining and pitting.

Your water supplier can lower the concentration of fluoride in your water so that you will still receive the benefits of cavity prevention while the possibility of stained and pitted teeth is minimized. Removal of fluoride may increase your water costs. Treatment systems are also commercially available for home use. Information on such systems is available at the address given below. Low fluoride bottled drinking water that would meet all standards is also commercially available.

For further information, contact _____ (the public water supply shall insert the name, address, and telephone number of a contact person at the public water system) at your water system.

43. Glyphosate. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that glyphosate is a health concern at certain levels of exposure. This organic chemical is a herbicide used to control grasses and weeds. It may get into drinking water by runoff into surface water. This chemical has been shown to cause damage to the liver and kidneys in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for glyphosate at 0.7 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to glyphosate.

44. Heptachlor. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that heptachlor is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, heptachlor may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standards for heptachlor at 0.0004 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to heptachlor.

45. Heptachlor epoxide. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that heptachlor epoxide is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, heptachlor epoxide may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standards for heptachlor epoxide at 0.0002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to heptachlor epoxide.

46. Hexachlorobenzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that hexachlorobenzene is a health concern at certain levels of exposure. This organic chemical is produced as an impurity in the manufacture of certain solvents and pesticides. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed to high levels during their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for hexachlorobenzene at 0.001 parts per million (ppm) to protect against the risk of cancer and other adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to hexachlorobenzene.

47. Hexachlorocyclopentadiene. The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that hexachlorocyclopentadiene is a health concern at certain levels of exposure. This organic chemical is used as an intermediate in the manufacture of pesticides and flame retardants. It may get into water by discharge from production facilities. This chemical has been shown to damage the kidneys and the stomach of laboratory animals when exposed at high levels over their lifetimes. EPA has set the drinking water standard for hexachlorocyclopentadiene at 0.05 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to hexachlorocyclopentadiene.

48. Lead. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lead is a health concern at certain exposure levels. Materials that contain lead have frequently been used in the construction of water supply distribution systems, and plumbing systems in private homes and other buildings. The most commonly found materials include service lines, pipes, brass and bronze fixtures, and solders and fluxes. Lead in these materials can contaminate drinking water as a result of the corrosion that takes place when water comes into contact with those materials. Lead can cause a variety of adverse health effects in humans. At relatively low levels of exposure, these effects may include interference with red blood cell chemistry, delays in normal physical and mental development in babies and young children, slight deficits in the attention span, hearing, and learning abilities of children, and slight increases in the blood pressure of some adults. EPA's national primary drinking water regulation requires all public water systems to optimize corrosion control to minimize lead contamination resulting from the corrosion of plumbing materials. Public water systems serving 50,000 people or fewer that have lead concentrations below 15 parts per billion (ppb) in more than 90 percent of tap water sam-

ples (the EPA "action level") have optimized their corrosion control treatment. Any water system that exceeds the action level must also monitor its source water to determine whether treatment to remove lead in source water is needed. Any water system that continues to exceed the action level after installation of corrosion control or source water treatment must eventually replace all lead service lines contributing in excess of 15 ppb of lead to drinking water. Any water system that exceeds the action level must also undertake a public education program to inform consumers of ways they can reduce their exposure to potentially high levels of lead in drinking water.

49. Lindane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lindane is a health concern at certain levels of exposure. This organic chemical is used as a pesticide. When soil and climatic conditions are favorable, lindane may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the liver, kidneys, nervous system, and immune system of laboratory animals such as rats, mice and dogs exposed at high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system and circulatory system. EPA has established the drinking water standard for lindane at 0.0002 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to lindane.

50. Mercury. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that mercury is a health concern at certain levels of exposure. This inorganic metal is used in electrical equipment and some water pumps. It usually gets into water as a result of improper waste disposal. This chemical has been shown to damage the kidneys of laboratory animals such as rats when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for mercury at 0.002 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to mercury.

51. Methoxychlor. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that methoxychlor is a health concern at certain levels of exposure. This organic chemical is used as a pesticide. When soil and climatic conditions are favorable, methoxychlor may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the liver, kidneys, nervous system, and reproductive system of laboratory animals such as rats exposed at high levels during their lifetimes. It has also been shown to produce growth retardation in rats. EPA has set the drinking water standard for methoxychlor at 0.04 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to methoxychlor.

52. Microbiological contaminants (for use when there is a violation of the treatment technique requirements for filtration and disinfection in 567—43.5(455B)). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the presence of microbiological contaminants is a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however, are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than drinking water. EPA has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet EPA requirements is associated with little or no risk and should be considered safe.

53. Monochlorobenzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that monochlorobenzene is a health concern at certain levels of exposure. This organic chemical is used as a solvent. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, kidneys and nervous system of laboratory animals such as rats and mice exposed to high levels during their lifetimes. EPA has set the drinking water standard for monochlorobenzene at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to monochlorobenzene.

54. Nitrate. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that nitrate poses an acute health concern at certain levels of exposure. Nitrate is used in fertilizer and is found in sewage and wastes from humans or farm animals and generally gets into drinking water from those activities. Excessive levels of nitrate in drinking water have caused serious illness and sometimes death in infants under six months of age. The serious illness in infants is caused because nitrate is converted to nitrite in the body. Nitrite interferes with the oxygen carrying capacity of the child's blood. This is an acute disease in that symptoms can develop rapidly in infants. In most cases, health deteriorates over a period of days. Symptoms include shortness of breath and blueness of the skin. Clearly, expert medical advice should be sought immediately if these symptoms occur. The purpose of this notice is to encourage parents and other responsible parties to provide infants with an alternate source of drinking water. Local and state health authorities are the best source for information concerning alternate sources of drinking water for infants. EPA has set the drinking water standard at 10 parts per million (ppm) for nitrate to protect against the risk of these adverse effects. EPA has also set a drinking water standard for nitrite at 1 ppm. To allow for the fact that the toxicity of nitrate and nitrite is additive, EPA has also established a standard for the sum of nitrate and nitrite at 10 ppm. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to nitrate.

55. Nitrite. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that nitrite poses an acute health concern at certain levels of exposure. This inorganic chemical is used in fertilizers and is found in sewage and wastes from humans or farm animals and generally gets into drinking water as a result of those activities. While excessive levels of nitrite in drinking water have not been observed, other sources of nitrite have caused serious illness and sometimes death in infants under six months of age. The serious illness in infants is caused because nitrite interferes with the oxygen carrying capacity of the child's blood. This is an acute disease in that symptoms can develop rapidly. However, in most cases, health deterio-

rates over a period of days. Symptoms include shortness of breath and blueness of the skin. Clearly, expert medical advice should be sought immediately if these symptoms occur. The purpose of this notice is to encourage parents and other responsible parties to provide infants with an alternate source of drinking water. Local and state health authorities are the best source for information concerning alternate sources of drinking water for infants. EPA has set the drinking water standard at 1 part per million (ppm) for nitrite to protect against the risk of these adverse effects. EPA has also set a drinking water standard for nitrate (converted to nitrite in humans) at 10 ppm and for the sum of nitrate and nitrite at 10 ppm. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to nitrite.

56. Oxamyl. The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that oxamyl is a health concern at certain levels of exposure. This organic chemical is used as a pesticide for the control of insects and other pests. It may get into drinking water by runoff into surface water or leaching into groundwater. This chemical has been shown to damage the kidneys of laboratory animals such as rats when exposed at high levels over their lifetimes. EPA has set the drinking water standard for oxamyl at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to oxamyl.

57. Pentachlorophenol. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that pentachlorophenol is a health concern at certain levels of exposure. This organic chemical is used as a wood preservative, herbicide, disinfectant, and defoliant. It generally gets into drinking water by runoff into surface water or leaching into groundwater. This chemical has been shown to produce adverse reproductive effects and to damage the liver and kidneys of laboratory animals such as rats exposed to high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the liver and kidneys. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for pentachlorophenol at 0.001 parts per million (ppm) to protect against the risk of cancer or other adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to pentachlorophenol.

58. Picloram. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that picloram is a health concern at certain levels of exposure. This organic chemical is used as a pesticide for broadleaf weed control. It may get into drinking water by runoff into surface water or leaching into groundwater as a result of pesticide application and improper waste disposal. This chemical has been shown to cause damage to the kidneys and liver in laboratory animals such as rats when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for picloram at 0.5 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to picloram.

59. Polychlorinated biphenyls (PCBs). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that polychlorinated biphenyls (PCBs) are a health concern at certain levels of exposure. These organic chemicals were once widely used in electrical transformers and other industrial equipment. They generally get into drinking water by improper waste disposal or leaking electrical industrial equipment. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for PCBs at 0.0005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to PCBs.

60. Selenium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that selenium is a health concern at certain high levels of exposure. Selenium is also an essential nutrient at low levels of exposure. This inorganic chemical is found naturally in food and soils and is used in electronics, photocopy operations, the manufacture of glass, chemicals, drugs, and as a fungicide and a feed additive. In humans, exposure to high levels of selenium over a long period of time has resulted in a number of adverse health effects, including a loss of feeling and control in the arms and legs. EPA has set the drinking water standard for selenium at 0.05 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to selenium.

61. Simazine. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that simazine is a health concern at certain levels of exposure. This organic chemical is a herbicide used to control annual grasses and broadleaf weeds. It may leach into groundwater or run off into surface water after application. This chemical may cause cancer in laboratory animals such as rats and mice exposed at high levels during their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for simazine at 0.004 parts per million (ppm) to reduce the risk of cancer or other adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to simazine.

62. Styrene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that styrene is a health concern at certain levels of exposure. This organic chemical is commonly used to make plastics and is sometimes a component of resins used for drinking water treatment. Styrene may get into drinking water from improper waste disposal. This chemical has been shown to damage the liver and nervous system in laboratory animals when exposed at high levels during their lifetimes. EPA has set the drinking water standard for styrene at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to styrene.

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63. 2,3,7,8-TCDD (Dioxin). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that dioxin is a health concern at certain levels of exposure. This organic chemical is an impurity in the production of some pesticides. It may get into drinking water by industrial discharge of wastes. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for dioxin at 0.00000003 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe with respect to dioxin.

64. 2,4,5-TP. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 2,4,5-TP is a health concern at certain levels of exposure. This organic chemical is used as a herbicide. When soil and climatic conditions are favorable, 2,4,5-TP may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the liver and kidneys of laboratory animals such as rats and dogs exposed to high levels during their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the nervous system. EPA has set the drinking water standard for 2,4,5-TP at 0.05 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to 2,4,5-TP.

65. Tetrachloroethylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that tetrachloroethylene is a health concern at certain levels of exposure. This organic chemical has been a popular solvent, particularly for dry cleaning. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for tetrachloroethylene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to tetrachloroethylene.

66. Thallium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that thallium is a health concern at certain high levels of exposure. This inorganic metal is found naturally in soils and is used in electronics, pharmaceuticals, and the manufacture of glass and alloys. This chemical has been shown to damage the kidneys, liver, brain and intestines of laboratory animals when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for thallium at 0.002 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to thallium.

67. Toluene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that toluene is a health concern at certain levels of exposure. This organic chemical is used as a solvent and in the manufacture of gasoline for airplanes. It generally gets into water by improper waste disposal or leaking underground storage tanks. This chemical has been shown to damage the kidneys, nervous system, and circulatory system of laboratory animals such as rats and mice exposed to high levels during their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the liver, kidneys and nervous system. EPA has set the drinking water standard for toluene at 1 part per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to toluene.

68. Toxaphene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that toxaphene is a health concern at certain levels of exposure. This organic chemical was once a pesticide widely used on cotton, corn, soybeans, pineapples and other crops. When soil and climatic conditions are favorable, toxaphene may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for toxaphene at 0.003 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to toxaphene.

69. 1,2,4-Trichlorobenzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2,4-trichlorobenzene is a health concern at certain levels of exposure. This organic chemical is used as a dye carrier and as a precursor in herbicide manufacture. It generally gets into drinking water by discharges from industrial activities. This chemical has been shown to cause damage to several organs, including the adrenal glands. EPA has set the drinking water standard for 1,2,4-trichlorobenzene at 0.07 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to 1,2,4-trichlorobenzene.

70. 1,1,1-Trichloroethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1,1-trichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaner and degreaser of metals. It generally gets into drinking water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during their working careers also suffered damage to the liver, nervous system, and circulatory system. Chemicals which cause adverse effects among exposed industrial workers and in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for

1,1,1-trichloroethane at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

71. 1,1,2-Trichloroethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1,2-trichloroethane is a health concern at certain levels of exposure. This organic chemical is an intermediate in the production of 1,1-dichloroethylene. It generally gets into water by industrial discharge of wastes. This chemical has been shown to damage the kidneys and liver of laboratory animals such as rats exposed to high levels during their lifetimes. EPA has set the drinking water standard for 1,1,2-trichloroethane at 0.005 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to 1,1,2-trichloroethane.

72. Trichloroethylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that trichloroethylene is a health concern at certain levels of exposure. This chemical is a common metal-cleaning and dry-cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth the enforceable drinking water standard for trichloroethylene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

73. Vinyl chloride. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that vinyl chloride is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been associated with significantly increased risks of cancer among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for vinyl chloride at 0.002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

74. Xylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that xylene is a health concern at certain levels of exposure. This organic chemical is used in the manufacture of gasoline for airplanes and as a solvent for pesticides, and as a cleaner and degreaser of metals. It usually gets into water by improper waste disposal. This chemical has been shown to damage the liver, kidneys and nervous system of laboratory animals such as rats and dogs exposed to high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for xylene at 10 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to xylene.

APPENDIX B: Minimum Self-Monitoring Requirements (SMR)

I. Minimum Self-Monitoring Requirements for TNCs (excluding surface water or influenced groundwater PWSs)

Notes:

- The self-monitoring requirements (SMRs) only apply to those supplies meeting the criteria in 42.4(3)"a"(1).
- TNCs are exempt from the self-monitoring requirements for point-of-use treatment devices, unless the device is used to remove a contaminant which has a health-based standard, in which case additional SMRs will be assigned by the department.
- Daily monitoring for TNCs applies only when the facility is in operation.
- Additional or more frequent monitoring requirements may be assigned by the department in the operation permit.
- Additional SMRs are required if treatment is used to remove a regulated contaminant. See Section II for the requirements under the specific treatment type.

General Requirements

All TNCs which meet the criteria in 42.4(3)"a"(1) must measure the following parameters, where applicable. Additional SMRs are required if treatment is used to remove a contaminant which has a health-based standard. See Section II for the requirements under the specific treatment type.

	PWS Type:	TNC*
Parameter	Sample Site	Frequency
Pumpage (Flow)	raw:	1/week
	final:	1/week
Disinfectant Residual	final:	1/day
	distribution system**:	1/day
Disinfectant, quantity used	day tank/scale:	1/day
Static Water and Pumping Water Levels (Drawdown)	each active well:	1/month

*TNCs must measure and record the total water used each week, but daily measurements are recommended, and may be required by the department in specific PWSs.

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**Monitoring is to be conducted at representative points in the distribution system which adequately demonstrate compliance with 42.4(3)"b"(1).

II. Minimum Self-Monitoring Requirements for CWS, NTNC, and IGW/SW TNC

Notes:

- The self-monitoring requirements (SMR) only apply to those supplies meeting the criteria in 42.4(3)"a"(1).
- NTNCs are exempt from the self-monitoring requirements for point-of-use treatment devices, unless the device is used to remove a contaminant which has a health-based standard, in which case additional SMRs will be assigned by the department.
- Daily monitoring for NTNCs applies only when the facility is in operation.
- These are the minimum self-monitoring requirements. Additional or more frequent monitoring requirements may be assigned by the department in the operation permit.

A. General Requirements

All PWSs which meet the criteria in 42.4(3)"a"(1) must measure the following parameters, where applicable:

	PWS Type:	NTNC*	CWS
Parameter	Sample Site	Frequency	Frequency
Pumpage (Flow)	raw:	1/week	1/day
	bypass:	1/week	1/day
	final:	1/week	1/day
Static Water and Pumping Water Levels (Drawdown)	each active well:	1/month	1/month

*NTNCs must measure and record the total water used each week, but daily measurements are recommended, and may be required by the department in specific PWSs.

B. Chemical Addition

All PWSs which apply chemicals in the treatment process must monitor the following parameters, for the applicable processes:

	Pumpage or Flow:	0.025-0.1 MGD	0.1-0.5 MGD	>0.5 MGD
Parameter	Sample Site	Frequency	Frequency	Frequency
DISINFECTION				
Disinfectant Residual	final:	1/day	1/day	1/day
	distribution system*:	1/day	1/day	1/day
Disinfectant, quantity used	day tank/scale	1/day	1/day	1/day
FLUORIDATION				
Fluoride	raw:	1/quarter	1/month	1/month
	final:	1/day	1/day	1/day
Fluoride, quantity used	day tank/scale:	1/day	1/day	1/day
pH ADJUSTMENT				
pH	final:	1/week	2/week	1/day
Caustic Soda, quantity used	day tank/scale:	1/week	1/week	1/week
PHOSPHATE ADDITION				
Phosphate, as PO_4	final:	1/week	2/week	1/day
Phosphate, quantity used	day tank/scale:	1/week	1/week	1/week
OTHER CHEMICALS				
Chemical	final:	1/week	2/week	1/day
Chemical, quantity used	day tank/scale:	1/week	1/week	1/week

*Monitoring is to be conducted at representative points in the distribution system which adequately demonstrate compliance with 42.4(3)"b"(1).

C. Iron or Manganese Removal

Nonmunicipalities except rural water systems, benefited water districts, and publicly owned PWSs are exempt from monitoring of iron/manganese removal equipment unless the treatment is or was installed to remove a contaminant which has a health-based standard. Any chemicals which are applied during the treatment process must be measured under section "B. Chemical Addition" of this table.

	Pumpage or Flow:	0.025-0.1 MGD	0.1-0.5 MGD	>0.5 MGD
Parameter	Sample Site	Frequency	Frequency	Frequency
Iron	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
Manganese	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day

D. pH Adjustment for Iron and Manganese Removal, by precipitation and coagulation processes utilizing lime, soda ash, or other chemical additions. Testing is only required if a specific chemical is added.

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	Pumpage or Flow:	0.025-0.1 MGD	0.1-0.5 MGD	>0.5 MGD
Parameter	Sample Site	Frequency	Frequency	Frequency
Alkalinity	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
Iron	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
Manganese	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
pH	raw:	1/week	1/week	1/week
	final:	1/week	2/week	1/day

E. Cationе Exchange (Zeolite) Softening

Nonmunicipalities except for rural water systems and benefited water districts are exempt from the monitoring of water quality parameters associated with ion-exchange softening unless the treatment is or was installed to remove a contaminant which has a health-based standard.

	Pumpage or Flow:	0.025-0.1 MGD	0.1-0.5 MGD	>0.5 MGD
Parameter	Sample Site	Frequency	Frequency	Frequency
Hardness as $CaCO_3$	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
pH	final:	1/week	2/week	1/day
Sodium	final:	1/year	1/year	1/year

F. Direct Filtration of Surface Waters or Influenced Groundwaters

	Pumpage or Flow:	All
Parameter	Sample Site	Frequency
CT Ratio	final:	1/day
Disinfectant Residual	source/entry point: distribution system*:	see 567—subrules 43.5(2) and 43.5(4) for the specific requirements
Disinfectant, quantity used	day tank/scale:	1/day
pH	final:	1/day
Temperature	raw:	1/day
Turbidity	raw: final:	see 567—subrules 43.5(3) and 43.5(4) for the specific requirements

*Monitoring is to be conducted at representative points in the distribution system which adequately demonstrate compliance with 567—subrule 43.5(2) and 567—subrule 43.5(4).

G. Clarification or Lime Softening of Surface Waters or Influenced Groundwaters

	Pumpage or Flow:	All
Parameter	Sample Site	Frequency
Alkalinity	raw:	1/day
	final:	1/day
Caustic Soda, quantity used	day tank/scale:	1/week
CT Ratio	final:	1/day
Disinfectant Residual	source/entry point: distribution system*:	see 567—subrules 43.5(2) and 43.5(4) for the specific requirements
Disinfectant, quantity used	day tank/scale:	1/day
Hardness as $CaCO_3$	raw:	1/day
	final:	1/day
Odor	raw:	1/week
	final:	1/day
pH	raw:	1/day
	final:	1/day
Temperature	raw:	1/day
Turbidity	raw: final:	see 567—subrules 43.5(3) and 43.5(4) for the specific requirements

*Monitoring is to be conducted at representative points in the distribution system which adequately demonstrate compliance with 567—subrule 43.5(2) and 567—subrule 43.5(4).

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H. Lime Softening of Groundwaters (excluding IGW)

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Alkalinity	raw:	1/quarter	1/month
	final:	1/day	1/day
Hardness as $CaCO_3$	raw:	1/quarter	1/month
	final:	1/day	1/day
pH	raw:	1/week	1/week
	final:	1/day	1/day
Temperature	raw:	1/week	1/week

I. Reverse Osmosis or Electrodialysis

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Alkalinity	raw:	1/quarter	1/month
	final:	1/day	1/day
Hardness as $CaCO_3$	raw:	1/quarter	1/month
	final:	1/day	1/day
Iron	raw:	1/day	1/day
Manganese	raw:	1/day	1/day
pH	raw:	1/week	1/week
	final:	1/day	1/day
Total Dissolved Solids	raw:	1/month	1/month

J. Anion Exchange (i.e., Nitrate Reduction)

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Nitrate	raw:	1/day	1/day
	final:	1/day	1/day
Sulfate	raw:	1/week	1/week
	final:	1/week	1/week

K. Activated Carbon for TTHM, VOC, or SOC Removal (GAC or PAC)

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Total Organic Carbon (TOC)	final:	1/quarter	1/month

L. Air-Stripping for TTHM, VOC, or SOC Removal

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Total Organic Carbon (TOC)	final:	1/quarter	1/month

M. Lead and Copper: Corrosion Control and Water Quality Parameters

The specific SMRs for corrosion control and water quality parameters are listed in 567—paragraph 41.4(1)"d" and 567—subrules 43.8(1) and 43.8(2).

N. Consecutive PWSs Supplied by a Surface Water or IGW PWS

	Pumpage or Flow:	All
Parameter	Sample Site	Frequency
Disinfectant Residual	source/entry point:	1/day
	distribution system*:	1/day
Disinfectant, quantity used (if applicable)	day tank/scale:	1/day
Pumpage or Flow	master meter:	1/day

*Monitoring is to be conducted at representative points in the distribution system.

APPENDIX C:
CONVERTING MCL COMPLIANCE VALUES FOR CONSUMER CONFIDENCE REPORTS

Key

AL	Action Level	MCLG	Maximum Contaminant Level Goal
MCL	Maximum Contaminant Level	MFL	million fibers per liter

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

mrem/year millirems per year (a measure of radiation absorbed by the body)
NTU nephelometric turbidity units
pCi/L picocuries per liter (a measure of radioactivity)
ppb parts per billion, or micrograms per liter (μg/L)
ppm parts per million, or milligrams per liter (mg/L)
ppq parts per quadrillion, or picograms per liter (pg/L)
ppt parts per trillion, or nanograms per liter (ng/L)
TT Treatment Technique

MICROBIOLOGICAL CONTAMINANTS

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Total coliform bacteria			presence of coliform bacteria in > 5% of monthly samples	0
Fecal coliform and E. coli			A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or E. coli positive	0
Turbidity			TT (NTU)	n/a

RADIONUCLIDE CONTAMINANTS

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Beta/photon emitters	4 mrem/yr		4 mrem/yr	0
Alpha emitters	15 pCi/L		15 pCi/L	0
Combined radium	5 pCi/L		5 pCi/L	0

INORGANIC CONTAMINANTS

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Antimony	0.006	1000	6 ppb	6
Arsenic	0.05	1000	50 ppb	n/a
Asbestos	7 MFL		7 MFL	7
Barium	2		2 ppm	2
Beryllium	0.004	1000	4 ppb	4
Cadmium	0.005	1000	5 ppb	5
Chromium	0.1	1000	100 ppb	100
Copper	AL = 1.3		AL=1.3 ppm	1.3
Cyanide	0.2	1000	200 ppb	200
Fluoride	4		4 ppm	4
Lead	AL = 0.015	1000	AL=15 ppb	0
Mercury (inorganic)	0.002	1000	2 ppb	2
Nitrate (as Nitrogen)	10		10 ppm	10
Nitrite (as Nitrogen)	1		1 ppm	1
Selenium	0.05	1000	50 ppb	50
Thallium	0.002	1000	2 ppb	0.5

SYNTHETIC ORGANIC CONTAMINANTS, including Pesticides and Herbicides

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
2,4-D	0.07	1000	70 ppb	70
2,4,5-TP (Silvex)	0.05	1000	50 ppb	50
Acrylamide	0		TT	0
Alachlor	0.002	1000	2 ppb	0
Atrazine	0.003	1000	3 ppb	3
Benzo(a)pyrene [PAHs]	0.0002	1,000,000	200 ppt	0
Carbofuran	0.04	1000	40 ppb	40

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Chlordane	0.002	1000	2 ppb	0
Dalapon	0.2	1000	200 ppb	200
Di (2-ethylhexyl) adipate	0.4	1000	400 ppb	400
Di (2-ethylhexyl) phthalate	0.006	1000	6 ppb	0
Dibromochloropropane	0.0002	1,000,000	200 ppt	0
Dinoseb	0.007	1000	7 ppb	7
Diquat	0.02	1000	20 ppb	20
Dioxin [2,3,7,8-TCDD]	0.00000003	1,000,000,000	30 ppq	0
Endothall	0.1	1000	100 ppb	100
Endrin	0.002	1000	2 ppb	2
Epichlorohydrin			TT	0
Ethylene dibromide	0.00005	1,000,000	50 ppt	0
Glyphosate	0.7	1000	700 ppb	700
Heptachlor	0.0004	1,000,000	400 ppt	0
Heptachlor epoxide	0.0002	1,000,000	200 ppt	0
Hexachlorobenzene	0.001	1000	1 ppb	0
Hexachlorocyclopentadiene	0.05	1000	50 ppb	50
Lindane	0.0002	1,000,000	200 ppt	200
Methoxychlor	0.04	1000	40 ppb	40
Oxamyl [Vydate]	0.2	1000	200 ppb	200
PCBs [Polychlorinated biphenyls]	0.0005	1,000,000	500 ppt	0
Pentachlorophenol	0.001	1000	1 ppb	0
Picloram	0.5	1000	500 ppb	500
Simazine	0.004	1000	4 ppb	4
Toxaphene	0.003	1000	3 ppb	0

VOLATILE ORGANIC CONTAMINANTS

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Benzene	0.005	1000	5 ppb	0
Carbon tetrachloride	0.005	1000	5 ppb	0
Chlorobenzene	0.1	1000	100 ppb	100
o-Dichlorobenzene	0.6	1000	600 ppb	600
p-Dichlorobenzene	0.075	1000	75 ppb	75
1,2-Dichloroethane	0.005	1000	5 ppb	0
1,1-Dichloroethylene	0.007	1000	7 ppb	7
cis-1,2-Dichloroethylene	0.07	1000	70 ppb	70
trans-1,2-Dichloroethylene	0.1	1000	100 ppb	100
Dichloromethane	0.005	1000	5 ppb	0
1,2-Dichloropropane	0.005	1000	5 ppb	0
Ethylbenzene	0.7	1000	700 ppb	700
Styrene	0.1	1000	100 ppb	100
Tetrachloroethylene	0.005	1000	5 ppb	0
1,2,4-Trichlorobenzene	0.07	1000	70 ppb	70
1,1,1-Trichloroethane	0.2	1000	200 ppb	200
1,1,2-Trichloroethane	0.005	1000	5 ppb	3
Trichloroethylene	0.005	1000	5 ppb	0
TTHM [Total trihalomethanes]	0.1	1000	100 ppb	0
Toluene	1		1 ppm	1

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Vinyl Chloride	0.002	1000	2 ppb	0
Xylene	10		10 ppm	10

APPENDIX D:
REGULATED CONTAMINANTS TABLES FOR CONSUMER CONFIDENCE REPORTS

Key

AL	Action Level	ppb	parts per billion, or micrograms per liter (μg/L)
MCL	Maximum Contaminant Level		
MCLG	Maximum Contaminant Level Goal	ppm	parts per million, or milligrams per liter (mg/L)
MFL	million fibers per liter		
mrem/year	millirems per year (a measure of radiation absorbed by the body)	ppq	parts per quadrillion, or picograms per liter (pg/L)
NTU	nephelometric turbidity units	ppt	parts per trillion, or nanograms per liter (ng/L)
pCi/L	picocuries per liter (a measure of radioactivity)	TT	Treatment Technique

MICROBIOLOGICAL CONTAMINANTS

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Total coliform bacteria	0	presence of coliform bacteria in >5% of monthly samples	Naturally present in the environment
Fecal coliform and E. coli	0	A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or E. coli positive	Human and animal fecal waste
Turbidity	N/A	TT	Soil runoff

RADIONUCLIDE CONTAMINANTS

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Beta/photon emitters (mrem/yr)	0	4	Decay of natural and man-made deposits
Alpha emitters (pCi/L)	0	15	Erosion of natural deposits
Combined radium (pCi/L)	0	5	Erosion of natural deposits

INORGANIC CONTAMINANTS

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Antimony (ppb)	6	6	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder
Arsenic (ppb)	N/A	50	Erosion of natural deposits; runoff from orchards; natural deposits; runoff from glass and electronic production wastes
Asbestos (MFL)	7	7	Decay of asbestos cement water mains; erosion of natural deposits
Barium (ppm)	2	2	Discharge of drilling wastes; discharge from metal refineries; erosion of natural deposits
Beryllium (ppb)	4	4	Discharge from metal refineries and coal-burning factories; discharge from electrical, aerospace, and defense industries
Cadmium (ppb)	5	5	Corrosion of galvanized pipes; erosion of natural deposits; discharge from metal refineries; runoff from waste batteries and paints
Chromium (ppb)	100	100	Discharge from steel and pulp mills; erosion of natural deposits
Copper (ppm)	1.3	AL=1.3	Corrosion of household plumbing systems; erosion of natural deposits; leaching from wood preservatives
Cyanide (ppb)	200	200	Discharge from steel/metal factories; discharge from plastic and fertilizer factories
Fluoride (ppm)	4	4	Water additive which promotes strong teeth; erosion of natural deposits; discharge from fertilizer and aluminum factories
Lead (ppb)	0	AL=15	Corrosion of household plumbing systems; erosion of natural deposits
Mercury [inorganic] (ppb)	2	2	Erosion of natural deposits; discharge from refineries and factories; runoff from landfills; runoff from cropland

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Nitrate [as N] (ppm)	10	10	Runoff from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits
Nitrite [as N] (ppm)	1	1	Runoff from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits
Selenium (ppb)	50	50	Discharge from petroleum and metal refineries; erosion of natural deposits; discharge from mines
Thallium (ppb)	0.5	2	Leaching from ore-processing sites; discharge from electronics, glass, and drug factories

SYNTHETIC ORGANIC CONTAMINANT, including Pesticides and Herbicides

Contaminant (units)	MCLG	MCL	Major Source in drinking water
2,4-D (ppb)	70	70	Runoff from herbicide used on row crops
2,4,5-TP (Silvex) (ppb)	50	50	Residue of banned herbicide
Acrylamide	0	TT	Added to water during sewage/wastewater treatment
Alachlor (ppb)	0	2	Runoff from herbicide used on row crops
Atrazine (ppb)	3	3	Runoff from herbicide used on row crops
Benzo(a)pyrene [PAHs] (ppt)	0	200	Leaching from linings of water storage tanks and distribution lines
Carbofuran (ppb)	40	40	Leaching of soil fumigant used on rice and alfalfa
Chlordane (ppb)	0	2	Residue of banned termiticide
Dalapon (ppb)	200	200	Runoff from herbicide used on rights of way
Di (2-ethylhexyl)adipate (ppb)	400	400	Leaching from PVC plumbing systems; discharge from chemical factories
Di (2-ethylhexyl)phthalate (ppb)	0	6	Discharge from rubber and chemical factories
Dibromochloropropane (ppt)	0	200	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards
Dinoseb (ppb)	7	7	Runoff from herbicide used on soybeans and vegetables
Diquat (ppb)	20	20	Runoff from herbicide use
Dioxin [2,3,7,8-TCDD] (ppq)	0	30	Emissions from waste incineration and other combustion; discharge from chemical factories
Endothall (ppb)	100	100	Runoff from herbicide use
Endrin (ppb)	2	2	Residue of banned insecticide
Epichlorohydrin	0	TT	Discharge from industrial chemical factories; an impurity of some water treatment chemicals
Ethylene dibromide (ppt)	0	50	Discharge from petroleum refineries
Glyphosate (ppb)	700	700	Runoff from herbicide use
Heptachlor (ppt)	0	400	Residue of banned termiticide
Heptachlor epoxide (ppt)	0	200	Breakdown of heptachlor
Hexachlorobenzene (ppb)	0	1	Discharge from metal refineries and agricultural chemical factories
Hexachlorocyclopentadiene (ppb)	50	50	Discharge from chemical factories
Lindane (ppt)	200	200	Runoff/leaching from insecticide used on cattle, lumber, gardens
Methoxychlor (ppb)	40	40	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock
Oxamyl [Vydate] (ppb)	200	200	Runoff/leaching from insecticide used on apples, potatoes and tomatoes
PCBs (ppt) [Polychlorinated biphenyls]	0	500	Runoff from landfills; discharge of waste chemicals
Pentachlorophenol (ppb)	0	1	Discharge from wood preserving factories
Picloram (ppb)	500	500	Herbicide runoff
Simazine (ppb)	4	4	Herbicide runoff
Toxaphene (ppb)	0	3	Runoff/leaching from insecticide used on cotton and cattle

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

VOLATILE ORGANIC CONTAMINANTS

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Benzene (ppb)	0	5	Discharge from factories; leaching from gas storage tanks and landfills
Carbon tetrachloride (ppb)	0	5	Discharge from chemical plants and other industrial activities
Chlorobenzene (ppb)	100	100	Discharge from chemical and agricultural chemical factories
o-Dichlorobenzene (ppb)	600	600	Discharge from industrial chemical factories
p-Dichlorobenzene (ppb)	75	75	Discharge from industrial chemical factories
1,2-Dichloroethane (ppb)	0	5	Discharge from industrial chemical factories
1,1-Dichloroethylene (ppb)	7	7	Discharge from industrial chemical factories
cis-1,2-Dichloroethylene (ppb)	70	70	Discharge from industrial chemical factories
trans-1,2-Dichloroethylene (ppb)	100	100	Discharge from industrial chemical factories
Dichloromethane (ppb)	0	5	Discharge from pharmaceutical and chemical factories
1,2-Dichloropropane (ppb)	0	5	Discharge from industrial chemical factories
Ethylbenzene (ppb)	700	700	Discharge from petroleum refineries
Styrene (ppb)	100	100	Discharge from rubber and plastic factories; leaching from landfills
Tetrachloroethylene (ppb)	0	5	Leaching from PVC pipes; discharge from factories and dry cleaners
1,2,4-Trichlorobenzene (ppb)	70	70	Discharge from textile-finishing factories
1,1,1-Trichloroethane (ppb)	200	200	Discharge from metal degreasing sites and other factories
1,1,2-Trichloroethane (ppb)	3	5	Discharge from industrial chemical factories
Trichloroethylene (ppb)	0	5	Discharge from metal degreasing sites and other factories
TTHM (ppb) [Total trihalomethanes]	0	100	By-products of drinking water chlorination
Toluene (ppm)	1	1	Discharge from petroleum factories
Vinyl Chloride (ppb)	0	2	Leaching from PVC piping; discharge from plastics factories
Xylene (ppm)	10	10	Discharge from petroleum factories; discharge from chemical factories

APPENDIX E:
HEALTH EFFECTS LANGUAGE FOR CONSUMER CONFIDENCE REPORTS

MICROBIOLOGICAL CONTAMINANTS

(1) Total coliform. Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially harmful bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.

(2) Fecal coliform/E. coli. Fecal coliform and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

(3) Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

RADIOACTIVE CONTAMINANTS

(4) Beta/photon emitters. Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(5) Alpha emitters. Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. People who drink water containing these alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(6) Combined radium 226/228. Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.

INORGANIC CONTAMINANTS

(7) Antimony. Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

(8) Arsenic. Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(9) Asbestos. Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

(10) Barium. Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.

(11) Beryllium. Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.

(12) Cadmium. Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

(13) Chromium. Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

(14) Copper. Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's disease should consult their personal doctor.

(15) Cyanide. Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

(16) Fluoride. Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Children may get mottled teeth.

(17) Lead. Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

(18) Mercury (inorganic). Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

(19) Nitrate. Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

(20) Nitrite. Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

(21) Selenium. Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail loss, numbness in fingers or toes, or problems with their circulation.

(22) Thallium. Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

SYNTHETIC ORGANIC CONTAMINANTS INCLUDING PESTICIDES AND HERBICIDES

(23) 2,4-D. Some people who drink water containing the weedkiller 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.

(24) 2,4,5-TP (Silvex). Some people who drink water containing Silvex in excess of the MCL over many years could experience liver problems.

(25) Acrylamide. Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood and may have an increased risk of getting cancer.

(26) Alachlor. Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.

(27) Atrazine. Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or difficulties with their reproductive system.

(28) Benzo(a)pyrene (PAHs). Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

(29) Carbofuran. Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood or nervous or reproductive systems.

(30) Chlordane. Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system and may have an increased risk of getting cancer.

(31) Dalapon. Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.

(32) Dibromochloropropane (DBCP). Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(33) Di(2-ethylhexyl)adipate. Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.

(34) Di(2-ethylhexyl)phthalate. Some people who drink water containing di(2-ethylhexyl)phthalate in excess of the MCL over many years may have problems with their liver or experience reproductive difficulties and may have an increased risk of getting cancer.

(35) Dinoseb. Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

(36) Dioxin (2,3,7,8-TCDD). Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(37) Diquat. Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.

(38) Endothall. Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.

(39) Endrin. Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.

(40) Epichlorohydrin. Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems and may have an increased risk of getting cancer.

(41) Ethylene dibromide. Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys and may have an increased risk of getting cancer.

(42) Glyphosate. Some people who drink water containing glyphosate in excess of the MCL over many years could

experience problems with their kidneys or reproductive difficulties.

(43) Heptachlor. Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(44) Heptachlor epoxide. Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(45) Hexachlorobenzene. Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, adverse reproductive effects, and may have an increased risk of getting cancer.

(46) Hexachlorocyclopentadiene. Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their stomach or kidneys.

(47) Lindane. Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

(48) Methoxychlor. Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

(49) Oxamyl (Vydate). Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.

(50) PCBs (Polychlorinated biphenyls). Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.

(51) Pentachlorophenol. Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys and may have an increased risk of getting cancer.

(52) Picloram. Some people who drink water containing picloram well in excess of the MCL over many years could experience problems with their liver.

(53) Simazine. Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

(54) Toxaphene. Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid and may have an increased risk of getting cancer.

VOLATILE ORGANIC CONTAMINANTS

(55) Benzene. Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets and may have an increased risk of getting cancer.

(56) Carbon tetrachloride. Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(57) Chlorobenzene. Some people who drink water containing chlorobenzene well in excess of the MCL over many years could experience problems with their kidneys or liver.

(58) o-Dichlorobenzene. Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory system.

(59) para-Dichlorobenzene. Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.

(60) 1,2-Dichloroethane. Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.

(61) 1,1-Dichloroethylene. Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(62) cis-1,2-Dichloroethylene. Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(63) trans-1,2-Dicholoroethylene. Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.

(64) Dichloromethane. Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

(65) 1,2-Dichloropropane. Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

(66) Ethylbenzene. Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.

(67) Styrene. Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

(68) Tetrachloroethylene. Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver and may have an increased risk of getting cancer.

(69) 1,2,4-Trichlorobenzene. Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.

(70) 1,1,1-Trichloroethane. Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system or circulatory system.

(71) 1,1,2-Trichloroethane. Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune system.

(72) Trichloroethylene. Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(73) TTHMs (Total Trihalomethanes). Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system and may have an increased risk of getting cancer.

(74) Toluene. Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

(75) Vinyl chloride. Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(76) Xylene. Some people who drink water containing xylene in excess of the MCL over many years could experience damage to their nervous system.

APPENDIX F:
HEALTH EFFECTS LANGUAGE FOR FLUORIDE LEVELS BETWEEN 2 AND 4 MG/L

Your public water supplier must notify customers when monitoring indicates that the fluoride in your drinking water exceeds 2.0 mg/L. This is intended to alert families about dental problems that might affect children under nine years of age. The fluoride concentration of your water exceeds this federal guideline.

Fluoride in children's drinking water at levels of approximately 1 mg/L reduces the number of dental cavities. However, some children exposed to levels of fluoride greater than about 2.0 mg/L may develop dental fluorosis. Dental fluorosis, in its moderate and severe forms, is a brown staining or pitting of the permanent teeth, or both.

Because dental fluorosis occurs only when developing teeth (before they erupt from the gums) are exposed to elevated fluoride levels, households without children are not expected to be affected by this level of fluoride.

Families with children under the age of nine are encouraged to seek other sources of drinking water for their children to avoid the possibility of staining and pitting.

Your water supplier can lower the concentration of fluoride in your water so you will still receive the benefits of cavity prevention while the possibility of stained and pitted teeth is minimized. Removal of fluoride may increase your water costs. Treatment systems are also commercially available for home use. Information on such systems is available at the address given by your public water supplier. Low fluoride bottled drinking water that would meet all standards is also commercially available.

These rules are intended to implement Iowa Code sections 17A.3(1)"b" and 455B.171 to 455B.192.

[Filed 7/23/99, effective 9/15/99]
[Published 8/11/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9254A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

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

These amendments include minor technical corrections; grammatical corrections; allowance of point-of-use devices at noncommunity supplies for maximum contaminant level compliance; minimum bottled water standard; updating the engineering standards to reflect current practice (Ten States Standards); requiring water system components to meet ANSI/NSF Standard 61; and adoption of the new U.S. Environmental Protection Agency viability assessment program (also called capacity development).

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 1999, as **ARC 8905A**. Public hearings were held and ten comments were received. These comments have been addressed in a responsiveness summary available from Diana Hansen, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; telephone (515)281-6267. Two changes have been made to the Notice of Intended Action as a result of comments received during the public comment period:

1. In Item 5, inclusion of an additional type of polyvinyl chloride plastic water pipe, ASTM F1483, which has previously been approved for use in Iowa was requested in order to eliminate the need for a construction permit variance.
2. In Item 10, a technical correction is needed to the well construction criteria under the groundwater under the influence of surface water determination section. Numbered paragraph 43.5(1)"b"(2)"1" was changed to read as follows:

"1. Well construction criteria. The well shall be constructed so as to ~~include:~~ prevent surface water from entering the well or traversing the casing.

"~~• A surface sanitary seal using bentonite clay, concrete, or other acceptable material.~~

"~~• The well casing shall penetrate a confining bed.~~

"~~• The well casing shall be perforated or screened only below a confining bed.~~"

These amendments are intended to implement Iowa Code section 17A.3(1)"b" and chapter 455B, division III, part 1.

These amendments will become effective on September 15, 1999.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [43.1 to 43.3, 43.5, 43.7, 43.8, Table A; rescind Table B] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8905A**, IAB 4/7/99.

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[For replacement pages for IAC, see IAC Supplement 8/11/99.]

ARC 9252A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby adopts Chapter 55, "Aquifer Storage and Recovery: Criteria and Conditions for Authorizing Storage, Recovery, and Use of Water," Iowa Administrative Code.

New definitions for "aquifer storage and recovery," "contiguous," "displacement zone," "drawdown," "limited registration," "mechanical integrity," "permit," "permittee," "receiving aquifer," "recovered water," "stored water," "treated water," and "zone of influence" are added. Technical additions mandated by statute for the practice of aquifer storage and recovery and the clarification of legal rights and obligations affecting permit holders are specified.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 1999, as **ARC 8909A**.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Written suggestions or comments concerning the proposed rules were accepted through May 27, 1999. Six public hearings were held to receive public input. The resulting public input is detailed in a responsiveness summary available from Diana Hansen, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; telephone (515)281-6267. The hearings and comments from the public and the Iowa Legislature resulted in minor modifications to the ASR rules concerning the specifications of an ASR applicant's property rights and obligations, including nearby landowner notification obligations and the requirement to file an ASR permit with the appropriate county recorder.

These rules are intended to implement Iowa Code sections 455B.261, 455B.265 and 455B.269.

These rules will become effective on September 15, 1999.

The following chapter is adopted.

Adopt **new** 567—Chapter 55 as follows:

CHAPTER 55
AQUIFER STORAGE AND RECOVERY: CRITERIA AND CONDITIONS FOR AUTHORIZING STORAGE, RECOVERY, AND USE OF WATER

567—55.1(455B) Statutory authority. The authority for the department of natural resources to permit persons to inject, store, and recover treated water for potable use is given by Iowa Code sections 455B.261, 455B.265 and 455B.269. This permit requirement applies to any aquifer storage and recovery (ASR) system, including projects involving border streams. The person or water system seeking an aquifer storage and recovery permit must review the criteria for ASR permits and contact the department if a permit is required.

567—55.2 Reserved.

567—55.3(455B) Purpose. The aquifer storage and recovery rules are intended to describe aquifer storage and recovery, including defining the affected area within the aquifer, creating a permit program with technical criteria for evaluating ASR projects, and incorporating technical additions for the practice of treated water recovery. Legal rights and obligations affecting ASR permit holders are defined.

567—55.4(455B) Definitions. The following definitions shall apply to this chapter:

"Aquifer storage and recovery (ASR)" means the injection and storage of treated water in an aquifer through a permitted well during times when treated water is available and withdrawal of the treated water from the same aquifer through the same well during times when treated water is needed.

"Contiguous" means directly adjacent or touching along all or part of one side of a legally defined piece of property. Tracts of land involved in the same water supply and separated only by separators such as roads, railroads, or bike trails are deemed contiguous tracts.

"Displacement zone" means the three-dimensional area of dispersion into which treated water is injected for storage, subject to later recovery.

"Drawdown" means the decrease in water level at a pumping well due to the action of the pump.

"Limited registration" means a one-year written authorization for a nonrecurring use of water for the purpose of forecasting and testing the ASR well system, to include cyclic test pumping as necessary.

"Mechanical integrity" means any structural or material defect in the ASR well or well casing or appurtenances which will prevent or materially impair the injection or pumping of water (to and from) within an aquifer or contribute to aquifer contamination or impairment.

"Permit" means a written authorization issued to a permittee by the department for the storage of treated water in an existing aquifer or the subsequent withdrawal of treated water from an existing aquifer. The permit specifies the quantity, duration, location, and instantaneous rate of this storage or withdrawal.

"Permittee" means a water supply system which obtains a permit from the department authorizing the injection of and possession by storage of treated water in an aquifer, withdrawal of this water at a later date, and the actual beneficial use of the water.

"Receiving aquifer" means the aquifer into which treated water is injected under terms of an ASR permit.

"Recovered water" means water which is recovered from storage within the displacement zone under terms of an ASR permit.

"Stored water" means injected treated potable water which is stored in a receiving aquifer within the displacement zone under terms of an ASR permit.

"Treated water" for the purposes of this chapter means water which has been physically, chemically, or biologically treated to meet national primary and secondary drinking water standards and is fit for human consumption as defined in 567—Chapters 40 to 43, Iowa Administrative Code.

"Zone of influence" means a circular area surrounding a pumping water well where the water table has been measurably lowered due to the action of the pump.

567—55.5(455B) Application processing.

55.5(1) Application.

a. Initial application for approval of an aquifer storage and recovery (ASR) project. A permit shall be required for the storage of all treated water in an aquifer for later recovery for potable uses. New permit applications (a request for a new permit, as distinguished from modification or renewal of an existing permit) shall be made on a form obtained from the department. An application form must be submitted by or on behalf of the water supply system owner, lessee, easement holder, or option holder of the area where the water is to be stored and recovered from an aquifer. An application must be accompanied by a map portraying:

(1) The points of injection and withdrawal,

(2) The immediate vicinity (topography) of the receiving aquifer,

(3) Any production, test or other observation wells within the aquifer, and

(4) The area of water storage.

The application must also include a description of the land where wells are located and water will be injected, withdrawn and used, oriented as to quarter section, section, township, and range. One application will be adequate for all uses on contiguous tracts of land. A water supply construction permit issued pursuant to 567—Chapter 43 will also be required for all injection/recovery wells.

b. Limited registration. The department's response to an initial application will be to issue a limited registration to initiate an ASR pretesting program pursuant to paragraph 55.6(1)"a"; only after approval of and completion of an ASR pretesting program with appropriate public notification pursuant to subrule 55.5(3) and proper evaluation of the test results will the department issue an ASR permit.

c. A request for modification or renewal of a permit shall be made in a similar manner. This application does not need to reiterate map and location information as previously submitted to the department (unless the information has changed). The limited registration requirement for aquifer pretesting does not apply to modified or renewed ASR permit requests (unless required by the department).

55.5(2) Application fee. A nonrefundable fee in the form of a credit card, check, or money order in the amount of $200 payable to the Department of Natural Resources must accompany an application for a permit (and limited registration for aquifer pretesting) for aquifer storage and recovery. A $200 fee must accompany an application for modification or renewal of an ASR permit.

55.5(3) Published notice—applicant limited registration. The department will issue a limited registration allowing the applicant to conduct test pumping of an ASR site pursuant to paragraph 55.6(1)"a." The applicant shall first publish notice of intent to test the injection and water pumpage/recovery equipment prior to receiving the limited registration. Publication shall be in a form and manner acceptable to the department, in the newspaper of largest circulation in the county where the ASR project is located, and proof of publication shall be submitted to the department. The department will then issue the limited registration, and the applicant shall notify contiguous landowners by U.S. mail of the receipt of the limited registration and the intent to test an ASR site.

55.5(4) Published notice—departmental intent to issue a final ASR permit. Before issuance of a final ASR permit, the department shall publish notice of proposed decision to issue an ASR permit or deny the ASR application. Publication shall be in the newspaper of largest circulation in the county where the ASR project is located. This publication shall summarize the department's findings on whether the application conforms to relevant criteria as outlined in subrule 55.6(1). An engineering or hydrogeological summary report prepared by department staff may be attached to the published summary of findings. Copies of the proposed decision shall be mailed to the applicant, any person who commented, and any other person who requests a copy of the decision. The decision shall be accompanied by a certification of the date of mailing. A proposed decision becomes the final decision of the department unless a timely notice of appeal is filed in accordance with 55.5(6).

55.5(5) Form of department decision. The decision on an application shall be a permit or denial letter issued by the department. Each permit shall include appropriate standard and special conditions consistent with Iowa Code sections 455B.261 to 455B.274 and 455B.281 and 567—Chapters 52 to 55. The decision may incorporate by reference and attachment the summary report described in 55.5(4). Each decision shall include the following:

a. Determinations as to whether the project satisfies all relevant criteria not addressed in an attached summary report.

b. An explanation of the purpose for imposing each special condition.

c. An explanation of consideration given to all comments submitted pursuant to 55.5(3) and 55.5(4) unless the comments are adequately addressed in the attached summary report.

55.5(6) Appeal of department decision. Any person aggrieved by an initial ASR permit decision may appeal the action. The person must submit a request for appeal in writing to the director within 30 days of the date of issuance of the final decision made by the department. A decision by the director on an appeal may be further appealed to the environmental protection commission (EPC). The form of appeal and appeal procedures are governed by 567—Chapter 7. The department shall mail a copy of the notice of appeal to each person who commented on the application.

55.5(7) ASR permit public hearing. Reserved.

567—55.6(455B) Aquifer storage and recovery technical evaluation criteria.

55.6(1) Requirements. Injections into aquifers for the purpose of treated water storage and subsequent withdrawals from the receiving aquifers intended for potable uses shall be subject to the following requirements:

a. Aquifer pretesting. Procurement of a limited registration for aquifer pretesting as outlined in subrule 55.5(1). The limited registration shall be for the period of one year and may be renewed for two additional one-year periods, for a total cumulative registration time not to exceed three years at the discretion of the department should the project require more than one year to be completed. The limited registration shall allow initial aquifer testing for determining the feasibility of aquifer storage and recovery, including placement of pumping and storage/extraction equipment. The testing approach shall be designed to provide information as needed to evaluate the ultimate capacity anticipated for the ASR project and provide assurance that the ASR site shall not restrict other uses of the aquifer. The testing program shall include injection rates and schedules, water storage volumes, recovery rates and schedule, and a final testing report.

b. Engineering report. An engineering evaluation of the technical feasibility of the proposed water injection and the probable percentage of recovery of treated water when pumped for recovery shall be submitted to the department. The engineering report shall include preliminary information from conceptual evaluations and aquifer pretesting such as:

(1) Injection rates and schedules,
(2) Water storage volumes,
(3) The length of time the injected water will be stored,
(4) The projected recovery rate,
(5) Water quality data necessary to demonstrate the percentage of recovered water and that the water meets national drinking water standards,
(6) Water level monitoring data including the location of observation wells, if any,
(7) A plan detailing what to do with the recovered water if the intended use is not possible, and
(8) A final testing protocol.

If the report can demonstrate by field test results or by a conceptual or mathematical hydrogeologic modeling that the injection, storage, and subsequent recovery will not adversely affect nearby users, the ASR project may be permitted after review by the department. A displacement zone containing the stored volume of water will not be allowed if it adversely affects another user's zone of influence. If the department finds through hydrogeologic modeling or during pretesting that the proposed displacement zone may impact the zone of influence of another user's existing well, additional testing will be required. The department may require the applicant to construct observation wells between the ASR site and nearby wells and may designate project-specific monitoring and reporting requirements at the observation wells.

c. Hydrogeologic evaluation. Hydrogeologic investigation of the site to evaluate potential quantitative and qualitative impacts to the aquifer, including changes to localized

aquifer geochemistry, shall be part of the engineering report. Preliminary hydrogeologic information shall include:

(1) The local geology,

(2) A hydrogeologic flow model of the areal flow patterns,

(3) A description of the aquifer targeted for storage,

(4) Estimated flow direction and rate of movement,

(5) Both permitted and private wells within the area affected by ASR wells, including best estimates of respective zones of influence,

(6) Basis for estimating the displacement zone,

(7) Anticipated changes to the receiving aquifer geochemistry due to the proposed ASR testing and use, and

(8) Potable water quantity recovery estimates.

d. Protection of nearby existing water uses. The aquifer storage and recovery permit applicant shall demonstrate that the ASR site shall not restrict other uses of the aquifer by nearby water use permittees. An ASR applicant shall conduct and submit an inventory of nearby wells. The department, after considering the rate and amount of the ASR injections and withdrawals and the characteristics of the aquifer, will determine the extent of the inventory and the appropriate radius from the proposed ASR site. The department shall provide a map specifying the area in which the inventory is needed and forms specifying information to be gathered. The ASR permit applicant shall make a good-faith effort in obtaining available information from public records to identify nearby landowners and occupants and from drilling contractors identified by a landowner or occupant who responds to the inventory. The ASR applicant shall immediately notify the department of all objections raised by nearby landowners or other on-site problems such as the structural integrity of the injection equipment. Well interference conflicts arising from the proposed ASR site/project shall be resolved as outlined in 567—Chapter 54 or as otherwise specified by the department. Water recovery from an ASR site will not be permitted to any user other than the ASR permittee.

e. MCL exceedance limitation. No permit shall allow injected water to contain contaminants in excess of the maximum contaminant levels (MCLs) established by the department in 567—Chapters 40 to 43. Chemicals associated with disinfection of the water may be injected into the aquifer up to the standards established under 567—Chapters 40 to 43 or as otherwise specified by the department.

f. Reporting and record keeping. The permittee shall maintain a monthly record of injection and recovery, including the total number of hours of injection and recovery and the total metered quantity injected and recovered. The records must be submitted to the department annually. Project records including water quality testing records must be kept by the applicant for a period of five years. Water quality monitoring shall be at the frequency required by 567—Chapters 40 to 43 and as identified in the water system's public water supply operation permit. The applicant shall keep project records for a period of three years after termination of an ASR project and closure of the recovery wells.

g. Follow-up analysis by permittee. Reserved.

h. Vacating a permit for failure to construct and nonuse. The department may vacate the permit if the applicant fails to construct injection and water pumpage/recovery and ancillary equipment within three years of issuance of the permit (or subsequent permit modifications or renewals). The permit may also be vacated if the applicant does not use the storage system within three years of acquisition of the permit. A site abandonment plan including the physical removal of injection and water recovery equipment and the abandonment of all injection/recovery and observation wells pursuant to 567—Chapter 39 will be required of the applicant if the permit is vacated. A permittee whose permit is vacated may request a formal review of the action. The permittee must submit a request for review in writing to the director within 30 days of the date of notification of the final decision made by the department. A decision by the director in a formal review case may be further appealed to the environmental protection commission (EPC).

i. Mechanical integrity. Other conditions that are necessary to ensure adequate protection of water supplies may be imposed for mechanical integrity checks of the injection and treated water recovery well.

j. Revocation. The department may revoke or modify a permit to prevent or mitigate injury to other water users or otherwise protect aquifer water quality. The department may, based upon valid scientific data, further restrict certain chemicals in the injection source water if the department finds the constituents will interfere with or pose a threat to the maintenance of the water resources of the state for present or future beneficial uses.

k. Nonpotable uses. Reserved.

55.6(2) Duration of permit, conditions of permit, and applicant property rights. Permits for aquifer storage and recovery shall be issued for 20 years.

a. Conditions of permit. The permit will specify the maximum allowable injection rate at each well, the maximum allowable annual quantitative storage volume, and the maximum allowable instantaneous water withdrawal rate at each well.

b. Property of permittee. The department shall not authorize withdrawals of treated water from an aquifer storage and recovery site by anyone other than the permittee during the period of the permit and each subsequent renewal permit. Treated water injected into a receiving aquifer (and thereby comprising the "displacement zone") as part of an ASR permit is the property of the permittee. Treated water which is recovered from storage within a displacement zone under terms of a permit shall be referred to as "recovered water" and shall be the property of the permittee. If a permit is revoked or otherwise surrendered, the ownership of the injected water within the aquifer (the water considered as "property") reverts to the state of Iowa.

c. Restrictions on other wells within displacement zone. Existing wells within the displacement zone shall be plugged pursuant to 567—Chapter 39. No new private water wells, injection/withdrawal wells, observation wells, or public water supply wells shall be permitted by any governmental entity within the ASR displacement zone while the ASR permit is in effect. An ASR permit shall be filed with the appropriate county recorder to give constructive notice to present and future landowners of all conditions or requirements imposed by the final decision on an ASR application, including the well prohibition condition.

These rules are intended to implement Iowa Code sections 455B.261, 455B.265 and 455B.269.

[Filed 7/23/99, effective 9/15/99]
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ARC 9251A

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 83, "Laboratory Certification," Iowa Administrative Code.

Chapter 83 is amended to include the following: minor grammatical changes; reordering of the paragraphs so that the various environmental program areas always appear in the same order (water supply, wastewater, and underground storage tank); new authority to suspend or revoke certification; definitions; applicability to private water and wastewater systems, as is consistent with Chapters 47 and 69); possibility of third-party accreditation; removal of the initial wastewater program startup provisions, as that program is underway; requirement that laboratories be appropriately certified prior to compliance sample analysis and data reporting; clarification of terms and requirements; certification of the University Hygienic Laboratory as DNR's appraisal authority; new EPA language for performance evaluation sample providers; addition of "suspended certification" category; clarification of provisional, suspended, and revoked certification criteria and procedures; and administrative order authority.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 1999, as **ARC 8910A**. Public hearings were held and three comments were received. These comments have been addressed in a responsiveness summary available from Diana Hansen, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; telephone (515)281-6267.

Two changes have been made to the Notice of Intended Action as a result of comments received during the public comment period:

1. In Item 4 (83.3(2)"c"(2)), the incorrect reference to water supply has been removed, as the analytical methodologies are not identical between the two program areas.
2. In Item 9 (83.6(2)), the laboratory performance evaluation sample retention period has been changed from ten years to a minimum of five years to correspond with the requirements in the EPA "Manual for the Certification of Laboratories Analyzing Drinking Water, March 1997."

These amendments are intended to implement Iowa Code section 17A.3(1)"b" and chapter 455B, division III, part 1.

These amendments will become effective on September 15, 1999.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [83.1 to 83.7] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8910A**, IAB 4/7/99.

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ARC 9233A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 65, "Administration," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments July 14, 1999. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on June 2, 1999, as **ARC 9067A**.

These amendments make the following changes to the food stamp program:

- Households which are not subject to monthly reporting are required to report when there is a change in the household's total gross earned income of more than $80 per month. Current policy requires these households to report whenever there is a change exceeding $25 per month. This change will lessen the reporting requirement burden for affected households as the amount of a change in earned income will be significantly greater before it must be reported than under current rules.
- Households which have submitted a monthly report are given ten calendar days, rather than five working days, to submit additional information and verification needed to determine eligibility. This will make this time frame requirement consistent with other food stamp program verification time frames.
- Nonexempt individuals who voluntarily quit a job without good cause within 60 days prior to the date the household applies for food stamp benefits shall be disqualified from participating in the food stamp program for 90 days beginning with the date of the quit.
- Provisions are removed which require disqualification of the entire household when the head of the household violates a work requirement rule. Work requirements for nonexempt individuals include registering for work, giving information about availability for work, reporting to an employer when referred, accepting a bona fide offer of a job, keeping a job that involves at least 20 hours a week, not voluntarily reducing hours of employment to less than 30 hours a week, and complying with the Food Stamp Employment and Training Program.

Federal law, prior to the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, required that an entire household be disqualified from receiving food stamp benefits when the head of the household committed a work requirement violation. If the household member who committed the violation was not the head of the household, only that person was disqualified while the remaining members of the household continued to be eligible to get food stamp benefits. PRWORA changed the law to allow states the option to continue to disqualify the entire household when the head of the household commits a work requirement violation, or to only disqualify the violator. These changes make disqualification penalties equitable for all households.

- Policy regarding selection of the head of the household is removed as there is no longer any reason to designate a head of household as all requirements associated with the head of household are removed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

• Policy is clarified to specify when the 36-month period of food stamp benefits for an able-bodied adult will begin and end. Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, able-bodied adults without dependents are limited to receiving 3 months of food stamp benefits in a 36-month period while not working or attending a training program for at least 80 hours per month.

When Public Law 104-193 was implemented, federal guidance was not available to define how the 36-month period was to be applied to affected individuals. Federal guidance now leaves it up to individual states to decide how the 36-month period is to be applied to individuals.

Under these changes, an individual's 36-month period will start with the first month the individual receives food stamp benefits that count towards the individual's 3-month limit, but no earlier than December 1, 1996, and end 36 months later. Consideration was given to setting a fixed 36-month period for all affected individuals. This method would have started the first fixed 36-month period effective December 1, 1996, and ended it on November 30, 1999. This method was rejected because it did not seem equitable.

• Provision is made for the permanent disqualification from the food stamp program of any individual who trades firearms, ammunition or explosives for food stamp benefits to be in compliance with Public Law 104-193.

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

These amendments do not provide for waiver in specified situations because federal law that does not allow for any waiver requires the amendments.

These amendments are intended to implement Iowa Code section 234.12.

These amendments shall become effective November 1, 1999.

The following amendments are adopted.

ITEM 1. Amend rule 441—65.10(234) as follows:

441—65.10(234) Reporting changes. Households may report changes on the Change Report Form, ~~FP-2232-0~~ *470-0321 or 470-0322 (Spanish)*. Households are supplied with this form at the time of initial certification, at the time of recertification whenever the household needs a new form, whenever a form is returned by the household, and upon request by the household.

Households ~~who~~ *which* are exempt from filing a monthly report ~~because of earnings of $75 or less per month are required to report to an office in the administrative area in which they reside whenever their earnings exceed $75 per month~~ *must report a change in total household gross earned income of more than $80 per month*. ~~This report is to be made no later than ten days after the last day of the month in which the earned income increased to more than $75.~~

ITEM 2. Amend subrule 65.19(17) as follows:

65.19(17) Additional information and verification. The household which has submitted a complete monthly report shall submit, or cooperate in obtaining, additional information and verification needed to determine eligibility or benefits within ~~five working~~ *ten calendar* days of the agency's written request.

ITEM 3. Amend rule 441—65.27(234) as follows:

441—65.27(234) Voluntary quit, reduction in hours of work, and failure to participate in workfare.

65.27(1) Applicant households. A member of an applicant household who without good cause voluntarily quits a job within 60 days prior to the date the household applies for food stamp benefits shall be disqualified from participating in the food stamp program for 90 days beginning with the date of the quit. Reduction in hours of work to less than 30 hours per week does not apply to applicant households.

65.27(2) Participating individuals. Participating individuals are subject to the same disqualification ~~period~~ *periods* as provided under ~~rule 441—65.28(234)~~ *subrule 65.28(12)* when the *participating* individuals voluntarily quit employment *without good cause*, voluntarily reduce hours of work to less than 30 hours per week, or fail to comply with a food stamp program workfare program, beginning with the month following the adverse notice period.

~~If the individual is the head of the household, the disqualification period as provided in rule 441—65.128(234) shall apply to the entire household. If the head of household who caused the disqualification leaves the household, the remaining members may reapply to reestablish eligibility.~~

ITEM 4. Amend rule 441—65.28(234) as follows:

Amend subrules 65.28(12) to 65.28(14) and 65.28(18) as follows:

65.28(12) Failure to comply. *This subrule does not apply to persons electing to participate in the employment and training components of educational services and JTPA (see paragraphs 65.28(8)"c" and "d").*

a. When a person has refused or failed without good cause to comply with the work registration or employment and training requirements in this rule, that person shall be ineligible to participate in the food stamp program as follows:

(1) First violation: The later of (1) the date the individual complies with the requirement; or (2) two months.

(2) Second violation: The later of (1) the date the individual complies with the requirement; or (2) three months.

(3) Third and subsequent violations: The later of (1) the date the individual complies with the requirement; or (2) six months.

~~b. If the head of household fails to comply, the entire household is ineligible for the same period of time as applies to the individual who caused the violation. This rule does not apply to persons electing to participate in the employment and training components of educational services and JTPA (65.28(8), paragraphs "c" and "d").~~

~~(1) Ineligibility for the household shall continue until the member who caused the violation complies with the requirement as specified in subrule 65.28(14), either leaves the household, or becomes exempt from work registration as provided in subrule 65.28(2) exclusive of paragraphs "c" and "e."~~

~~(2) If any household member who failed to comply joins another household as the head of the household, that entire new household is ineligible for the remainder of the disqualification period. If the member who failed to comply joins another household where the member is not the head of the household, the person shall be ineligible for the remainder of the disqualification period. A household determined to be ineligible due to failure to comply may reestablish eligibility if a new and eligible person joins the household as its head of household.~~

~~(3)~~ *b.* The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a fair hearing is requested.

~~(4)~~ *c.* ~~Participants who are on probation in accordance with rules of this chapter and who incur any subsequent offense shall be disqualified.~~ Participants shall be notified of probation status in writing. Probation shall last for the duration of the component. *In addition to other work require-*

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ments in this chapter, employment and training participants are subject to the following specific requirements:

~~c. In addition to other work requirements in this chapter, sanctionable issues specific to employment and training components are as follows:~~

(1) Participants who are absent without good cause shall be placed on probation. A second absence without good cause shall result in disqualification.

(2) Participants who are absent without good cause at the time they are scheduled to present their job search documentation shall be disqualified.

(3) Participants who fail to make the required number of employer contacts without good cause shall be disqualified. Participants who fail to complete the required number of job contacts with good cause shall be excused from completion of the job search requirements for that component.

(4) Participants who exhibit disruptive behavior shall be placed on probation; a second offense shall result in disqualification. Disruptive behavior means the participant hinders the performance of other participants or staff, refuses to follow instructions, or uses abusive language.

(5) Participants will be allowed an additional two weeks to make up employer contacts which have been disallowed by employment services. Qualifying job contacts are defined in ~~subrule~~ *paragraph* 65.28(8)"e." Failure to make up employer contacts will result in disqualification. Employment services will disallow employer contacts when it has been determined that the participant failed to make a face-to-face contact or the requirements of the job applied for far exceed the applicant's level of experience, education, or abilities.

(6) Participants who make physical threats to other participants or staff shall be disqualified.

65.28(13) Noncompliance with comparable requirements. ~~When the household contains a member who was exempt from work registration because the member was registered for work for job insurance benefits (JIB or UIB) and the member fails~~ *Failure* to comply with a JIB requirement *that is* comparable to a food stamp work registration or employment and training requirement~~, the household~~ shall be treated as ~~though the member failed~~ *a failure* to comply with the corresponding food stamp ~~requirements~~ *requirement*. Disqualification procedures in subrule 65.28(12) shall be followed.

65.28(14) Ending disqualification. Following the end of the disqualification periods for noncompliance and as provided in rules 441—65.27(234) and 441—65.28(234), participation may resume. ~~A disqualified household must apply again and be determined eligible.~~

a. A disqualified individual who voluntarily quit a job within 60 days prior to applying for food stamp benefits may end the disqualification period by:

(1) Serving the 90-day disqualification period, or

(2) Obtaining employment comparable to the job that was quit prior to the end of the 90-day disqualification period, or

(3) Becoming exempt as provided in subrule 65.28(2) exclusive of paragraphs "c" and "e" prior to the end of the 90-day disqualification period.

b. A disqualified individual ~~in~~ *who is a member of* a currently participating eligible household shall be added to the household ~~effective the month following the end of~~ *after* the *minimum* disqualification period~~.~~ *has been served and the person has complied with the failed requirement as follows:* ~~Eligibility may be reestablished during a disqualification period. The household shall (if otherwise eligible) be permitted to resume participation by application if a disqualified household, or at the beginning of the next month if a disqualified member in a currently eligible household. In order to reestablish eligibility during a disqualification period, the member who caused the disqualification shall either become exempt from the work requirement as provided in subrule 65.28(2) exclusive of paragraphs "c" and "e," or no longer be a member of the household, or comply as follows:~~

~~a.~~ *(1)* If the member failed or refused to register for work with the department, the member complies by registering.

~~b.~~ *(2)* If the member failed or refused to respond to a request from the department or its designee requiring supplemental information regarding employment status or availability for work, the member must comply with the request.

~~c.~~ *(3)* If the member failed or refused to report to an employer to whom referred, the member must report to that employer if work is still available or report to another employer to whom referred.

~~d.~~ *(4)* If the member failed or refused to accept a bona fide offer of suitable employment to which referred, the member must accept the employment if still available to the participant, or secure other employment which yields earnings per week equivalent to the refused job, or secure any other employment of at least 30 hours per week or secure employment of less than 30 hours per week but with weekly earnings equal to the federal minimum wage multiplied by 30 hours.

~~e.~~ *(5)* If the member failed or refused to attend a scheduled employment and training interview, the member must arrange and attend a scheduled interview.

~~f.~~ *(6)* If the member failed or refused to participate in instruction, training or testing activities, the member must participate in the activities.

~~g.~~ *(7)* If the member failed or refused to complete assigned job search requirements, the member must complete the job search requirements.

~~h.~~ *(8)* If the member failed to comply with workfare, the individual must comply with the program requirements.

(9) If the member voluntarily quit a job, the individual must obtain a job comparable to the one quit.

(10) If the member voluntarily reduced hours of employment to less than 30 hours per week, the individual must start working 30 or more hours per week.

c. An individual may reestablish eligibility during a disqualification period by becoming exempt from the work requirement as provided in subrule 65.28(2) exclusive of paragraphs "c" and "e."

65.28(18) Work requirement for able-bodied nonexempt adults without dependents. An individual is exempt from this requirement if the individual is under 18 or over 50 years of age; medically certified as physically or mentally unfit for employment; a parent or other member of a household with responsibility for a dependent child; pregnant; or otherwise exempt from work requirements under the Food Stamp Act.

a. No able-bodied nonexempt individual aged 18 to 50 shall be eligible to participate in the food stamp program if, during the preceding 36-month period but not prior to December 1996, the individual received food stamp benefits for not less than 3 months (consecutive or otherwise) during which the individual did not:

(1) Work 20 hours or more per week (averaged monthly), or

(2) Participate in and comply with the requirements of a program for 20 hours or more per week, as determined by the department, or

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(3) Participate in and comply with the requirements of a food stamp workfare program or a comparable program established by the state or political subdivision of the state, or

(4) Receive benefits per paragraph "~~b~~ *c*" of this subrule.

b. The 36-month period is a consecutive period of time regardless of whether the individual is subject to paragraph "a" of this subrule for the entire 36-month period once it has begun. The 36-month period starts with the first month counted toward the 3-month limit. Periods during the 36 months in which the individual may receive benefits because of being exempt from the requirement do not reset the 36-month period. December 1, 1996, is the first month for which an individual's 36-month period can begin. When the individual's first 36-month period expires, a new 36-month period begins starting with the first month counted toward the 3-month limit.

~~b~~ *c.* ~~An~~ *During an individual's 36-month period, after the 3-month limit is used, the* individual may regain eligibility if during a 30-day period the individual:

(1) Worked 80 or more hours; or

(2) Participated in a work program for 80 or more hours; or

(3) Participated in a food stamp workfare program or a comparable program established by the state or political subdivision of the state.

~~c~~ *d.* An individual who loses employment after regaining eligibility under paragraph "~~b~~ *c*" of this subrule, and no longer meets the requirements of paragraph "a," subparagraphs (1), (2), and (3), shall remain eligible for a consecutive three-month period, beginning on the date the individual notifies the department that the individual no longer meets the requirements of paragraph "a" of this subrule.

ITEM 5. Rescind and reserve rule **441—65.40(234)**.

ITEM 6. Amend rule 441—65.46(234) by adding the following **new** subrule 65.46(5):

65.46(5) Conviction of trading firearms, ammunition or explosives for coupons. The penalty for any individual convicted of trading firearms, ammunition or explosives for food stamp benefits shall be permanent disqualification.

ITEM 7. Adopt the following **new** implementation clause following **441—Chapter 65**:

These rules are intended to implement Iowa Code section 234.12.

[Filed 7/15/99, effective 11/1/99]
[Published 8/11/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9234A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6, 232.6, and 249A.4, the Department of Human Services hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 150, "Purchase of Service," Chapter 151, "Court-Ordered Services," Chapter 153, "Social Services Block Grant and Funding for Local Services," Chapter 156, "Payments for Foster Care and Foster Parent Training," Chapter 167, "Juvenile Detention Reimbursement," Chapter 176, "Dependent Adult Abuse," Chapter 179, "Wrap-Around Funding Program," and Chapter 201, "Subsidized Adoptions," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments July 14, 1999. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on June 2, 1999, as **ARC 9055A**.

These amendments update form names and numbers and delete an obsolete policy regarding payment of nonrecurring adoption expenses for adoptions finalized prior to June 14, 1989.

The Department of Revenue and Finance changed the form name and number for reimbursement of services and supports from Form 625-5297, Claim Order/Claim Voucher, to Form 07-350, Purchase Order/Payment Voucher. This form is used for billing for many of the Department's services. In addition, two Department form numbers are updated to the new format.

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

These amendments do not provide for a waiver in specified situations because these amendments only update the name and number of a form and delete obsolete policy.

These amendments are intended to implement Iowa Code section 17A.3(1)"b."

These amendments shall become effective October 1, 1999.

The following amendments are adopted.

ITEM 1. Amend subrule **78.13(10)**, paragraph **"a,"** as follows:

a. Payment may be made to the agency which provided transportation if the agency is certified by the department of transportation and requests direct payment by submitting Form ~~625-5297~~ *07-350,* ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher,* within 90 days after the trip. Reimbursement for transportation shall be based on a fee schedule by mile or by trip.

ITEM 2. Amend subrule 150.5(5), introductory paragraph, as follows:

150.5(5) Billing procedures. At the end of each month, or as otherwise provided in the contract, the contractor shall prepare a claim on ~~a Claim Order/Claim Voucher form~~ *Form 07-350, Purchase Order/Payment Voucher,* for expenses for which reimbursement is permitted in the contract. The claim is to be sent to the ~~district~~ *regional* office of the department that administers the contract for approval and forwarding for payment.

ITEM 3. Amend subrule **151.28(4)**, paragraph **"a,"** as follows:

a. Claims for services shall be billed using Form 470-1691, Claim for Court-Ordered Care and Treatment, and Form ~~625-5297~~ *07-350,* ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher.* Each claim shall include an original and two copies of the signed and completed forms. At a minimum, the voucher shall contain the names of the children to whom service was provided and the number of service units provided per child.

ITEM 4. Amend subrule 151.49(6) as follows:

151.49(6) Billing and payment. Providers of supervised community treatment services shall submit billings on a monthly basis for specific youth receiving services. Bills shall be submitted on Form ~~625-5297~~ *07-350,* ~~Claim Order/~~

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~~Claim Voucher~~ *Purchase Order/Payment Voucher*, to the chief juvenile court officer of the appropriate judicial district. The chief juvenile court officer, or the officer's designee, shall verify the accuracy of the billings, approve the billings, and submit them on Form ~~625-5297~~ *07-350* to the court-ordered care and treatment program manager in the division of adult, children and family services to be processed for payment. The department shall process billings, issue payments to providers, and provide monthly accounting to the chief juvenile court officer.

ITEM 5. Amend rule 441—151.70(232) as follows:

441—151.70(232) Billing and payment. Providers of life skill development services and instructional materials shall submit billings on a monthly basis for the specific youth who have been referred by juvenile court officers. Bills shall be submitted on Form ~~625-5297~~ *07-350*, ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher*, to the chief juvenile court officer of the appropriate judicial district or designee. The chief juvenile court officer or designee shall verify the accuracy of these billings, approve them and submit them on Form ~~625-5297~~ *07-350* to the court-ordered care and treatment program manager in the division of adult, children and family services. The department shall process billings, issue payments to providers, and provide monthly accounting to the chief juvenile court officers.

ITEM 6. Amend rule 441—151.86(232) as follows:

441—151.86(232) Billing and payment. Providers of school-based supervision services shall prepare billings on a monthly basis using Form ~~625-5297~~ *07-350*, ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher*. Billings shall be submitted by the provider to the chief juvenile court officer of the judicial district or designee who shall verify the billing for accuracy, approve the billing, and submit it to the court-ordered care and treatment program manager in the department's division of adult, children and family services. The department shall process billings according to the rates and shares described in the contract, issue payments to providers, and provide monthly accounting to the chief juvenile court officer.

ITEM 7. Amend subrule **153.57(3)**, paragraph **"a,"** as follows:

a. Payment for service shall be made in accordance with 441—Chapter 150 and departmental procedures. Form 470-0020, Purchase of Service Provider Invoice, shall be used to bill for services covered by a purchase of service contract or a special mental health-mental retardation county contract agreement for services actually provided to a member from the effective date of state payment program eligibility.

Payment for services which are the responsibility of the Iowa Plan contractor shall be made in accordance with the Iowa Plan's procedures and shall be submitted to the Iowa Plan contractor on Form 470-0020, Purchase of Service Provider Invoice, for payment.

Form ~~625-5297~~ *07-350*, ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher*, shall be used for all other services.

ITEM 8. Amend subrules 156.8(3), 156.8(4), and 156.8(5) as follows:

156.8(3) Medical care. When a child in foster care needs medical care or examinations which are not covered by the Medicaid program and no other source of payment is available, the cost may be paid from foster care funds with the approval of the regional administrator or designee. Eligible costs shall include emergency room care, medical treatment by out-of-state providers who refuse to participate in the Iowa Medicaid program, and excessive expenses for nonprescription drugs or supplies. Requests for payment for out-of-state medical treatment and for nonprescription drugs or supplies shall be approved prior to the care being provided or the drugs or supplies purchased. Claims shall be submitted to the department on ~~a claim order/claim voucher~~ *Form 07-350, Purchase Order/Payment Voucher,* within 90 days after the service is provided. The rate of payment shall be the same as allowed under the Iowa Medicaid program.

156.8(4) Transportation for medical care. When a child in foster family care has expenses for transportation to receive medical care which cannot be covered by the Medicaid program, the expenses may be paid from foster care funds, with the approval of the regional administrator. The claim for all the expenses shall be submitted to the department on ~~a claim order/claim voucher~~ *Form 07-350, Purchase Order/Payment Voucher,* within 90 days after the trip. This payment shall not duplicate or supplement payment through the Medicaid program. The expenses may include the actual cost of meals, parking, child care, lodging, passenger fare, or mileage at the rate granted state employees.

156.8(5) Funeral expense. When a child under the guardianship of the department dies, the department will pay funeral expenses not covered by the child's resources, insurance or other death benefits, the child's legal parents, or the child's county of legal settlement, not to exceed $650.

The total cost of the funeral and the goods and services included in the total cost shall be the same as defined in rule 441—56.3(239,249).

The claim shall be submitted by the funeral director to the department on ~~a claim order/claim voucher~~ *Form 07-350, Purchase Order/Payment Voucher,* and shall be approved by the regional administrator. Claims shall be submitted within 90 days after the child's death.

ITEM 9. Amend subrule 167.3(2) as follows:

167.3(2) The home submits ~~a Claim Order/Claim Voucher,~~ Form ~~625-5297~~ *07-350, Purchase Order/Payment Voucher,* within the time frames of 441—167.5(232).

ITEM 10. Amend rule 441—167.5(232) as follows:

441—167.5(232) Submission of voucher. Eligible facilities shall submit ~~a Claim Order/Claim Voucher,~~ Form ~~625-5297~~ *07-350, Purchase Order/Payment Voucher,* for the legislatively authorized percentage of their allowable costs for the year ending June 30 to the Department of Human Services, Division of Fiscal Management, First Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114, by August 10. Only facilities which submit ~~a Claim Order/Claim Voucher,~~ Form ~~625-5297~~ *07-350, Purchase Order/Payment Voucher,* by August 10 shall receive reimbursement.

ITEM 11. Amend subrule 176.16(3) as follows:

176.16(3) Billing procedures. Claims for payment shall be submitted to the division of adult, children and family services on ~~a Claim Order/Claim Voucher,~~ Form ~~625-5297~~ *07-350, Purchase Order/Payment Voucher,* accompanied by a letter from department staff certifying that the necessary conditions for payment have been met.

ITEM 12. Amend subrule 179.9(2) as follows:

179.9(2) Payment through ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher.* Concrete support billings received by the department worker may also be paid through the preparation and submission of Form ~~625-5297~~

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07-350, ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher.* The department worker shall verify the delivery of the concrete supports and review the billing rate, prepare Form ~~625-5297~~ *07-350* attaching documentation required to justify the billing, and submit the ~~claim~~ *voucher* to the division of adult, children, and family services for processing and payment.

ITEM 13. Amend subrules 179.10(1) and 179.10(2) as follows:

179.10(1) Billing. Providers of wrap-around services shall submit bills to the child's department worker at least monthly. The department worker shall verify the delivery of services and billing rates, prepare Form ~~625-5297~~ *07-350,* ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher,* attach any documentation required to justify the billing, and submit the ~~claim~~ *voucher* to the division of adult, children, and family services for processing and payment.

179.10(2) Payment. Providers of wrap-around services approved for a child and family shall receive payments from the department at the rate approved by the department on the ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher.*

ITEM 14. Amend subrule **201.3(2)** as follows:

Rescind and reserve paragraph **"a."**

Amend paragraph **"b"** as follows:

b. The child from another country who meets the criteria in subrule 201.3(1) and whose adoption is finalized after June 14, 1989, must file an application on Form ~~SS-6102-6~~ *470-0744,* Application for Adoption Subsidy, and complete Form ~~SS-6602-6~~ *470-0749,* Adoption Subsidy Agreement, prior to or at the time of a final decree of adoption. The claim for reimbursement must be filed on Form ~~IFAS #A-1~~ *07-350,* ~~Claim Order/Claim Voucher~~ *Purchase Order/Payment Voucher,* within two years of the date of the adoption decree and must include receipts.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9235A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments July 14, 1999. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on May 19, 1999, as **ARC 8990A.**

These amendments revise the historical data and cost reporting time periods used for the rebasing of hospital base and capital costs, recalculation of direct and indirect medical education and disproportionate share costs, recalibration of DRG (diagnosis-related group) weights for inpatient hospital reimbursements, and recalibration of APG (ambulatory patient group) weights for hospital outpatient reimbursements. In addition, a correction is made for the frequency of the distribution of funds paid from the direct and indirect medical education fund and the disproportionate share fund.

Current rules require that the DRG and APG weights be rebased and recalibrated every three years. The recalculation of direct and indirect medical education and disproportionate share costs is being done to reflect current shifts in costs and patients served.

Monthly rather than quarterly distribution of direct and indirect medical education and disproportionate share funds have proven to be beneficial to hospitals for cash flow purposes. This frequency of payments is currently being used.

This rebasing and recalibration of hospital costs must be budget neutral and have no fiscal impact on the state.

These amendments do not provide for waivers in specified situations because the Department believes the same data should be used for redetermining reimbursement rates for all hospitals. Hospitals may request a waiver of any part of the reimbursement methodology under the Department's general rule on exceptions at 441—1.8(217).

The following revisions to the noticed rules were made in response to public comments:

Subrule 79.1(5), paragraph "y," subparagraph (1), numbered paragraph "1," and subparagraph (3), numbered paragraph "1," and subparagraph (5), numbered paragraph "1"; and subrule 79.1(16), paragraph "v," subparagraph (1), numbered paragraph "1," were revised to change the period of claims history used to determine the amounts of money to be used to fund the graduate medical education and disproportionate share fund.

In determining the amounts of money to be used to fund the graduate medical education and disproportionate share fund, the noticed rules proposed using a six-month time period of claims history with a three-month trailing payment window. This methodology required an annualization to cover a 12-month period. However, it was determined that a full 12 months of claims should be used as the extended time period will improve the validity of the data. Paid claims from July 1, 1998, through June 30, 1999, will be used.

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

These amendments shall become effective October 1, 1999.

The following amendments are adopted.

ITEM 1. Amend subrule **79.1(5)** as follows:

Amend paragraph **"a,"** definition of "Base year cost report," as follows:

"Base year cost report" shall mean the hospital's cost report with fiscal-year-end on or after January 1, ~~1995~~ *1998,* and prior to January 1, ~~1996~~ *1999,* except as noted in 79.1(5)"x." Cost reports shall be reviewed using Medicare's cost reporting regulations for cost reporting periods ending on or after January 1, ~~1995~~ *1998,* and prior to January 1, ~~1996~~ *1999.*

Amend paragraph **"c"** as follows:

c. Calculation of Iowa-specific weights and case-mix index. Using all applicable claims for the period January 1, ~~1994~~ *1997,* through December 31, ~~1995~~ *1998,* and paid through ~~April 26, 1996~~ *March 31, 1999,* the recalibration will use all normal inlier claims, discard short stay outliers, discard transfers where the final payment is less than the full DRG payment and including transfers where the full payment is greater than or equal to the full DRG payment, and use only the estimated charge for the inlier portion of long

stay outliers and cost outliers for weighting calculations. These are referred to as trimmed claims.

(1) Iowa-specific weights are calculated from Medicaid charge data on discharge dates occurring from January 1, ~~1994~~ *1997*, to December 31, ~~1995~~ *1998*, and paid through ~~April 26, 1996~~ *March 31, 1999*. One weight is determined for each DRG with noted exceptions. Weights are determined through the following calculations:

1. Determine the statewide geometric mean charge for all cases classified in each DRG.
2. Compute the statewide aggregate geometric mean charge for each DRG by multiplying the statewide geometric mean charge for each DRG by the total number of cases classified in that DRG.
3. Sum the statewide aggregate geometric mean charges for all DRGs and divide by the total number of cases for all DRGs to determine the weighted average charge for all DRGs.
4. Divide the statewide geometric mean charge for each DRG by the weighted average charge for all DRGs to derive the Iowa-specific weight for each DRG.
5. Normalize the weights so that the average case has a weight of one.

(2) The hospital-specific case-mix index is computed by taking each hospital's trimmed claims that match the hospital's ~~1995~~ *1998* fiscal year and paid through ~~April 26, 1996~~ *March 31, 1999*, summing the assigned DRG weights associated with those claims and dividing by the total number of Medicaid claims associated with that specific hospital for that period.

Amend paragraph **"e,"** subparagraph **(3)**, first unnumbered paragraph, as follows:

Compensation for routine disproportionate share payments for indigent patients is included in the rate table listing if applicable to the provider and the claim has a date of discharge before July 1, 1997. This amount is added to the blended base amount plus add-ons prior to setting the final payment rate. Compensation for supplemental disproportionate share payments is calculated and paid monthly. Hospitals qualify for disproportionate share payments based on information contained in the hospital's available ~~1995~~ *1998* submitted Medicaid cost report, and other supporting schedules. Either routine or supplemental disproportionate share payments are determined when the hospital's low-income utilization rate, as defined by the ratio of gross billings for all Medicaid, bad debt, and charity care patients to total billings for all patients, is 25 percent or greater. Gross billings do not include cash subsidies received by the hospital for inpatient hospital services except as provided from state or local governments. Hospitals also qualify for either routine or supplemental disproportionate share payments when the hospital's inpatient Medicaid utilization rate, defined as the number of total Medicaid days, both in-state and out-of-state, and Iowa state indigent patient days divided by the number of total inpatient days for both in-state and out-of-state recipients, exceeds one standard deviation from the statewide average Medicaid utilization rate. Children's hospitals, defined as hospitals with inpatients predominantly under 18 years of age, receive twice the percentage of inpatient hospital days attributable to Medicaid patients.

Amend paragraph **"i,"** subparagraph **(1)**, as follows:

(1) Per diem calculation. The base rate shall be the medical assistance per diem rate as determined by the individual hospital's cost report for the hospital's *1998* fiscal year. No recognition will be given to the professional component of the hospital-based physicians except as noted under 79.1(5)"j."

Amend paragraph **"y"** as follows:

y. Graduate medical education and disproportionate share fund. Payment shall be made to all hospitals qualifying for direct medical education, indirect medical education or disproportionate share payments directly from the graduate medical education and disproportionate share fund. The amount in the fund and distributions from the fund shall be calculated from the following components:

(1) Allocation for direct medical education. To determine the total amount of funding that will be allocated to the graduate medical education and disproportionate share fund for direct medical education, the department shall:

1. Sum all direct medical education payments using *paid* claims ~~reimbursed~~ to qualifying providers ~~with dates of discharge from October 1, 1996, through March 31, 1997, and paid through June 30, 1997~~ *on or after July 1, 1998, and through June 30, 1999*. ~~These claims shall then be multiplied by two and statistically adjusted to fully annualize the amount of money to be placed in the fund for distribution and the total amount of computed reimbursement shall be allocated to the fund.~~
2. Sum all direct medical education payments using claims reimbursed to qualifying providers when those claims have been used as a basis for the calculation of capitation rates and reimbursement with any health maintenance organization (HMO) or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for direct medical education. The direct medical education PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for direct medical education (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for direct medical education Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated amounts.

(2) Distribution of direct medical education. Distribution of the fund for direct medical education shall be on a ~~quarterly~~ *monthly* basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of direct medical education reimbursement (based upon paid claims to qualifying hospitals) and multiplying that percentage by the amount in the fund for direct medical education.

If a hospital fails to qualify for the provision of medical education under Medicare regulations, the amount of money that could have been allocated to that hospital shall be removed from the total fund.

(3) Allocation for indirect medical education. To determine the total amount of funding that will be allocated for the graduate medical education and disproportionate share fund for indirect medical education, the department shall:

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1. Sum all routine indirect medical education payments using *paid* claims ~~reimbursed~~ to qualifying providers ~~with dates of discharge from October 1, 1996, through March 31, 1997, and paid through June 30, 1997~~ *on or after July 1, 1998, and through June 30, 1999*. ~~These claims shall then be multiplied by two and statistically adjusted to fully annualize the amount of money to be placed in the fund for distribution and the total amount of reimbursement shall be applied to the fund.~~

2. Sum all routine indirect medical education payments from claims made to qualifying providers when those claims have been used as a basis for the calculation of capitation rates and reimbursement with any HMO or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for routine indirect medical education. The indirect medical education PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for routine indirect medical education (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for indirect medical education Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated updates.

(4) Distribution of indirect medical education. Distribution of the fund for indirect medical education shall be on a ~~quarterly~~ *monthly* basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of indirect medical education reimbursement (based upon paid claims to qualifying hospitals) and multiplying the total amount of money allocated to the graduate medical education and disproportionate share fund for indirect medical education by each respective hospital's percentage.

If a hospital fails to qualify for the provision of medical education under Medicare regulations, the amount of money that would otherwise be allocated to that hospital shall be removed from the total fund.

(5) Allocation for disproportionate share. To determine the total amount of funding that shall be allocated to the graduate medical education and disproportionate share fund for disproportionate share payments, the department shall:

1. Sum all routine disproportionate share payments ~~for the fee for service population reimbursed~~ *using paid claims* to qualifying providers ~~with dates of discharge from October 1, 1996, through March 31, 1997, and paid through June 30, 1997~~ *on or after July 1, 1998, and through June 30, 1999*. ~~These claims shall then be multiplied by two and statistically adjusted to fully annualize the amount of money to be placed in the fund for distribution and the total amount of reimbursement shall be applied to the fund.~~

2. Sum all routine disproportionate share payments from claims made to qualifying providers when those claims have been used as a basis for the calculation of capitation rates and reimbursement with either an HMO or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for routine disproportionate share. The disproportionate share PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for routine disproportionate share (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for disproportionate share Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated updates. The total amount of disproportionate share reimbursement cannot exceed the cap that was implemented under Public Law 102-234.

(6) Distribution of disproportionate share fund. Distribution of the fund for disproportionate share shall be on a ~~quarterly~~ *monthly* basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of direct medical education reimbursement (based upon paid claims to qualifying hospitals) and dividing the total amount of money allocated to the graduate medical education and disproportionate share fund for disproportionate share by each respective hospital's percentage.

If a hospital fails to qualify for reimbursement for disproportionate share under Iowa Medicaid regulations, the amount of money that would otherwise be allocated for that hospital shall be removed from the total fund.

ITEM 2. Amend subrule **79.1(16)** as follows:

Amend paragraph **"a,"** definition of "Base year cost report," as follows:

"Base year cost report" shall mean the hospital's cost report with fiscal-year-end on or after January 1, ~~1995~~ *1998*, and prior to January 1, ~~1996~~ *1999*, except as noted in paragraph "s." Cost reports shall be reviewed using Medicare's cost reporting and cost principles regulations for those cost reporting periods.

Amend paragraph **"d"** as follows:

d. Calculation of Iowa-specific relative weights and case-mix index. Using all applicable claims with dates of service occurring in the period ~~July 1, 1994~~ *January 1, 1997*, through ~~March 22, 1996~~ *December 31, 1998*, and paid through ~~March 22, 1996~~ *March 31, 1999*, relative weights ~~were~~ *are* calculated using all valid singleton claims, which ~~had been~~ *are* trimmed at high and low trim points, as discussed in paragraph "c." Using all applicable claims with dates of service occurring within the individual hospital's ~~1995~~ *1998* fiscal year and paid through ~~March 22, 1996~~ *March 31, 1999*, the hospital-specific case-mix indices ~~were~~ *are* calculated using all valid singleton claims, which ~~had been~~ *are* trimmed at the high and low trim points, as discussed in paragraph "c."

(1) A relative weight is determined for each APG through the following calculations:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. The statewide geometric mean charge is determined for all singleton occurrences of each APG.

2. The statewide aggregate geometric mean charge is computed by summing the statewide geometric charge for all APGs and dividing by the total number of APG occurrences.

3. The statewide geometric mean charges for each APG are divided by the statewide aggregate geometric mean charge for all APGs to derive the Iowa-specific relative weight for each APG.

4. Relative weights for APGs which ~~had~~ *have* low or no volume in the claims data, and those weights which ~~were~~ *are* deemed too high or low by a committee of clinicians from the Iowa Foundation for Medical Care, shall be administratively adjusted.

5. The relative weights are then normalized, so that the average case has a weight of one.

(2) The hospital-specific case-mix index is computed by summing the relative weights for each valid occurrence of an APG at that hospital and dividing by the number of valid Medicaid visits for that hospital.

Amend paragraphs **"j," "p,"** and **"v"** as follows:

j. System implementation, rebasing, and recalibration. For state fiscal years 1995 and 1996, a risk corridor has been established to ensure that APG payments to each hospital will not be less than 95 percent or greater than 105 percent of Medicaid allowable costs. For the state fiscal year 1997, a risk corridor has been established to ensure that hospital payments will not be less than 90 percent or greater than 110 percent of Medicaid allowable costs.

Periodic interim payments, made quarterly to ensure adequate cash flow to hospitals during the transition, will begin 30 days after the quarter ending March 31, 1995. No periodic interim payment will be made to any hospital within the corridor limits. Money may also be requested to be refunded if an overpayment exists.

The APG system will be rebased and recalibrated every three years beginning October 1, 1996. Cost reports used will be hospital fiscal year-end reports within the calendar year ending no later than December 31, ~~1995~~ *1998*. Case-mix indices shall be calculated using valid claims most nearly matching each hospital's fiscal year end.

p. Cost report adjustments. Hospitals with ~~1995~~ *1998* cost reports adjusted by Medicare through the cost settlement process for cost reports applicable to the APG base year may appeal to the department the hospital-specific base and add-on costs used in calculating the Medicaid APG rates if the Medicare adjustment results in a material change to the rate. Any appeal of the APG rate due to Medicare's adjustment process must be made in writing to the department within 30 days of Medicare's finalization and notification to the provider. If the provider does not notify the department of the adjusted amounts within the 30-day period, no costs shall be reconsidered for adjustment by Iowa Medicaid. Claims adjustment reflecting the changed rates shall only be made to claims that have been processed within one year prior to the notification from the provider or the beginning of the rebasing period, whichever is less.

v. Graduate medical education and disproportionate share fund. Payment shall be made to all hospitals qualifying for direct medical education directly from the graduate medical education and disproportionate share fund. The amount in the fund and distributions from the fund shall be calculated as follows:

(1) Allocation for direct medical education. To determine the total amount of funding that will be allocated to the graduate medical education and disproportionate share fund, the department shall:

1. Sum all direct medical education add-on payments for outpatient services using *paid* claims ~~reimbursed~~ to qualifying providers ~~with the first date of service on or after October 1, 1996, prior to March 31, 1997, and paid through June 30, 1997~~ *on or after July 1, 1998, and through June 30, 1999*. ~~These amounts shall then be multiplied by two to annualize the amount of money to be placed in the fund for distribution and the total amount of computed reimbursement shall be allocated to the fund.~~

2. Sum all direct medical education add-on payments for outpatient services, using claims reimbursed to qualifying providers, when those claims have been used as a basis for the calculation of capitation rates and reimbursement with any health maintenance organization (HMO) or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for direct medical education. The direct medical education PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for direct medical education (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for direct medical education Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated amounts.

(2) Distribution of direct medical education. Distribution of the fund for direct medical education shall be on a ~~quarterly~~ *monthly* basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of direct medical education reimbursement (based upon paid outpatient claims to qualifying hospitals) and multiplying that percentage by the amount in the fund for direct medical education.

If a hospital fails to qualify for the provision of medical education under Medicare regulations, the amount of money that would have been allocated that hospital shall be removed from the total fund.

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ARC 9237A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249F.7, the Department of Human Services hereby amends Chapter 89, "Debts Due from Transfers of Assets," appearing in the Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The Council on Human Services adopted these amendments July 14, 1999. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on June 2, 1999, as **ARC 9068A**.

Iowa Code chapter 249F was enacted in July of 1993 and allows the Department of Human Services to establish a medical assistance debt against a person who receives assets transferred for less than fair market value from a person who files a Medicaid application within 60 months of the transfer. The Department of Inspections and Appeals completes an investigation of these transfers of assets and, if warranted, presents the evidence to the Iowa Attorney General's Office. The Attorney General's Office then files an order against the transferee for repayment and the Department of Inspections and Appeals proceeds with service of notice establishing and demanding payment of the accrued or accruing debt due and owing to the Department of Human Services.

1999 Iowa Acts, Senate File 92, revised chapter 249F to provide that notice to transferees may be mailed by restricted certified mail to the transferee at the transferee's last-known address, rather than being personally served by the sheriff in accordance with the Iowa Rules of Civil Procedure. These amendments incorporate the changes legislated by 1999 Iowa Acts, Senate File 92.

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

These amendments do not provide for waivers in specified situations because the amendments merely incorporate state legislation regarding mailing of notices.

These amendments are intended to implement Iowa Code sections 249F.3 and 249F.4 as amended by 1999 Iowa Acts, Senate File 92.

These amendments shall become effective October 1, 1999.

The following amendments are adopted.

ITEM 1. Amend rule 441—89.5(249F), introductory paragraph, as follows:

441—89.5(249F) Notice of debt. The department may issue a notice establishing and demanding payment of an accrued or accruing debt due and owing to the department as provided in rule 441—89.2(249F). The notice shall be *sent by restricted certified mail, as defined in Iowa Code section 618.15, to the transferee at the transferee's last-known address. If service of the notice is unable to be completed by restricted certified mail, the notice shall be* served upon the transferee in accordance with the *Iowa* Rules of Civil Procedure. The notice shall include all of the following:

ITEM 2. Amend rule 441—89.7(249F) as follows:

441—89.7(249F) Timely request for a hearing. If a timely written request for a hearing is received by the department, the department shall certify the matter for hearing to the district court where the transferee resides or to the district court where the transferor resides if the transferee is not an Iowa resident. If neither the transferor nor the transferee resides in Iowa, the order may be filed in any county in which the transferor formerly resided.

The certification shall include true copies of the original notice, the return of service, any request for an informal conference, *if applicable,* any subsequent notices, the written request for hearing, and true copies of any administrative orders previously entered.

ITEM 3. Amend the implementation clause following **441—Chapter 89** to read as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ chapter 249F *as amended by 1999 Iowa Acts, Senate File 92.*

[Filed 7/14/99, effective 10/1/99]
[Published 8/11/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9238A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6 and 252B.16, the Department of Human Services hereby amends Chapter 95, "Collections," and rescinds Chapter 97, "Collection Services Center," appearing in the Iowa Administrative Code, and adopts a new Chapter 97, "Collection Services Center," Iowa Administrative Code.

The Council on Human Services adopted these amendments on July 14, 1999. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on May 19, 1999, as **ARC 8994A**.

These amendments implement the following changes to policy governing the collection of child support:

- Policy is revised to allow the use of the date a payment is received by the Collection Services Center as the date the support is collected. The rule regarding appeals based upon the date of collection is being rescinded because it was in place to address issues related to receipt of the payment based upon the date of collection. The appeals provision for that issue is no longer necessary.

By changing the date of collection to the date the payment is received, employers and clerks of court will no longer be asked to report the withholding date. This means employers and clerks of court will submit less documentation per case. Currently when employers do not report the withholding date, the Collection Services Center imputes a withholding date. This will no longer be necessary. By using the date the Collection Services Center receives a payment as the date of collection, all payments are treated the same regardless of whether the payment is from the obligor, an employer, clerk of court or another state. Additionally, in the past the date of withholding was used by the Department in determining if a rebate should have been issued to an obligee for a given month. With the 1998 legislative change eliminating rebates, there is no longer a need for the date of collection to determine when rebates should be issued.

- All references to rebates are being removed as the law that required payment of the first $50 to a family on the Family Investment Program was removed from federal and state law in July of 1998.
- Code and rule references are updated.
- Chapter 97 is rewritten to comply with mandates in federal law that require the establishment of a state disbursement unit to process all payments made through Iowa income withholding orders to a single location in the state and 1998 Iowa Acts, chapter 1170, Division I, which requires the Collection Services Center to meet the requirements for the state disbursement unit by October 1, 1999.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments are based upon recommendations provided by a task force that contained representatives from the State Bar Association, the legislature, employers, the banking industry, obligor groups, obligee groups, the clerks of court, and the judicial branch.

Beginning in June of 1999, clerks of court will begin transferring the necessary information on cases identified as receiving payment through income withholding at the clerk of court offices. As cases are established, the Child Support Recovery Unit will send notices to the employers within the state of Iowa to send all child support withheld from income to the Collection Services Center. All cases will be converted by October 1, 1999.

It is expected this will increase the number of payments processed by the Collection Services Center by approximately 30 percent in a two- to three-month period. The number of payments processed by the Collection Services Center will continue to increase over time on a regular basis, as Iowa law now requires that child support payments be withheld from an obligor's income upon the entry of the support order.

Major changes to Chapter 97 include clarifications on the following issues: when and how the responsibility for processing child support payments transfers from the clerks of court to the Collection Services Center, which entity is responsible for maintaining the official payment records for each type of child support case, when the unit provides the obligor payment coupons for their case, how an obligor or employer may make a payment, what happens if a check is returned as insufficient, how the payment is authorized for release to the obligee, and how the Collection Services Center handles payments it should not have received. Many of the rules in Chapter 97 that are being rescinded were based upon 1987 law that was rescinded by the legislature in 1988, but the rules had not been updated.

With the assumption of the state disbursement unit duties by the Collection Services Center, employers will be able to write one check per pay period for support withheld under Iowa income withholding orders and send all child support payments to a single location. Additionally, employers will be able to make payments through an electronic transfer of funds. This replaces writing multiple checks and mailing to up to 101 different locations within Iowa.

The Collection Services Center is also able to provide direct deposit to obligees, a service currently not available through the clerks of court.

Eight public hearings were held around the state. No one attended and no written comments were received.

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

These amendments do not provide for waiver in specified situations for the following reasons:

- No waiver is appropriate for Items 1, 2, 4, 5, and 7 through 12 because these are technical changes to add definitions or to reference Iowa Code citations in place of bill citations.
- No waiver is appropriate for Item 3 because this amendment confers a benefit on employers. By removing the requirement to report the date of collection, employers do not have to track and report additional information. This change allows the Collection Services Center to treat all payments in the same manner upon receipt, regardless of the source of payment.
- No waiver is appropriate for Item 6 because this amendment is a technical change to remove appeals based on the date of collection since the date of collection will now be the date the payment was received by the Collection Services Center.

The policies set forth in Item 13, 441—Chapter 97, are a requirement of federal and state laws that do not allow for any waiver. Each rule is set forth below:

- No waiver is appropriate for rule 441—97.1(252B) because these are changes to add or clarify existing definitions.
- No waiver is appropriate in any situation that can be specified in rule 441—97.2(252B) because all information requested regarding case records and payment information is a requirement to allow for payment processing or case enforcement.
- No waiver is appropriate in any situation that can be specified in rule 441—97.3(252B) because there must be an official keeper of all payment records. Since the unit does not maintain complete case information on non IV-D cases, the clerks of court must be the official keepers of those payment records. Since the unit maintains the complete case information on IV-D and former IV-D cases, the Collection Services Center must be the official keeper of the payment records.
- No waiver is appropriate in any situation that can be specified in rule 441—97.4(252B) because if an obligor is not paying through the income withholding process, the obligor on IV-D cases only should receive a reminder (with a coupon) that an amount is due. While it is helpful if the coupon is returned, the payment is processed even if no coupon is sent with the payment.
- No waiver is appropriate in any situation that can be specified in rule 441—97.5(252B) because the Collection Services Center can only receive payments in established methods. In order to ensure receipt of financial instruments that support the payment of funds, the Collection Services Center must have a process in place to address insufficient funds payments. In addition, the Collection Services Center must have a consistent process for allocating payments when not directed to a specific account.
- No waiver is appropriate in any situation that can be specified in rule 441—97.6(252B) because the Collection Services Center is required by federal and state legislation to send payments to the family, if an assignment of support is not in place. The Collection Services Center does not have the authority to write its own warrants and must rely upon the Department of Revenue and Finance to perform that duty. This rule defines the official process used to allow time for the warrants to be written. Since warrants are batch processed in large numbers at a location other than the Collection Services Center, hand delivery is not feasible.
- No waiver is appropriate in any situation that can be specified in rule 441—97.7(252B) because if the Collection Services Center receives money in error it cannot be processed as child support. The Collection Services Center must be able to return the money received in error to the sender, so that the sender may correct the error and its own records.

These amendments are intended to implement Iowa Code sections 252B.13A through 252B.17.

These amendments shall become effective October 1, 1999.

The following amendments are adopted.

ITEM 1. Amend rule **441—95.1(252B)** as follows:

Amend the definitions of "Caretaker," "Date of collection," "Dependent child," and "Public assistance," as follows:

"Caretaker" shall mean a custodial parent, relative or guardian whose needs are included in an assistance grant

HUMAN SERVICES DEPARTMENT[441](cont'd)

paid according to ~~1997 Iowa Acts, Senate File 516, sections 2 through 24 and 35~~ *Iowa Code chapter 239B*, or who is receiving this assistance on behalf of a dependent child, or who is a recipient of nonassistance child support services.

"Date of collection" shall mean the date that a support payment is received by the ~~department or the legal entity of any state or political subdivision actually making the collection, or the date that a support payment is withheld from the income of a responsible person by an employer or other income provider, whichever is earlier~~ *unit*.

"Dependent child" shall mean a person who meets the eligibility criteria established in Iowa Code chapter 234 or ~~1997 Iowa Acts, Senate File 516~~ *239B*, and whose support is required by Iowa Code chapter 234, *239B,* 252A, 252C, 252F, 252H, *252K,* 598 or 600B, and any other comparable chapter~~, or 1997 Iowa Acts, Senate File 516, or House File 612, division XI~~.

"Public assistance" shall mean assistance provided according to Iowa Code chapter *239B or* 249A, ~~or 1997 Iowa Acts, Senate File 516, sections 2 through 24 and 35, or~~ the cost of foster care provided by the department according to chapter 234, or assistance provided under comparable laws of other states.

Add the following **new** definition in alphabetical order:

"Payor of income" shall have the same meaning provided this term in Iowa Code section 252D.16.

Amend the implementation clause to read as follows:

This rule is intended to implement Iowa Code chapters 252B, ~~as amended by 1997 Iowa Acts, House File 612, divisions II and XVI, and section 201;~~ 252C and 252D.

ITEM 2. Amend the implementation clause following rule **441—95.2(252B)** to read as follows:

This rule is intended to implement Iowa Code sections 252B.3 ~~as amended by 1997 Iowa Acts, House File 612, section 26,~~ and 252B.4 ~~as amended by 1997 Iowa Acts, House File 612, sections 27, 28 and 29~~.

ITEM 3. Rescind rule 441—95.3(252B) and adopt the following **new** rule in lieu thereof:

441—95.3(252B) Crediting of current and delinquent support. The amounts received as support from the obligor or payor of income shall be credited as the required support obligation for the month in which the collection services center receives the payment. Any excess shall be credited as delinquent payments and shall be applied to the immediately preceding month, and then to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets are credited according to subrule 95.7(9).

95.3(1) Treatment of vacation or severance pay. When CSC is notified or otherwise becomes aware that a payment received from an income provider pursuant to 441—Chapter 98, Division II, includes payment amounts such as vacation pay or severance pay, these amounts are considered to be received in the months documented by the income provider.

95.3(2) Payment received at the end of the month. An additional payment in the month which is received from the obligor or payor of income within five calendar days prior to the end of the month shall be considered collected in the next month if:

a. The collection services center is notified by the obligor or payor of income that the payment is for the next month, and

b. Support for the current month is fully paid.

This rule is intended to implement Iowa Code sections 252B.3, 252B.4, and 252B.11.

ITEM 4. Amend the implementation clause following rule **441—95.6(252B)** to read as follows:

This rule is intended to implement Iowa Code sections 252B.3 ~~as amended by 1997 Iowa Acts, House File 612, section 26,~~ and 252B.4 ~~as amended by 1997 Iowa Acts, House File 612, sections 27, 28 and 29~~.

ITEM 5. Amend rule 441—95.7(252B) as follows:

Amend subrule 95.7(9) as follows:

95.7(9) Application of offsets. Offsets of federal income tax refunds shall be applied to delinquent support only. The department shall first apply the amount collected from an offset to delinquent support assigned to the department under Iowa Code ~~chapter~~ *chapters* 234 and ~~1997 Iowa Acts, Senate File 516, sections 2 through 24 and 35~~ *239B*. The department shall then apply any amount remaining in equal proportions to delinquent support due individuals receiving nonassistance services.

Amend the implementation clause following rule **441—95.7(252B)** to read as follows:

This rule is intended to implement Iowa Code sections 252B.3, ~~as amended by 1997 Iowa Acts, House File 612, section 26;~~ 252B.4, ~~as amended by 1997 Iowa Acts, House File 612, sections 27, 28 and 29;~~ and 252B.5 ~~as amended by 1997 Iowa Acts, House File 612, sections 30, 31, 32, and 33~~.

ITEM 6. Rescind and reserve rule **441—95.13(17A)**.

ITEM 7. Amend the implementation clause following rule **441—95.14(252B)** to read as follows:

This rule is intended to implement Iowa Code sections 252B.4 ~~as amended by 1997 Iowa Acts, House File 612, sections 27, 28, and 29~~, 252B.5 and 252B.6.

ITEM 8. Amend the implementation clause following rule **441—95.18(252B)** to read as follows:

This rule is intended to implement Iowa Code section 252B.4 ~~as amended by 1997 Iowa Acts, House File 612, sections 27, 28 and 29~~.

ITEM 9. Amend rule 441—95.19(252B) as follows:

Amend subrule **95.19(1)**, paragraph **"b,"** subparagraph **(5)**, as follows:

(5) If the paternity of the child has not been legally established, submitting to blood or genetic tests pursuant to a judicial or administrative order. The person may be requested to sign a voluntary affidavit of paternity after being given notice of the rights and consequences of signing such an affidavit as required by the statute in Iowa Code section 252A.3A ~~as amended by 1997 Iowa Acts, House File 612, section 2~~. However, the person shall not be required to sign an affidavit or otherwise relinquish the right to blood or genetic tests.

Amend the implementation clause following rule 441—95.19(252B) to read as follows:

This rule is intended to implement Iowa Code section 252B.3 ~~as amended by 1997 Iowa Acts, House File 612, section 26~~.

ITEM 10. Amend the implementation clause following rule **441—95.20(252B)** to read as follows:

This rule is intended to implement Iowa Code section 252B.3 ~~as amended by 1997 Iowa Acts, House File 612, section 26~~.

ITEM 11. Amend the implementation clause following rule **441—95.21(252B)** to read as follows:

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This rule is intended to implement Iowa Code section 252B.4 ~~as amended by 1997 Iowa Acts, House File 612, sections 27, 28 and 29~~.

ITEM 12. Amend the implementation clause following rule **441—95.22(252B)** to read as follows:

This rule is intended to implement Iowa Code section 252B.4 ~~as amended by 1997 Iowa Acts, House File 612, sections 27, 28 and 29~~.

ITEM 13. Rescind 441—Chapter 97 and adopt the following **new** Chapter 97 in lieu thereof:

CHAPTER 97
COLLECTION SERVICES CENTER

PREAMBLE

The collection services center is the public agency designated by state law as the state disbursement unit with responsibility for the receipt, recording and disbursement of specified support payments within the state of Iowa. The administrative guidelines within this chapter describe the process of transferring support cases or information from the clerks of district court to the collection services center and the policies and procedures used to receive, monitor, and distribute support payments.

441—97.1(252B) Definitions. The definitions of terms used in this chapter shall follow those terms defined in rule 441—95.1(252B) with the exception or addition of the following:

"Collection services center" means the public agency designated to receive, record, monitor, and disburse support payments as defined in Iowa Code section 598.1, 252B.15 or 252D.16, in accordance with Iowa Code sections 252B.13A and 252B.14.

"Correlated non IV-D case" means a non IV-D case where income withholding information must be maintained by the unit in order to properly process an income withholding payment because the obligor has both a non IV-D and a current or former IV-D case.

"Former IV-D case" means a case that previously received services from the unit under rule 441—95.2(252B) but currently receives only payment processing services from the collection services center.

"Insufficient funds payment" means a support payment by check or other financial instrument which is dishonored, not paid, or the funding of the payment is determined to be inadequate.

"IV-D case" means a case that receives services from the unit under rule 441—95.2(252B), including payment processing services from the collection services center.

"Non IV-D case" means a support order that never received services from the unit under rule 441—95.2(252B), but that receives payment processing services from the collection services center for income withholding payments.

"Obligee" means the guardian, custodial parent, person, or entity entitled to receive support payments.

"Obligor" means a parent, relative, or any other person declared to be legally liable for the support of a child or the custodial parent or guardian of the child.

"Payor of income" shall have the same meaning provided this term in Iowa Code section 252D.16.

"Support payment" shall have the same meaning provided this term in Iowa Code section 252D.16.

"Unit" means the child support recovery unit as defined in Iowa Code section 252B.2.

441—97.2(252B) Transfer of records and payments. For non IV-D cases, the clerk of court shall provide core case information to the unit upon the filing of a new income withholding order or upon the request of the unit. For IV-D and correlated non IV-D cases, the clerk of court shall provide detailed case information to the unit upon request. After the establishment of a case, the unit shall send notices of transfer to obligors, obligees and payors of income based upon case type.

97.2(1) Transfer of information on non IV-D and correlated non IV-D cases.

a. In non IV-D cases, the unit shall request the following information necessary for the receipt, recording and disbursement of payments from the clerk of the district court:

(1) The obligor's name and address.
(2) The obligee's name and address.
(3) The court order numbers.

b. In correlated non IV-D cases, the unit shall request the following information necessary for the receipt, recording and disbursement of payments from the clerk of the district court:

(1) The obligor's name and address.
(2) The obligee's name and address.
(3) The court order numbers.
(4) The income withholding order.

c. The clerk of the district court shall provide case information to the unit on a regular basis when an income withholding order is filed with a clerk of court or when the unit requests the information in order to process a payment.

d. The unit shall automatically create cases for payment processing based upon the information received from the clerks of court.

97.2(2) Transfer of information on IV-D cases. In IV-D cases, the clerk of district court shall provide the unit with the following information if the information has been provided to the clerk upon request of the unit:

a. The obligee's name, date of birth, last-known mailing address, the social security number if known and, if different in whole or part, the names of the persons to whom the obligation of support is owed by the obligor.

b. The name, birth date, social security number, and last-known mailing address of the obligor.

c. A copy of all support orders that establish or modify a support amount.

d. The names, social security numbers, and dates of birth of any minor dependents for whom support is ordered, if available.

e. A record of any support payments received by the clerk of district court prior to the transfer of case information and any payments received by the collection services center and the date of transfer to the collection services center.

f. A record of any determination of controlling order under the Uniform Interstate Family Support Act.

441—97.3(252B) Support payment records. Each IV-D, former IV-D and non IV-D case type shall have an official payment record.

97.3(1) Official records for cases. The official payment records for each case type shall be maintained by a designated entity.

a. The collection services center shall establish, maintain and certify the official support payment records for IV-D or former IV-D cases.

b. The clerk of the district court shall establish, maintain and certify the official support payment records for non IV-D and correlated non IV-D cases. The collection services center shall establish and maintain records for receipt and dis-

bursement of income withholding payments for these cases, but shall not certify these records as the complete payment record.

97.3(2) Informal conference for payment records. The unit shall provide an informal conference or desk review regarding the contents of any support payment record to the obligor or obligee upon request.

a. In IV-D or former IV-D cases, the conference shall be available to review the payment record and to answer questions of the obligee or obligor regarding the accuracy of the record.

b. In non IV-D and correlated non IV-D cases, the conference shall be available to review the accuracy of the contents of any record of income withholding payments.

97.3(3) Certified payment records. The unit shall provide certified copies of the official support payment records as defined in paragraph 97.3(1)"a" to the public, upon request, as a public record.

441—97.4(252B) Statement of accounts. The unit shall send to obligors monthly payment statements of the amount due in IV-D cases not paying support through income withholding. The monthly statement shall contain payment coupons to assist the obligor in making support payments for the month. Unless support payments are paid by preauthorized withdrawal of funds through electronic transfer of funds from the financial institution account of the obligor, the obligor shall send a payment coupon with each support payment to designate to which support account the payment shall be applied.

441—97.5(252B) Method of payment. Payments shall be accepted in specific forms from obligors and payors of income.

97.5(1) Form of payment. Support payments may be paid in the form of cash, check, bank draft, money order, preauthorized withdrawal of funds, or other financial instrument, and sent by mail to the collection services center, or by electronic transfer of funds.

97.5(2) Treatment of insufficient funds payments. The unit shall have a process in place to handle insufficient funds payments.

a. An obligor or payor of income submitting an insufficient funds support payment to the collection services center shall be required to submit payments by cash, bank draft, or money order for a period of up to 12 months unless waived by the collection services center. Insufficient funds payments shall not be credited to the collection services center account for the obligor or shall be removed from the account if credited before sufficiency was verified. Insufficient funds support payments shall be subject to additional collection by the collection services center for the dishonored amount.

b. The collection services center shall not process additional payments other than cash, bank drafts or money orders from an obligor or payor of income who has previously submitted insufficient funds payments without first verifying the payment. The collection services center shall have a process in place to allow the obligor or the payor of income the opportunity to replace any additional moneys submitted for payment of support before processing in order to avoid additional insufficient funds entries into the official payment records on the affected cases.

97.5(3) Distribution of payment. Nonincome withholding support payments received by the collection services center in IV-D, former IV-D, non IV-D, or correlated non IV-D cases which are not directed to a specific account or support obligation shall first be applied proportionately to the current support obligation on all cases for the obligor and, secondly to the support arrearages owed by the obligor.

441—97.6(252B) Authorization of payment. The collection services center must authorize the generation of warrants for support paid. The collection services center shall issue payments as follows:

97.6(1) Submittal of information to department of revenue and finance. In order to disburse payments to the obligee within two working days, the collection services center shall submit information daily to the department of revenue and finance to issue a warrant or electronic file transfer (EFT) payment to the obligee.

97.6(2) Release of funds. The following workday a state warrant shall be sent by regular mail to the last-known address of the obligee, or an electronic transfer of funds shall be sent to the designated account of the obligee.

97.6(3) Electronic transfer. Obligees who want electronic transfer of support payments shall complete Form 470-2612, Authorization for Automatic Deposit, and submit it to the collection services center.

97.6(4) Walk-ins. Support payments shall not be hand-delivered to the obligee on a walk-in basis.

441—97.7(252B) Processing misdirected payments. If the collection services center receives a payment for which a corresponding obligee cannot be identified, the collection services center shall contact the person or entity that directed the payment to obtain additional information. Payments inappropriately directed to the collection services center shall be returned to the person or entity sending the payment.

These rules are intended to implement Iowa Code sections 252B.13A through 252B.17.

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[Published 8/11/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9239A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 185, "Rehabilitative Treatment Services," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments July 14, 1999. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on June 2, 1999, as **ARC 9054A**.

These amendments simplify the determination of whether a person meets the minimum staff qualification requirements for the provision of therapy and counseling services, psychosocial evaluation, and behavioral management services for children in therapeutic foster care; and skill development in the Rehabilitative Treatment Services program. The qualifications added are equivalent to other qualifications already listed in the rules.

The following revision was made to the Notice of Intended Action:

Subrule 185.10(1), paragraph "a," subparagraph (6), was revised by removing bachelor social workers from the list of

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licensed persons authorized to provide therapy and counseling services, psychosocial evaluation, and behavioral management services for children in therapeutic foster care in response to comments from the Iowa Board of Social Work Examiners and the Iowa Chapter of the National Association of Social Workers.

The Department's service delivery system combines the provision of therapy and counseling services under one service category. The provider of therapy and counseling services determines the best treatment strategy to use in order to achieve the desired behavioral health care result in collaboration with the client. A social worker licensed at the bachelor's level cannot provide therapy services but may provide other counseling services.

The Iowa Board of Social Work Examiners and the Iowa Chapter of the National Association of Social Workers were concerned that listing licensure as a social worker at the bachelor's level as a qualification for providing therapy or counseling would be confusing. The Department agrees and is, therefore, removing licensure as a social worker at the bachelor's level as a qualification for providing therapy or counseling. Bachelor level social workers providing counseling will meet other qualification standards already in the rule.

Bachelor level social workers are being left in the list of licensed persons authorized to provide skill development services as bachelor level social workers may provide such services.

These amendments do not provide for waivers in specified situations because the qualifications added to the rules are equivalent to qualifications already in the rules. Providers may request a waiver of any qualification requirements under the Department's general rule on exceptions at rule 441—1.8(217).

These amendments are intended to implement Iowa Code sections 234.6 and 234.38.

These amendments shall become effective October 1, 1999.

The following amendments are adopted.

ITEM 1. Amend subrule **185.10(1)**, paragraph **"a,"** subparagraph **(6)**, as follows:

(6) Licensed in Iowa as an independent social worker, *master social worker,* psychologist, psychiatric mental health nurse practitioner, marital and family therapist or mental health counselor.

ITEM 2. Amend subrule **185.10(1)**, paragraph **"b,"** subparagraph **(7)**, as follows:

(7) Licensed in Iowa as an independent social worker, *master social worker, bachelor social worker,* psychologist, psychiatric mental health nurse practitioner, marital and family therapist or mental health counselor.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

ARC 9236A

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on July 13, 1999, adopted Chapter 524, "For-Hire Intrastate Motor Carrier Authority," and rescinded Chapter 523, "Truck Operators and Contract Carriers," Chapter 525, "Motor Carriers and Charter Carriers," and Chapter 528, "Liquid Transport Carriers," Iowa Administrative Code.

Notice of Intended Action for these rules was published in the May 19, 1999, Iowa Administrative Bulletin as **ARC 8979A.**

1997 Iowa Acts, chapter 104, repealed Iowa Code chapters 325 (Certificated Carriers), 327 (Truck Operators) and 327A (Liquid Transport Carriers) and replaced them with a new Iowa Code chapter 325A (Motor Carrier Authority). 761—Chapter 524 implements the changes as authorized by Iowa Code chapter 325A and establishes the process for registering intrastate for-hire authority.

These rules are identical to the ones published under Notice of Intended Action.

These rules are intended to implement Iowa Code chapter 325A.

These rules will become effective September 15, 1999.

Rule-making actions:

ITEM 1. Rescind and reserve **761—Chapter 523,** "Truck Operators and Contract Carriers."

ITEM 2. Adopt the following **new** chapter:

CHAPTER 524
FOR-HIRE INTRASTATE MOTOR CARRIER AUTHORITY

761—524.1(325A) Purpose and applicability.

524.1(1) This chapter establishes requirements concerning for-hire intrastate motor carriers.

524.1(2) This chapter applies to motor carriers of household goods, liquid commodities, all other property, and passengers.

761—524.2(325A) General information.

524.2(1) Information and location. Applications, forms and information on motor carrier permits and motor carrier certificates are available by mail from the Office of Motor Carrier Services, Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at its location in Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa; by telephone at (515)237-3224; or by fax at (515) 237-3354.

524.2(2) Waiver of rules. The director of the motor vehicle division may waive provisions of this chapter after determining that special or emergency circumstances exist or that the waiver is in the best interest of the public.

a. "Special or emergency circumstances" means one or more of the following:

(1) Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.

(2) Circumstances where the movement is necessary to cooperate with national defense officials.

(3) Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.

(4) Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as, but not limited to, pollution of natural resources, a potential fire or an explosion.

(5) Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.

(6) Circumstances where movement involves emergency-type vehicles.

(7) Uncommon and extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazards to the safety of the traveling public or undue damage to private or public property.

b. A request for a waiver must be submitted in writing to the Director of the Motor Vehicle Division, Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204.

c. The request should include the following information where applicable and known to the requester:

(1) The name, address and motor carrier permit or certificate number.

(2) The specific rule from which a waiver is requested.

(3) The specific waiver requested.

(4) The reasons for the request.

(5) The relevant facts supporting the request.

d. The request shall be acknowledged immediately and shall be responded to in writing within 60 days of receipt.

e. The decision on the waiver is the final decision of the department.

524.2(3) Complaints. Complaints against motor carriers pertaining to the provisions of this chapter shall be submitted in writing to the office of motor carrier services.

761—524.3(325A) Applications and supporting documents.

524.3(1) Application. An application for a motor carrier permit or motor carrier certificate shall be made to the office of motor carrier services on a form prescribed for that purpose and furnished upon request.

524.3(2) Application fee. An application for a motor carrier permit or motor carrier certificate shall be accompanied by the statutory application fee. This fee shall be paid by cash, check or money order made payable to the Iowa Department of Transportation.

524.3(3) Supporting documents. An application for a motor carrier permit or motor carrier certificate must be accompanied by the following:

a. Proof of insurance.

b. Safety self-certification. (See rule 524.9(325A).)

c. Form MCS 150, if the motor carrier does not have a U.S. DOT number.

d. Financial statement, only for motor carriers of liquid commodities (nondairy) and regular-route passengers. (See rule 524.10(325A).)

e. Tariff, only for motor carriers of household goods.

761—524.4(325A) Issuance of credentials. When all requirements are met, the department shall issue the motor carrier permit or certificate. The motor carrier shall make a copy of the permit or certificate and carry it in each motor vehicle at all times. The permit or certificate shall be available for display to any peace officer upon request.

761—524.5(325A) Duplicate motor carrier permit or motor carrier certificate. Written requests for a duplicate motor carrier permit or motor carrier certificate shall be sent to the office of motor carrier services. Requests shall include the carrier name or U.S. DOT number. Any motor carrier in good standing shall be issued a duplicate document upon payment of the required fee.

761—524.6(325A) Amendment to a motor carrier permit or certificate.

524.6(1) Update to a motor carrier permit. To change the commodities being transported under a permit, an updated application must be submitted to the office of motor carrier services. The updated application shall include the permit number and the required fee for a duplicate permit. Transporting of commodities not listed on the permit shall not commence until a new permit or temporary permit has been issued and is carried in the vehicle.

524.6(2) Change of name or address for a motor carrier permit or certificate. Notification of a name or address change shall be sent to the office of motor carrier services within 30 days after the change. Notification shall include the permit or certificate number, old name or address, new name or address, and the required fee.

761—524.7(325A) Insurance—suspension.

524.7(1) Insurance. Each motor carrier shall at all times maintain on file with the department the effective certificate(s) of insurance or a surety bond on a form prescribed by the department.

a. The insurance or the surety bond shall be written for a period of one year or more.

b. The department shall be given written notice 30 days prior to the cancellation of the insurance or the surety bond.

524.7(2) Self-insurance. In lieu of maintaining the above insurance, intrastate carriers that also operate interstate and have been approved by a federal agency to self-insure may apply to the department to self-insure by submitting a written request to the office of motor carrier services. The written request shall include a copy of the federal agency's approval. The department shall allow self-insurance as long as a federal agency has approved the carrier to self-insure and the motor carrier provides the department with copies of any information required by that federal agency. The department must be notified immediately by the motor carrier if there is any change in the status of the self-insurance for interstate operation.

524.7(3) Suspension for no insurance. If a motor carrier fails to maintain the required insurance on file with the department, the department shall suspend the motor carrier's permit or certificate in accordance with Iowa Code chapter 325A and rule 524.17(325A). The suspension shall remain in effect until the requirements are met and a reinstatement fee is paid. A motor carrier shall not continue operation without proper insurance.

761—524.8(325A) Self-insurance for motor carriers of passengers.

524.8(1) Applications for self-insurance. A motor carrier of passengers with more than 25 motor vehicles may request self-insurance by submitting a written request to the office of motor carrier services. The written request shall include a copy of the most recent audited financial statement and a vehicle list.

524.8(2) Review by the department. The department may request additional information. The department shall deny the request to self-insure or suspend existing approval if the motor carrier fails to meet the self-insurance standard. Ap-

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proval of self-insurance is continuous. However, the motor carrier shall annually file audited financial statements with the office of motor carrier services within 60 days after the end of the motor carrier's fiscal year.

524.8(3) Cancellation of self-insurance approval. The department may cancel approval of self-insurance on reasonable grounds. Reasonable grounds include, but are not limited to, the following: failure to pay a final judgment within 30 days or failure to file an annual, audited financial statement. The department shall give five days' notice to the motor carrier prior to any hearing to cancel approval of self-insurance.

761—524.9(325A) Safety self-certification. All motor carriers shall follow the safety regulations as stated in 761—Chapter 520 concerning operation, maintenance and inspection of vehicles used in the business. Motor carriers shall submit on a form prescribed by the department a self-certification stating knowledge, understanding and willingness to follow these safety regulations.

761—524.10(325A) Financial statement. An application by a motor carrier of liquid commodities (nondairy) or regular-route passengers must include a statement signed by an authorized agent of a lending institution or a certified public accountant attesting to the financial capability of that carrier. At a minimum, the certification shall be based on meeting the following ratios:

Current Ratio: Minimum of 1.2:1

$$\frac{\text{Current Assets}}{\text{Current Liabilities}} = \_\_\_\_\_$$

Projected Operating Ratio: Maximum of 95

1. New Operation
(Use 5-Year Projection) $\frac{\text{Operating Expenses}}{\text{Operating Revenue}} \times 100 = \_\_$
2. Existing Operation
(Use 1-Year Projection)

Working Capital Ratio: Minimum 12 days Capital

$$\frac{\text{Current Assets Less Current Liabilities}}{\text{Average Daily Operating Expenses}} = \_\_\_\_\_$$

761—524.11(325A) Safety education seminar.

524.11(1) Requirement. Motor carriers of liquid commodities (nondairy) and passengers shall attend an approved safety education seminar within six months of issuance of the permit or certificate except as provided in subrule 524.11(4). This includes transfers of motor carrier certificates. The individuals in attendance shall be the persons responsible for the safety records and driver training. Failure to attend an approved safety education seminar within the time provided shall result in suspension of the motor carrier permit or certificate.

524.11(2) Availability. The department shall provide an approved safety education seminar periodically. Information on the seminar schedule shall be available from the Office of Motor Vehicle Enforcement, 100 Euclid Avenue, Des Moines, Iowa 50306-0473; telephone (800)925-6469.

524.11(3) Third-party safety education seminar approval. The office of motor vehicle enforcement shall approve the course curriculum before approving individuals outside the department to conduct safety education seminars. The course curriculum shall be submitted for approval to the office of motor vehicle enforcement. At a minimum, the safety course curriculum shall include the following information:

a. Commercial driver's license regulations.

b. A general overview of the U.S. DOT's motor carrier safety regulations and hazardous materials regulations which are adopted annually by the department.

c. Iowa Code sections 321.449 and 321.450 and all associated administrative rules.

d. Iowa Code section 321.463 and all associated administrative rules.

e. Out-of-service criteria.

f. A general overview of the U.S. DOT's Emergency Response Guide Book.

524.11(4) Exemption. Passenger carriers with vehicles not meeting the definition of a commercial vehicle as defined in Iowa Code section 321.1 are exempt from attending the safety education seminar and paying the seminar fee. A motor carrier certificate issued for such a carrier contains the statement: "limited to noncommercial vehicles only." If a motor carrier wishes to start operating vehicles that meet the definition of a commercial motor vehicle, the motor carrier must update its authority with the office of motor carrier services. A motor carrier must pay the seminar fee and attend the seminar within six months of updating the certificate. A new motor carrier certificate removing the limitation would then be issued.

761—524.12(325A) Marking of motor vehicles. "Motor vehicle" is defined in Iowa Code chapter 325A. Before placing any motor vehicle in service, the motor vehicle shall be clearly marked with letters and figures large enough to be easily read at a distance of 50 feet and in a color in contrast to the background. These markings shall be painted on each side of the motor vehicle or may consist of a removable device that meets identification and legibility requirements and is securely placed on each side of the motor vehicle.

524.12(1) Motor carriers operating intrastate only shall display:

a. Name of motor carrier under whose authority the motor vehicle is being operated.

b. City and state where the motor carrier maintains its principal place of business or in which the commercial motor vehicle is customarily based.

c. U.S. DOT number followed by the letters "IA."

524.12(2) Motor carriers operating both interstate and intrastate shall display:

a. Name of motor carrier under whose authority the motor vehicle is being operated.

b. City and state where the motor carrier maintains its principal place of business or in which the commercial motor vehicle is customarily based. EXCEPTION: City and state is not needed if the federal motor carrier number is displayed.

c. U.S. DOT number or federal motor carrier number.

761—524.13(325A) Bills of lading or freight receipts.

524.13(1) Requirements. Every motor carrier operating under a motor carrier permit, except for those motor carriers transporting unprocessed agricultural and horticultural products and livestock, shall issue a bill of lading or receipt in triplicate on the date freight is received for shipment. The bill of lading or receipt shall show the following:

a. Name of motor carrier.

b. Date and place received.

c. Name of consignor.

d. Name of consignee.

e. Destination.

f. Description of shipment.

g. Signature of motor carrier or agent issuing the bill of lading or receipt.

h. Freight described in apparent good order unless an exception is noted.

524.13(2) Retention. There shall be one copy of the bill of lading or receipt for the consignor, one for the consignee

and one to be kept by the motor carrier. The motor carrier's copy shall be carried with the cargo and shall show the total of all charges made for the movement of freight. The motor carrier shall keep the bill of lading or receipt for a period of not less than one year. At any reasonable time, the bill of lading or receipt is subject to inspection by the department's representatives.

761—524.14(325A) Lease of a vehicle.

524.14(1) Lease defined. "Lease," for the purpose of these rules, means a written document providing for the exclusive possession, control and responsibility over the operation of a vehicle by the lessee for a specific period of time as if the lessee were the owner. A copy of the lease must be carried in the leased vehicle at all times. No motor carrier may have more than one lease covering a specific vehicle in effect at a given time.

524.14(2) Lease of a vehicle to a shipper or a receiver. No motor carrier shall lease a vehicle with or without a driver to a shipper or a receiver.

524.14(3) Marking of a motor vehicle. Each lessee shall properly identify each motor vehicle during the period of the lease as specified in rule 524.12(325A).

524.14(4) Lease requirements. Any lease of a vehicle by any motor carrier except under the following conditions is prohibited:

a. Every lease must be in writing and signed by the parties or their regular employees or agents duly authorized to act for them.

b. Every lease shall specify the time that the lease begins and the time or circumstances on which it ends.

761—524.15(325A) Tariffs.

524.15(1) Requirements. All motor carriers of household goods shall maintain on file with the office of motor carrier services a tariff stating the rates and charges that apply for the services performed under the permit.

524.15(2) Printing. All tariffs and amendments or supplements must be in book, pamphlet or loose-leaf form. They must be plainly printed or reproduced. No alteration in writing or erasure shall be made in any tariff or supplement.

524.15(3) Filing date. All changes to tariffs and supplements must be filed with the office of motor carrier services at least seven days prior to the effective date. Tariffs, supplements or adoption notices issued in connection with applications for motor carriers of household goods may become effective on the date the permits are issued.

524.15(4) Copy to department. To file a tariff with the office of motor carrier services, motor carriers of household goods or their agents shall submit a transmittal letter listing all the enclosed tariffs and include one copy of each tariff, supplement or revised page.

524.15(5) Title page. The title page of every tariff and supplement shall include the following:

a. Each tariff shall be numbered in the upper right-hand corner, beginning with number 1. The number shall be shown as follows: Ia. DOT No. ....

When a tariff is issued canceling a tariff previously filed, the Ia. DOT number that has been canceled must be shown in the right-hand corner under the Ia. DOT number of the new tariff.

b. Supplements or changes to a tariff shall be numbered beginning with number 1, and this information shall be shown in the upper right-hand corner along with the number of any previous supplements canceled or changed by the supplement.

c. The name of each motor carrier of household goods must be the same as it appears on the permit. If the motor carrier of household goods is not a corporation and uses a trade name, the name of the individual or partners must precede the trade name.

d. Each tariff shall include a brief description of the territory or points from which and to which the tariff applies.

e. Each tariff shall contain the issue and effective dates.

f. Each tariff shall include the name, title and street address of the motor carrier of household goods or the agent by whom the tariff is issued.

524.15(6) Contents of tariff. Each tariff shall include the following:

a. A table of contents that is arranged alphabetically.

b. A complete index of all commodities including the page number. However, no index or table of contents is needed in tariffs of less than five pages or if the rates are alphabetically arranged by commodities.

c. An explanation of all abbreviations, symbols and reference marks used.

d. All rates in the tariff explicitly stated in cents or in dollars and cents per one hundred pounds, per mile, per hour, per ton or two thousand pounds, per truck load (of stated amount) or other definable measure. Where rates are stated in amounts per package or bundle, definite specifications of the packages or bundles must be shown and ambiguous terms, rates, descriptions or plans for determining charges shall not be accepted.

524.15(7) Duplication of rates. Motor carriers of household goods or their agents shall not publish duplicate or conflicting rates.

524.15(8) Tariff changes. All rates and charges which have been filed with the office of motor carrier services must be allowed to become effective and remain in effect for a period of at least seven days before being changed, canceled or withdrawn. All tariffs, supplements and revised pages shall indicate changes from the preceding issue by use of the following symbols:

(R) to denote reductions

(A) to denote increases

(C) to denote changes, the result of which is neither an increase nor a reduction.

The proper symbol must be shown directly in connection with each change.

524.15(9) Posting regulations. Each motor carrier of household goods must post and file at its principal place of business all of its tariffs and supplements. All tariffs must be kept available for public inspection.

524.15(10) Application for special permission. Motor carriers of household goods and agents when making application for permission to establish rates, charges, or rules of the tariff on less than the statutory seven days' notice shall use the form prescribed by the office of motor carrier services.

524.15(11) Powers of attorney and participation notices.

a. Whenever a motor carrier of household goods desires to give authority to an agent or to another motor carrier of household goods to issue and file tariffs and supplements in its stead, a power of attorney in the form prescribed by the department must be used.

b. The original power of attorney shall be filed with the office of motor carrier services and a copy sent to the agent or motor carrier of household goods on whose behalf the document was issued.

c. Whenever a motor carrier of household goods desires to cancel the authority granted an agent or another motor carrier of household goods by power of attorney, this may be done by a letter addressed to the department revoking the authority on 60 days' notice. For good cause, the department

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may authorize less than 60 days' notice. Copies of the notice must also be mailed to all interested parties by the motor carrier.

524.15(12) Nonconforming tariffs. The office of motor carrier services shall review tariffs that do not conform with subrules 524.15(1) to 524.15(11) to determine if they contain the necessary information and if they are acceptable. Tariffs that are unacceptable shall be returned with an explanation.

761—524.16(325A) Transfer of motor carrier regular-route passenger certificate or motor carrier permit for household goods. A motor carrier regular-route passenger certificate or motor carrier permit for household goods shall not be sold, transferred, leased, or assigned until the transaction is approved by the department. Motor carrier permits for other property and all liquid commodities are not transferable. Motor carrier certificates for charter operations are not transferable.

524.16(1) Transfer application. An application to transfer a motor carrier regular-route passenger certificate or motor carrier permit for household goods shall be submitted to the office of motor carrier services. The transfer application shall be signed and sworn to by the affected parties.

a. The transfer application shall contain the following:

(1) The name and address of the holder of the certificate or permit, the certificate or permit number and the authority granted.

(2) The name and address of the person proposing to take over or lease the certificate or permit.

(3) A statement as to whether the motor carrier proposes to purchase, transfer, lease, or assign the certificate or permit.

b. The transferee shall submit an application for a motor carrier permit or motor carrier certificate in compliance with rule 524.3(325A).

c. The transferee shall attend an approved safety education seminar in compliance with rule 524.11(325A).

d. The office of motor carrier services shall issue a new certificate or permit upon completion of the transfer and application process.

524.16(2) Reserved.

761—524.17(325A) Suspension, revocation or reinstatement. The department may suspend or revoke a motor carrier permit or certificate for a violation of Iowa Code chapter 325A or this chapter. The suspension or revocation shall continue until the motor carrier is no longer in violation and the reinstatement fee is paid. A new permit or certificate shall be issued upon reinstatement. A hearing may be requested for reasons other than violation of insurance requirements. The motor carrier may request a hearing by submitting a written request to the director of the office of motor carrier services within 20 days after the suspension or revocation notice is served. The request shall include the motor carrier's name, permit or certificate number, complete address and telephone number.

These rules are intended to implement Iowa Code chapter 325A.

ITEM 3. Rescind and reserve **761—Chapter 525**, "Motor Carriers and Charter Carriers."

ITEM 4. Rescind and reserve **761—Chapter 528**, "Liquid Transport Carriers."

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TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on July 12, 1999, rescinded Chapter 529, "Interstate Commerce Commission Authority of Motor Carriers," and adopted Chapter 529, "For-Hire Interstate Motor Carrier Authority," Iowa Administrative Code.

Notice of Intended Action for these rules was published in the May 19, 1999, Iowa Administrative Bulletin as **ARC 8980A**.

The Interstate Commerce Commission was eliminated in 1996 and the responsibility for regulating interstate for-hire authority was transferred to the Federal Highway Administration. The rules reflect the change in the regulatory agency. The Department of Transportation is also adopting the sections of the Code of Federal Regulations, Parts 365-379, to establish the process to register and enforce interstate for-hire authority.

These rules are identical to the ones published under Notice of Intended Action.

These rules are intended to implement Iowa Code chapter 327B.

These rules will become effective September 15, 1999.

Rule-making action:

Rescind 761—Chapter 529, "Interstate Commerce Commission Authority of Motor Carriers," and adopt <u>new</u> 761—Chapter 529 as follows:

CHAPTER 529
FOR-HIRE INTERSTATE MOTOR CARRIER AUTHORITY

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-379, dated October 1, 1998, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library.

761—529.2(327B) Registering interstate authority in Iowa. Registration for interstate exempt and nonexempt authority shall be submitted to the Office of Motor Carrier Services, Department of Transportation, Park Fair Mall, 100 Euclid Avenue, P.O. Box 10382, Des Moines, Iowa 50306-0382.

TRANSPORTATION DEPARTMENT[761](cont'd)

761—529.3(327B) Waiver of rules. The director of the motor vehicle division may waive provisions of this chapter after determining that special or emergency circumstances exist or the waiver is in the best interest of the public for interstate travel through Iowa.

529.3(1) "Special or emergency circumstances" means one or more of the following:

a. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.

b. Circumstances where the movement is necessary to cooperate with national defense officials.

c. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.

d. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as, but not limited to, pollution of natural resources, a potential fire or explosion.

e. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.

f. Circumstances where movement involves emergency-type vehicles.

g. Uncommon and extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazard to the safety of the traveling public or undue damage to private or public property.

529.3(2) A request for a waiver must be submitted in writing to the Director of the Motor Vehicle Division, Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204.

529.3(3) The request should include the following information where applicable and known to the requester:

a. The name, address and motor carrier permit or certificate number.

b. The specific waiver requested.

c. The reasons for the request.

d. The relevant facts supporting the request.

529.3(4) The request shall be acknowledged immediately and shall be responded to in writing within 60 days of receipt.

529.3(5) The decision on the waiver is the final decision of the department.

These rules are intended to implement Iowa Code chapter 327B.

[Filed 7/14/99, effective 9/15/99]
[Published 8/11/99]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/11/99.

State of Iowa

Executive Department

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

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On Sunday, May 16, 1999, and continuing, a severe storm system moved across the state of 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 counties across Iowa; and

WHEREAS, based upon initial reports forwarded by local and state officials; and

WHEREAS, the results of this information and survey indicate that state assistance will be needed to respond to and recovery from the effects of this storm; and

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, do hereby proclaim a state of disaster emergency for Bremer, Jones and Linn Counties of the State of Iowa, for the aforementioned reasons. This proclamation of disaster emergency authorizes local and state governments to render good and sufficient aid to assist the stricken areas 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 19th day of May in the year of our Lord one thousand nine hundred and ninety-nine.

ATTEST:

SECRETARY OF STATE

GOVERNOR

State of Iowa

Executive Department

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

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On Sunday, May 16, 1999, and continuing, a severe storm system moved across the state of 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 counties across Iowa; and

WHEREAS, based upon initial reports forwarded by local and state officials; and

WHEREAS, the results of this information and survey indicate that state assistance will be needed to respond to and recovery from the effects of this storm; and

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, do hereby proclaim a state of disaster emergency for Clinton County of the State of Iowa, for the aforementioned reasons. This proclamation of disaster emergency authorizes local and state governments to render good and sufficient aid to assist the stricken areas 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 25th day of May in the year of our Lord one thousand nine hundred and ninety-nine.

ATTEST:

SECRETARY OF STATE

GOVERNOR

State of Iowa

Executive Department

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

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On Sunday, May 16, 1999, and continuing, a severe storm system moved across the state of 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 counties across Iowa; and

WHEREAS, based upon initial reports forwarded by local and state officials; and

WHEREAS, the results of this information and survey indicate that state assistance will be needed to respond to and recovery from the effects of this storm; and

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, do hereby proclaim a state of disaster emergency for Butler and Crawford Counties of the State of Iowa, for the aforementioned reasons. This proclamation of disaster emergency authorizes local and state governments to render good and sufficient aid to assist the stricken areas 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 1st day of June in the year of our Lord one thousand nine hundred and ninety-nine.

ATTEST:

SECRETARY OF STATE

GOVERNOR

State of Iowa

Executive Department

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

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On Sunday, May 16, 1999, and continuing, a severe storm system moved across the state of 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 counties across Iowa; and

WHEREAS, based upon initial reports forwarded by local and state officials; and

WHEREAS, the results of this information and survey indicate that state assistance will be needed to respond to and recovery from the effects of this storm; and

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, do hereby proclaim a state of disaster emergency for Montgomery and Scott Counties of the State of Iowa, for the aforementioned reasons. This proclamation of disaster emergency authorizes local and state governments to render good and sufficient aid to assist the stricken areas 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 4th day of June in the year of our Lord one thousand nine hundred and ninety-nine.

ATTEST:

SECRETARY OF STATE

GOVERNOR

State of Iowa

Executive Department

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

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On June 6, 1999, a stationary front moved across Jackson County, Iowa producing strong winds, causing extensive damage, and;

WHEREAS, the effect of this storm front was severe wind damage, causing numerous downed trees, and;

WHEREAS, assistance may be needed from State agencies for debris clearance.

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, do hereby proclaim Jackson County for the aforementioned reasons, in a State of Disaster Emergency. 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 7th day of June in the year of our Lord one thousand nine hundred and ninety-nine.

ATTEST:

SECRETARY OF STATE

GOVERNOR

State of Iowa

Executive Department

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

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On July 2nd, 1999 and continuing, severe storms moved across the State of Iowa, producing strong winds, hail, flooding, and tornadoes, causing extensive damage, and:

WHEREAS, the effects of these storms were severe hail damage to crops, structure damage to residents, infrastructure damage and disaster debris removal issues, and;

WHEREAS, assistance may be needed from State and Federal agencies for impact and damage assessments as well as financial support to recover from this hardship.

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, do hereby proclaim Black Hawk, Butler, Jones, and Woodbury Counties for the aforementioned reasons, in a state of disaster emergency. 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 13th day of July in the year of our Lord one thousand nine hundred and ninety-nine.

ATTEST:

SECRETARY OF STATE

GOVERNOR

State of Iowa

Executive Department

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

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On Monday, July 19, 1999, and continuing, a severe storm system moved across the state of Iowa, generating strong winds and heavy rains; and

WHEREAS, this storm system spawned intense straight winds and flooding which caused destruction and damage to residences, infrastructure, business and private property in counties in Iowa; and

WHEREAS, based upon initial reports forwarded by local and state officials; and

WHEREAS, the results of this information and survey indicate that state assistance will be needed to respond to and recovery from the effects of this storm; and

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, do hereby proclaim a state of disaster emergency for Cerro Gordo, Floyd, Mitchell and Worth Counties of the State of Iowa, for the aforementioned reasons. This proclamation of disaster emergency authorizes local and state governments to render good and sufficient aid to assist the stricken areas 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 19th day of July in the year of our Lord one thousand nine hundred and ninety-nine.

ATTEST:

SECRETARY OF STATE

GOVERNOR

State of Iowa

Executive Department

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

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, On Monday, July 19th, 1999 and continuing, a severe storm system moved across the state of Iowa, generating strong winds and heavy rains; and

WHEREAS, this storm system spawned intense straight winds and flooding which caused destruction and damage to residences, infrastructure, business and private property in counties in Iowa; and

WHEREAS, based upon initial reports forwarded by local and state officials; and,

WHEREAS, the results of this information and survey indicate that state assistance will be needed to respond to and recover from the effects of this storm.

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, do hereby proclaim Bremer, Chickasaw, and Howard Counties for the aforementioned reasons, in a state of disaster emergency. 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 21st day of July in the year of our Lord one thousand nine hundred and ninety-nine.

ATTEST:

SECRETARY OF STATE

GOVERNOR

IOWA ADMINISTRATIVE BULLETIN
Iowa State Printing Division
Grimes State Office Building
Des Moines, Iowa 50319