



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXVII
August 18, 2004

NUMBER 4
Pages 237 to 292

CONTENTS IN THIS ISSUE

Pages 249 to 290 include **ARC 3582B** to **ARC 3597B**

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Filed, Procurement; state printing,
adopt 11—ch 102; amend 11—ch 105;
rescind 401—ch 5, 471—ch 13 **ARC 3591B** 273

ALL AGENCIES

Schedule for rule making 239
Publication procedures 240
Administrative rules on CD-ROM 240
Agency identification numbers 247

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]“umbrella”
Filed, Reinstatement, 2.6 **ARC 3583B** 274

CAPITAL INVESTMENT BOARD, IOWA[123]

Notice, Tax credits for investments, 2.1 to 2.3,
2.5(2), 2.9, 3.1 **ARC 3595B** 249

CITATION OF ADMINISTRATIVE RULES 246

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”
Notice Terminated, Iowa tuition grant program,
12.1 **ARC 3584B** 251
Notice, License sanction program, amendments
to ch 37 **ARC 3585B** 251

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”
Filed, Animal feeding operations field study,
ch 32 **ARC 3588B** 274
Filed, Discarded appliance demanufacturing,
amendments to ch 118 **ARC 3589B** 276
Filed, Cathode ray tube device recycling,
ch 122 **ARC 3587B** 277
Filed, Waste tire-related programs,
rescind chs 215 to 217 **ARC 3590B** 283

HUMAN SERVICES DEPARTMENT[441]

Amended Notice, Recovery of delinquent child
support, 95.7 **ARC 3597B** 252

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Filed, Sheriffs and deputy sheriffs; airport
firefighters, 495—4.6(2), 4.6(4)“d”;
581—21.8(1), 21.8(2), 21.13(10)
ARC 3594B 284

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”
Notice, Nursing home administrators, 141.6,
141.9, 141.12 to 141.14, 145.1 **ARC 3582B** 253

PUBLIC HEARINGS

Summarized list 241

PUBLIC SAFETY DEPARTMENT[661]

Notice, Peace officers' retirement, accident, and
disability system, rescind 581—ch 24; adopt
661—chs 400 to 404 **ARC 3586B** 255

REVENUE DEPARTMENT[701]

Notice, Tax credits, 42.18(1), 52.21(1),
58.11(1) **ARC 3596B** 268

TREASURER OF STATE

Notice—Public funds interest rates 270

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”
Notice, Pipeline and electric line rules,
amendments to chs 10, 11, 13, 15, 19, 20, 25
ARC 3592B 270
Filed, Consumer services rules, 19.4, 20.4
ARC 3593B 284

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 and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [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.

Subscriptions and Distribution Telephone: (515)281-3568
Fax: (515)281-8027

KATHLEEN K. BATES, Administrative Code Editor Telephone: (515)281-3355
STEPHANIE A. HOFF, Assistant Editor Fax: (515)281-8157
(515)281-4424

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

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

July 1, 2004, to June 30, 2005	\$320
October 1, 2004, to June 30, 2005	\$240
January 1, 2005, to June 30, 2005	\$160
April 1, 2005, to June 30, 2005	\$ 80

Single copies may be purchased for \$23.

Iowa Administrative Code

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

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

Iowa Administrative Code – \$1,375

(Price includes complete set of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders may be purchased for \$20.)

Iowa Administrative Code Supplement – \$495

(Subscription expires June 30, 2005)

All checks should be made payable to the Treasurer, State of Iowa. Send all inquiries and subscription orders to:

Attn: Stephanie Cox
Legislative Services Agency
Capitol Building
Des Moines, IA 50319
Telephone: (515)281-3568

Schedule for Rule Making 2004

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
Jan. 2 '04	Jan. 21 '04	Feb. 10 '04	Feb. 25 '04	Feb. 27 '04	Mar. 17 '04	Apr. 21 '04	July 19 '04
Jan. 16	Feb. 4	Feb. 24	Mar. 10	Mar. 12	Mar. 31	May 5	Aug. 2
Jan. 30	Feb. 18	Mar. 9	Mar. 24	Mar. 26	Apr. 14	May 19	Aug. 16
Feb. 13	Mar. 3	Mar. 23	Apr. 7	Apr. 9	Apr. 28	June 2	Aug. 30
Feb. 27	Mar. 17	Apr. 6	Apr. 21	Apr. 23	May 12	June 16	Sept. 13
Mar. 12	Mar. 31	Apr. 20	May 5	May 7	May 26	June 30	Sept. 27
Mar. 26	Apr. 14	May 4	May 19	May 21	June 9	July 14	Oct. 11
Apr. 9	Apr. 28	May 18	June 2	June 4	June 23	July 28	Oct. 25
Apr. 23	May 12	June 1	June 16	June 18	July 7	Aug. 11	Nov. 8
May 7	May 26	June 15	June 30	July 2	July 21	Aug. 25	Nov. 22
May 21	June 9	June 29	July 14	July 16	Aug. 4	Sept. 8	Dec. 6
June 4	June 23	July 13	July 28	July 30	Aug. 18	Sept. 22	Dec. 20
June 18	July 7	July 27	Aug. 11	Aug. 13	Sept. 1	Oct. 6	Jan. 3 '05
July 2	July 21	Aug. 10	Aug. 25	Aug. 27	Sept. 15	Oct. 20	Jan. 17 '05
July 16	Aug. 4	Aug. 24	Sept. 8	Sept. 10	Sept. 29	Nov. 3	Jan. 31 '05
July 30	Aug. 18	Sept. 7	Sept. 22	Sept. 24	Oct. 13	Nov. 17	Feb. 14 '05
Aug. 13	Sept. 1	Sept. 21	Oct. 6	Oct. 8	Oct. 27	Dec. 1	Feb. 28 '05
Aug. 27	Sept. 15	Oct. 5	Oct. 20	Oct. 22	Nov. 10	Dec. 15	Mar. 14 '05
Sept. 10	Sept. 29	Oct. 19	Nov. 3	Nov. 5	Nov. 24	Dec. 29	Mar. 28 '05
Sept. 24	Oct. 13	Nov. 2	Nov. 17	***Nov. 17***	Dec. 8	Jan. 12 '05	Apr. 11 '05
Oct. 8	Oct. 27	Nov. 16	Dec. 1	Dec. 3	Dec. 22	Jan. 26 '05	Apr. 25 '05
Oct. 22	Nov. 10	Nov. 30	Dec. 15	***Dec. 15***	Jan. 5 '05	Feb. 9 '05	May 9 '05
Nov. 5	Nov. 24	Dec. 14	Dec. 29	Dec. 31	Jan. 19 '05	Feb. 23 '05	May 23 '05
Nov. 17	Dec. 8	Dec. 28	Jan. 12 '05	Jan. 14 '05	Feb. 2 '05	Mar. 9 '05	June 6 '05
Dec. 3	Dec. 22	Jan. 11 '05	Jan. 26 '05	Jan. 28 '05	Feb. 16 '05	Mar. 23 '05	June 20 '05
Dec. 15	Jan. 5 '05	Jan. 25 '05	Feb. 9 '05	Feb. 11 '05	Mar. 2 '05	Apr. 6 '05	July 4 '05
Dec. 31	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Friday, August 27, 2004	September 15, 2004
7	Friday, September 10, 2004	September 29, 2004
8	Friday, September 24, 2004	October 13, 2004

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.

*****Note change of filing deadline*****

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 QuickSilver XML Publisher, version 2.0.0, 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 publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.bates@legis.state.ia.us

2. Alternatively, you may send a 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, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, 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.

IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM

2003 WINTER EDITION

Containing: **Iowa Administrative Code** (updated through December 2003)
Iowa Administrative Bulletins (July 2003 through December 2003)
Iowa Court Rules (updated through December 2003)

For free brochures and order forms contact:

Legislative Services Agency
Attn: Ms. Stephanie Cox
State Capitol
Des Moines, Iowa 50319
Telephone: (515)281-3566 Fax: (515)281-8027
lsbinfo@staff.legis.state.ia.us

To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
--------	------------------	--------------------------

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

CDBG program—allocation of funds; wage guidelines for career link program, 23.4, 23.9 IAB 8/4/04 ARC 3562B	First Floor Northwest Conference Room 200 E. Grand Ave. Des Moines, Iowa	August 26, 2004 1:30 p.m.
--	--	------------------------------

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, 22.1 to 22.3, 23.1, 23.3, 25.1 IAB 7/21/04 ARC 3515B	Conference Room 1 Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	August 23, 2004 1 p.m.
--	--	---------------------------

HUMAN SERVICES DEPARTMENT[441]

Collection of delinquent child support, 95.7 IAB 8/18/04 ARC 3597B (See also ARC 3578B , IAB 8/4/04)	ICN Room, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	September 7, 2004 8:30 to 9:30 a.m.
	Suite 32 300 W. Broadway Council Bluffs, Iowa	September 8, 2004 8:30 to 9:30 a.m.
	3911 W. Locust Davenport, Iowa	September 8, 2004 9 to 10 a.m.
	Suite 8 1901 Bell Ave. Des Moines, Iowa	September 7, 2004 9:30 to 10:30 a.m.
	Third Floor Conference Room 799 Main St. Dubuque, Iowa	September 8, 2004 2 to 3 p.m.
	Suite 225 520 Nebraska St. Sioux City, Iowa	September 8, 2004 2 to 3 p.m.
	Suite 400 501 Sycamore Waterloo, Iowa	September 7, 2004 9 to 10 a.m.

IOWA FINANCE AUTHORITY[265]

Qualified allocation plan for low- income housing tax credit program, 12.1, 12.2 IAB 8/4/04 ARC 3559B (ICN Network)	State Library, Third Floor Ola Babcock Miller Building Des Moines, Iowa	August 24, 2004 9 to 10:30 a.m.
--	---	------------------------------------

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

	ICN Room, Public Library 424 Central Ave. Fort Dodge, Iowa	August 24, 2004 9 to 10:30 a.m.
	Room 550, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	August 24, 2004 9 to 10:30 a.m.
	Room 3, Continuing Education Bldg. Iowa Western Community College – 3 2700 College Rd. Council Bluffs, Iowa	August 24, 2004 9 to 10:30 a.m.
	Room 211, Instructional Center Southwestern Community College – 1 101 W. Townline Rd. Creston, Iowa	August 24, 2004 9 to 10:30 a.m.
	Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	August 24, 2004 9 to 10:30 a.m.
	Marv O'Hare; Admin. Office Forum Building 2300 Chaney Dubuque, Iowa	August 24, 2004 9 to 10:30 a.m.
	Room 153, Mason City High School 1700 Fourth SE Mason City, Iowa	August 24, 2004 9 to 10:30 a.m.
	Videoconferencing & Training Center Indian Hills Community College – 7 651 Indian Hills Dr. Ottumwa, Iowa	August 24, 2004 9 to 10:30 a.m.
	Room 22, CYO Bldg. Bishop Heelen Catholic High School 1021 Douglas St. Sioux City, Iowa	August 24, 2004 9 to 10:30 a.m.
	ICN Room East High School 214 High St. Waterloo, Iowa	August 24, 2004 9 to 10:30 a.m.
Allocation plan for state housing trust fund program, 19.1 IAB 8/4/04 ARC 3558B (ICN Network)	State Library, Third Floor Ola Babcock Miller Building Des Moines, Iowa	August 24, 2004 11 a.m. to 12 noon
	ICN Room, Public Library 424 Central Ave. Fort Dodge, Iowa	August 24, 2004 11 a.m. to 12 noon
	Room 550, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	August 24, 2004 11 a.m. to 12 noon

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

	Room 3, Continuing Education Bldg. Iowa Western Community College – 3 2700 College Rd. Council Bluffs, Iowa	August 24, 2004 11 a.m. to 12 noon
	Room 211, Instructional Center Southwestern Community College – 1 101 W. Townline Rd. Creston, Iowa	August 24, 2004 11 a.m. to 12 noon
	Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	August 24, 2004 11 a.m. to 12 noon
	Marv O'Hare; Admin. Office Forum Building 2300 Chaney Dubuque, Iowa	August 24, 2004 11 a.m. to 12 noon
	Room 153, Mason City High School 1700 Fourth SE Mason City, Iowa	August 24, 2004 11 a.m. to 12 noon
	Videoconferencing & Training Center Indian Hills Community College – 7 651 Indian Hills Dr. Ottumwa, Iowa	August 24, 2004 11 a.m. to 12 noon
	Room 22, CYO Bldg. Bishop Heelen Catholic High School 1021 Douglas St. Sioux City, Iowa	August 24, 2004 11 a.m. to 12 noon
	ICN Room East High School 214 High St. Waterloo, Iowa	August 24, 2004 11 a.m. to 12 noon
Senior living revolving loan program, ch 20 IAB 8/4/04 ARC 3557B (ICN Network)	State Library, Third Floor Ola Babcock Miller Building Des Moines, Iowa	August 24, 2004 1 to 2 p.m.
	ICN Room, Public Library 424 Central Ave. Fort Dodge, Iowa	August 24, 2004 1 to 2 p.m.
	Room 550, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	August 24, 2004 1 to 2 p.m.
	Room 3, Continuing Education Bldg. Iowa Western Community College – 3 2700 College Rd. Council Bluffs, Iowa	August 24, 2004 1 to 2 p.m.
	Room 211, Instructional Center Southwestern Community College – 1 101 W. Townline Rd. Creston, Iowa	August 24, 2004 1 to 2 p.m.

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

	Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	August 24, 2004 1 to 2 p.m.
	Marv O'Hare; Admin. Office Forum Building 2300 Chaney Dubuque, Iowa	August 24, 2004 1 to 2 p.m.
	Room 153, Mason City High School 1700 Fourth SE Mason City, Iowa	August 24, 2004 1 to 2 p.m.
	Videoconferencing & Training Center Indian Hills Community College – 7 651 Indian Hills Dr. Ottumwa, Iowa	August 24, 2004 1 to 2 p.m.
	Room 22, CYO Bldg. Bishop Heelen Catholic High School 1021 Douglas St. Sioux City, Iowa	August 24, 2004 1 to 2 p.m.
	ICN Room East High School 214 High St. Waterloo, Iowa	August 24, 2004 1 to 2 p.m.
Home and community-based services revolving loan program, ch 21 IAB 8/4/04 ARC 3556B (ICN Network)	State Library, Third Floor Ola Babcock Miller Building Des Moines, Iowa	August 24, 2004 2 to 3 p.m.
	ICN Room, Public Library 424 Central Ave. Fort Dodge, Iowa	August 24, 2004 2 to 3 p.m.
	Room 550, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	August 24, 2004 2 to 3 p.m.
	Room 3, Continuing Education Bldg. Iowa Western Community College – 3 2700 College Rd. Council Bluffs, Iowa	August 24, 2004 2 to 3 p.m.
	Room 211, Instructional Center Southwestern Community College – 1 101 W. Townline Rd. Creston, Iowa	August 24, 2004 2 to 3 p.m.
	Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	August 24, 2004 2 to 3 p.m.
	Marv O'Hare; Admin. Office Forum Building 2300 Chaney Dubuque, Iowa	August 24, 2004 2 to 3 p.m.

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

Room 153, Mason City High School 1700 Fourth SE Mason City, Iowa	August 24, 2004 2 to 3 p.m.
Videoconferencing & Training Center Indian Hills Community College – 7 651 Indian Hills Dr. Ottumwa, Iowa	August 24, 2004 2 to 3 p.m.
Room 22, CYO Bldg. Bishop Heelen Catholic High School 1021 Douglas St. Sioux City, Iowa	August 24, 2004 2 to 3 p.m.
ICN Room East High School 214 High St. Waterloo, Iowa	August 24, 2004 2 to 3 p.m.

LABOR SERVICES DIVISION[875]

OSHA regulations, 10.20, 26.1 IAB 7/21/04 ARC 3511B	First Floor West Conference Room 1000 E. Grand Ave. Des Moines, Iowa	August 18, 2004 1:30 p.m.
--	--	------------------------------

MEDICAL EXAMINERS BOARD[653]

Fees, 8.4(1), 9.11(3), 9.13(1) IAB 8/4/04 ARC 3564B	Suite C 400 SW Eighth St. Des Moines, Iowa	August 24, 2004 3 p.m.
International medical school graduates, 9.3(1), 9.5(2), 9.7(2) IAB 8/4/04 ARC 3566B	Suite C 400 SW Eighth St. Des Moines, Iowa	August 24, 2004 3:15 p.m.

NURSING BOARD[655]

Licensure, 3.1, 3.7, 3.8, 4.7, 5.2 IAB 7/7/04 ARC 3470B	Des Moines West Room Holiday Inn Downtown 1050 Sixth Ave. Des Moines, Iowa	September 8, 2004 6:30 p.m.
--	---	--------------------------------

PROFESSIONAL LICENSURE DIVISION[645]

Nursing home administrators, 141.6, 141.9, 141.12 to 141.14, 145.1 IAB 8/18/04 ARC 3582B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 14, 2004 9 to 10 a.m.
---	---	------------------------------------

PUBLIC HEALTH DEPARTMENT[641]

AIDS drug assistance program, 11.84 to 11.91 IAB 8/4/04 ARC 3571B	Room 513 Lucas State Office Bldg. Des Moines, Iowa	August 24, 2004 1 to 2 p.m.
--	--	--------------------------------

PUBLIC HEALTH DEPARTMENT[641] (Cont'd)

Fees for vital records, 96.4 IAB 8/4/04 ARC 3572B (ICN Network)	ICN Conference Room, Sixth Floor NW Lucas State Office Bldg. Des Moines, Iowa	August 24, 2004 1:30 to 3:30 p.m.
	Room 16, Iowa Central Comm. Coll. 916 N. Russell Storm Lake, Iowa	August 24, 2004 1:30 to 3:30 p.m.
	Room 157, Voc. Tech. Bldg. High School 501 E. Second Ottumwa, Iowa	August 24, 2004 1:30 to 3:30 p.m.
	Room 304, High School 2011 N. Eighth St. Red Oak, Iowa	August 24, 2004 1:30 to 3:30 p.m.
	North Fayette High School North Pine Street West Union, Iowa	August 24, 2004 1:30 to 3:30 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Peace officers' retirement, accident, and disability system, adopt 661—chs 400 to 404; rescind 581—ch 24 IAB 8/18/04 ARC 3586B	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 8, 2004 10 a.m.
---	---	------------------------------

UTILITIES DIVISION[199]

Pipeline and electric line franchise, amendments to chs 10, 11, 13, 15, 19, 20, 25 IAB 8/18/04 ARC 3592B	Hearing Room 350 Maple St. Des Moines, Iowa	September 14, 2004 9 a.m.
Revisions to level payment plan rules, 19.4(11), 20.4(12) IAB 7/7/04 ARC 3493B	Hearing Room 350 Maple St. Des Moines, Iowa	September 1, 2004 9 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).

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:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Division[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 GENERAL SERVICES DEPARTMENT[401]
 HUMAN INVESTMENT COUNCIL[417]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]
INFORMATION TECHNOLOGY DEPARTMENT[471]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
VOLUNTEER SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 3595B**CAPITAL INVESTMENT BOARD,
IOWA[123]****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 15E.63, the Iowa Capital Investment Board hereby gives Notice of Intended Action to amend Chapter 2, "Tax Credit for Investments in Qualifying Businesses and Community-Based Seed Capital Funds," and Chapter 3, "Tax Credit for Investments in Venture Capital Funds," Iowa Administrative Code.

These amendments are proposed as a result of 2004 Iowa Acts, Senate File 443.

Item 1 amends rule 123—2.1(15E) to provide that investments made on or after January 1, 2004, by entities other than individuals to a qualifying business can qualify for the tax credit.

Item 2 amends rule 123—2.2(15E) to change the definitions of "community-based seed capital fund" and "investor" to provide that community-based seed capital funds require only \$125,000 of capital commitments and no fewer than five investors, and that investors in qualifying businesses can now be entities other than individuals.

Item 3 amends rule 123—2.3(15E) to provide that, for investments made in qualifying businesses on or after January 1, 2004, investors can be entities other than individuals and still qualify for a tax credit.

Item 4 amends subrule 2.5(2) to provide additional time for a community-based seed capital fund to request certification from the Board based on the reduced amount of capital commitments required.

Item 5 amends rule 123—2.9(15E) to provide that a community-based seed capital fund has to invest at least 33 percent of its investment capital in one or more separate qualifying businesses.

Item 6 updates an implementation clause.

Item 7 amends rule 123—3.1(15E) to provide that an investor cannot claim a tax credit for the same investment in a venture capital fund and in a qualifying business.

Item 8 updates an implementation clause.

These amendments are being proposed by the Department of Revenue on behalf of the Iowa Capital Investment Board pursuant to an Administrative Services Agreement between the Department and the Board.

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

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

The Board has determined that these proposed amendments may have an impact on small business. The Board has considered the factors listed in Iowa Code section 17A.4A. The Board will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 20, 2004, to the Iowa Capital Investment Board, in care of the

Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 7, 2004. Such written comments should be directed to the Iowa Capital Investment Board, in care of the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Board, in care of the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 20, 2004.

These amendments are intended to implement Iowa Code Supplement chapter 15E as amended by 2004 Iowa Acts, Senate File 443.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 123—2.1(15E) as follows:

123—2.1(15E) Tax credit for investments in qualifying businesses and community-based seed capital funds. For tax years beginning on or after January 1, 2002, a taxpayer may claim a tax credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II, for a portion of the taxpayer's equity investment in a qualifying business. *For tax years beginning on or after January 1, 2004, a taxpayer may claim a credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II; business tax on corporations imposed under Iowa Code chapter 422, division III; taxation of financial institutions imposed under Iowa Code chapter 422, division V; insurance companies tax imposed under Iowa Code chapter 432; or taxation of credit unions imposed under Iowa Code section 533.24 for a portion of a taxpayer's equity investment in a qualifying business.* For tax years beginning on or after January 1, 2002, a taxpayer may claim a credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II; business tax on corporations imposed under Iowa Code chapter 422, division III; taxation of financial institutions imposed under Iowa Code chapter 422, division V; insurance companies tax imposed under Iowa Code chapter 432; or taxation of credit unions imposed under Iowa Code section 533.24 for a portion of a taxpayer's equity investment in a community-based seed capital fund. *Only For investments made prior to January 1, 2004, only natural persons shall be eligible for the investment tax credit provided for an investment in a qualifying business. A For investments made prior to January 1, 2004, a natural person includes an individual taxed on income from a revocable trust. Natural persons and various types of legal entities including, but not limited to, corporations, limited liability companies, partnerships (both general and limited), trusts and estates shall be eligible for the investment tax credit provided for an investment*

CAPITAL INVESTMENT BOARD, IOWA[123](cont'd)

in a community-based seed capital fund *and for investments made on or after January 1, 2004, in a qualifying business.* If the taxpayer that is entitled to an investment tax credit for an investment in a community-based seed capital fund *or a qualifying business* is a pass-through entity electing to have its income taxed directly to its individual owners, such as a partnership, limited liability company, S corporation, estate or trust, the pass-through entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro rata share of the earnings of the entity, and the individual owners may claim their respective credits on their individual income tax returns. ~~And~~ *For investments made prior to January 1, 2004, an individual shall not separately claim a tax credit for an investment in a qualifying business for any tax credit allocated to such individual by a pass-through entity as described in the immediately preceding sentence.*

ITEM 2. Amend rule **123—2.2(15E)**, definitions of "community-based seed capital fund" and "investor," as follows:

"Community-based seed capital fund" means a fund that meets the following criteria:

1. Is organized as a limited partnership or limited liability company;

2. Has, on or after January 1, 2002, a total of both capital commitments from investors and investments in qualifying businesses of at least ~~\$500,000~~ \$125,000, but not more than \$3 million. *If the fund is a rural business investment company under the rural business investment program of the federal Farm Security and Rural Investment Act of 2002, the fund may have more than \$3 million of both capital commitments from investors and investments in qualifying businesses;* and

3. Has no fewer than ~~ten~~ five investors who are not affiliates, with no single investor and affiliates of that investor together owning a total of more than 25 percent of the ownership interests outstanding in the fund.

"Investor" means an individual making a cash investment in a qualifying business *prior to January 1, 2004*, or an individual taxed on income from a revocable trust's cash investment in a qualifying business *prior to January 1, 2004*, or a person making a cash investment in a community-based seed capital fund *or investments in a qualifying business made on or after January 1, 2004.* "Investor" does not include a person who is a current or previous owner, member, partner (limited or general) or shareholder in a qualifying business *for investments made prior to January 1, 2004.* "Investor" *does not include a person that holds at least a 70 percent ownership interest as an owner, member, or shareholder in a qualifying business for investments made on or after January 1, 2004.*

ITEM 3. Amend rule 123—2.3(15E) as follows:

123—2.3(15E) Taxpayers eligible for the investment tax credit. A taxpayer who is a natural person and an investor in a qualifying business or community-based seed capital fund is eligible to apply to the board for an investment tax credit applicable against such taxpayer's personal net income tax liability imposed under Iowa Code chapter 422, division II. An individual receiving income from a revocable trust's investment in a qualifying business may claim the tax credit against the taxes imposed under Iowa Code chapter 422, division II, for a portion of the revocable trust's equity investment in a qualifying business. A taxpayer that is a legal entity, such as a corporation, limited liability company, partnership (general or limited), trust or estate, and is an investor in a community-based seed capital fund *or an investor in a qualifying business*

for investments made on or after January 1, 2004, is eligible to apply to the board for an investment tax credit applicable against such taxpayer's tax liability under the business tax on corporations imposed under Iowa Code chapter 422, division III; the taxation of financial institutions imposed under Iowa Code chapter 422, division V; the insurance companies tax imposed under Iowa Code chapter 432; or the taxation of credit unions imposed under Iowa Code section 533.24. The taxpayer's investment must be made in the form of cash to purchase equity in a qualifying business or community-based seed capital fund.

ITEM 4. Amend subrule 2.5(2), introductory paragraph, as follows:

2.5(2) Community-based seed capital funds. Within 120 days from the first date on which the equity investments qualifying for investment tax credits have been made (or, for investments made during the 2002 calendar year, by the later of 120 days from the first date on which the investments have been made or March 31, 2003), a community-based seed capital fund shall provide to the board the following information as a prerequisite to the board's issuance of investment tax credits to investors in such community-based seed capital fund: *Funds which could not meet the threshold of \$500,000 in capital commitments but are able to meet the threshold of \$125,000 of capital commitments as set forth in 2004 Iowa Acts, Senate File 443, shall have until December 31, 2004, to provide information to the board. The following information must be provided:*

ITEM 5. Amend rule **123—2.9(15E)**, second paragraph, as follows:

A community-based seed capital fund shall have invested at least 33 percent of its invested capital in ~~no fewer than two~~ *one or more* separate qualifying businesses on or by the last day of the 36-month period that commences with the fund's investing activities. On or by the last day of the 36-month period described under this rule, a community-based seed capital fund shall certify to the board, by a statement signed by an officer, director, member, manager, or general partner of the community-based seed capital fund, that it has met the requirements of this rule, within the time period prescribed by this rule and shall recertify to the board that the community-based seed capital fund continues to meet the requirements set forth in 123—subrule 2.5(2). In the event that a community-based seed capital fund fails to meet or maintain any requirement set forth in this rule, including, without limitation, timely filing of the certifications described in the preceding sentence of this ~~rule paragraph~~, the board shall rescind any tax credit certificates issued to limited partners or members and shall notify the department of revenue ~~and finance~~ that it has done so, and the tax credit certificates shall be null and void. In addition, the board shall remove such community-based seed capital fund from its registry and shall issue written notification of such removal to the community-based seed capital fund and the applicants. Notwithstanding the foregoing, a community-based seed capital fund may apply to the board for a one-year waiver from the requirements of this rule. The board shall, upon review of a community-based seed capital fund's application for waiver, exercise reasonable discretion in granting or denying such waiver. In the event that the board grants to a community-based seed capital fund a one-year waiver from the requirements of this rule, the board shall defer any rescission of the tax credit certificates until the expiration of such one-year waiver period. If the community-based seed capital fund meets the requirements of this rule by the expiration of such

CAPITAL INVESTMENT BOARD, IOWA[123](cont'd)

one-year waiver period, the tax credit certificates shall not be rescinded, but the tax credit certificates shall be rescinded at the end of such one-year waiver period if such requirements have not been met.

ITEM 6. Amend **123—Chapter 2**, implementation clause, as follows:

These rules are intended to implement Iowa Code *Supplement* chapter 15E as amended by 2003 2004 Iowa Acts, Senate File 458 443.

ITEM 7. Amend rule 123—3.1(15E) as follows:

123—3.1(15E) Tax credit for investments in venture capital funds. For tax years beginning on or after January 1, 2002, a taxpayer may claim a tax credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II; business tax on corporations imposed under Iowa Code chapter 422, division III; taxation of financial institutions imposed under Iowa Code chapter 422, division V; insurance companies tax imposed under Iowa Code chapter 432; or taxation of credit unions imposed under Iowa Code section 533.24 for a portion of a taxpayer's equity investment in a venture capital fund. Natural persons and various types of legal entities, including but not limited to corporations, limited liability companies, partnerships (both general and limited), trusts and estates, shall be eligible for the investment tax credit provided for an investment in a venture capital fund. If the taxpayer that is entitled to an investment tax credit for an investment in a venture capital fund is a pass-through entity electing to have its income taxed directly to its individual owners, such as a partnership, limited liability company, S corporation, estate or trust, the pass-through entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro rata share of the earnings of the entity, and the individual owners may claim their respective credits on their individual income tax returns. A taxpayer shall not claim an investment tax credit for an investment in a venture capital fund if the taxpayer is a venture capital investment fund allocation manager for the Iowa fund of funds described in Iowa Code section 15E.65, or an investor that receives a tax credit for the same investment in a community-based seed capital fund as described in Iowa Code section 15E.45, or an investor that receives a tax credit for the same investment in a qualifying business as described in Iowa Code section 15E.44 for investments made on or after January 1, 2004. The taxpayer's equity investment must be made in the form of cash to purchase equity in a venture capital fund.

ITEM 8. Amend **123—Chapter 3**, implementation clause, as follows:

These rules are intended to implement Iowa Code *Supplement* chapter 15E as amended by 2003 2004 Iowa Acts, Senate File 458 443.

ARC 3584B**COLLEGE STUDENT AID
COMMISSION[283]****Notice of Termination**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on April 28, 2004, as **ARC**

3323B, amending Chapter 12, "Iowa Tuition Grant Program," Iowa Administrative Code.

The Notice proposed an amendment to rule 283—12.1(261) to specify that, for a student to be eligible to receive an Iowa Tuition Grant, at least 50 percent of the hours in which the student is enrolled would have been required to be taken in a classroom setting. The amendment also further clarified the priority by which awards would be made.

The Commission is terminating the rule making commenced in **ARC 3323B**.

ARC 3585B**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 section 261.3, the College Student Aid Commission proposes to amend Chapter 37, "License Sanction Program," Iowa Administrative Code.

The proposed amendments specify that the Commission may apply administrative wage garnishment procedures established under the federal Higher Education Act of 1965, as amended and codified in 20 U.S.C. § 1071 et seq., in the collection of all delinquent student loans owed to the Commission, specifically including private Partnership Loans authorized for collection under Iowa Code section 261.38. The proposed amendments also change the chapter name from "License Sanction Program" to "Student Loan Debt Collection."

Interested persons may submit comments orally or in writing by 4:30 p.m. on September 7, 2004, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

Amend **283—Chapter 37** as follows:

CHAPTER 37
LICENSE SANCTION PROGRAM STUDENT LOAN
DEBT COLLECTION

283—37.1(261) General purpose. As an aid to the collection of defaulted student loans, the commission may initiate the license sanction process described in Iowa Code sections 261.121 to 261.127 to suspend, revoke or deny issuance or renewal of a variety of licenses held or applied for by any person who has defaulted on an obligation owed to or collected by the commission. Licenses subject to this sanction process include motor vehicle registrations, driver's licenses, business

COLLEGE STUDENT AID COMMISSION[283](cont'd)

and professional licenses, and licenses for hunting, fishing, boating or other recreational activity, as defined in Iowa Code section 252J.1(1). In addition to the procedures set forth in Iowa Code sections 261.121 to 261.127, this chapter shall apply.

As an additional aid to the collection of defaulted student loans, the commission may apply administrative wage garnishment procedures established under Iowa Code chapter 261, specifically including private partnership loans authorized for collection under Iowa Code section 261.38.

283—37.2(261) No change.

283—37.3(261) ~~Service of notice~~ **License sanction program.**

37.3(1) *Service of notice.* The notice described in Iowa Code section 261.121(2) shall be served by restricted certified mail, return receipt requested, addressed to the debtor at the debtor's last-known residence or principal place of business. If the debtor signs for the notice, the return post office receipt shall be proof of service. If the debtor fails to sign for the notice, the commission may personally serve the debtor in accordance with Iowa Rules of Civil Procedure.

283—37.4(261) ~~Exclusions from license sanction process.~~

37.3(2) *Exclusions from license sanction process.* The commission may determine that the issuance of a certificate of noncompliance is not appropriate pursuant to Iowa Code section 261.122(5)“c,” or that a certificate of noncompliance should be withdrawn pursuant to Iowa Code section 261.124(5)“d,” during periods in which any of the following conditions exist:

1 *a.* Written verification that the debtor has been deemed eligible for and is receiving supplemental security income (SSI), similar state- or federal-funded assistance, or county assistance, such as general relief or general assistance.

2 *b.* Verified economic hardship which the commission determines from the debtor's sworn financial statement and other relevant evidence would likely qualify for hardship discharge of student loans under the Bankruptcy Code.

3 *c.* A verified temporary illness or disability of the debtor or of another household member which prevents the debtor from working or requires the presence of the debtor in the home as a caretaker.

4 *d.* Verified incarceration.

5 *e.* Verified participation on an in-treatment basis in a chemical dependency program licensed by the department of public health or a similar program.

283—37.5(261) ~~Written agreement.~~ **37.3(3)** *Written agreement.*

A debtor may, at any time, with or without a requested conference, enter into a satisfactory written repayment agreement to either avoid the issuance of a certificate of noncompliance or to secure a withdrawal of an issued certificate of noncompliance. In determining whether the terms of a proposed repayment agreement are satisfactory, the commission shall take into account the debtor's ability to pay. Repayment terms shall be deemed satisfactory if the debtor agrees to pay at least the maximum amount which would be subject to an administrative wage withholding procedure, or the equivalent for a self-employed person. In addition, the commission may take into consideration the recent existence of any of the conditions outlined in ~~rule 37.4(264)~~ 37.3(2), if verified, and if the debtor can demonstrate that insufficient time has passed for the debtor to regain an ability to repay obligations owed to the commission.

283—37.6(261) ~~Right to court hearing.~~ **37.3(4)** *Right to court hearing.* The debtor may request a hearing before the

district court in the debtor's county of residence. The scope of the court's review is limited to whether the debt is delinquent, whether the amount of the delinquency is misstated, or whether a mistake has been made in the identity of the debtor.

283—37.4(261) ~~Administrative wage garnishment procedures.~~ *The commission shall apply administrative wage garnishment procedures established under the federal Higher Education Act of 1965, as amended and codified in 20 U.S.C. § 1071 et seq., in the collection of all delinquent student loans owed to the commission.*

37.4(1) *Notice prior to wage withholding.* A debtor shall receive a “notice prior to wage withholding” from the commission inviting the debtor to enter into voluntary monthly payments with the commission within 30 days after receipt of the notice.

37.4(2) *Right to hearing.* A debtor is entitled to a hearing before an administrative law judge if a petition is filed requesting a hearing on or before the fifteenth day following mailing of the “notice prior to wage withholding.”

37.4(3) *Repayment agreement.* A debtor who negotiates a monthly payment with the commission shall receive a “repayment agreement in lieu of wage withholding” reflecting the payment amount and payment date agreed upon (15-day grace period) for the debtor's signature and return to the commission.

37.4(4) *Debtor's failure to arrange timely voluntary payments.*

a. The employer of a debtor who is financially capable of paying, but who fails to make voluntary payments after receiving a “notice prior to wage withholding” from the commission, or who signs a “repayment agreement in lieu of wage withholding” but subsequently fails to make regular monthly payments, shall receive an “order of withholding from earnings” from the commission, directing the debtor's employer to deduct and pay to the commission from the debtor's wages an amount that does not exceed 10 percent of the debtor's disposable pay for each pay period, unless the debtor provides the commission with written consent to deduct a greater amount. A duplicate copy of the order shall be provided to the debtor by the employer.

b. The employer also shall receive from the commission an “employer acknowledgment of wage withholding” which should be completed and returned to the commission within ten business days.

c. The employer shall notify the commission if the debtor changes employment. The employer shall provide the debtor's date of termination, last-known address, and current employer and telephone number (if known).

d. The commission will send the employer a “release of order of withholding from earnings” when the debtor's partnership loan or other loan being collected under Iowa Code section 261.38 is paid in full.

These rules are intended to implement Iowa Code sections 261.37, 261.38 and 261.121 to 261.127.

ARC 3597B

**HUMAN SERVICES
DEPARTMENT[441]**

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposed to amend Chapter 95, “Collections,” Iowa Administrative Code, in a Notice of

HUMAN SERVICES DEPARTMENT[441](cont'd)

Intended Action published in the Iowa Administrative Bulletin on August 4, 2004, as **ARC 3578B**. The purpose of this Amended Notice is to give notice that public hearings will be held.

These amendments change the rules for pursuing an offset against federal income tax refunds and federal nontax payments to recover delinquent child support. The amendments:

- Modify the criteria for submitting assigned past-due support by removing the requirement that the support be delinquent for three months, in compliance with new federal regulations. Elimination of the three-month waiting period means less delay in submitting delinquent support for collection through federal offsets.

- Implement a federal option to combine amounts owed by the same obligor in more than one case to meet the dollar thresholds for federal offset of \$150 for delinquent support assigned to the government and \$500 for delinquent support due to families. This change will allow families and the government a better opportunity to secure delinquent support. Collection of past-due support secures funding for the Family Investment Program and support to families.

These amendments do not provide for waivers in specified situations because the Department is enforcing delinquent orders for support according to allowable criteria added to federal law. Other provisions of rule 441—95.7(252B) already provide opportunities for a person to appeal an offset or to request a review.

Any interested person may make written comments on the proposed amendments on or before September 8, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will also hold public hearings to receive comments on these amendments at the places and times listed below.

<u>Location</u>	<u>Date and Time</u>
411 3rd Street SE Fifth Floor, ICN Room Cedar Rapids, Iowa	September 7, 2004 8:30 to 9:30 a.m.
300 West Broadway, Suite 32 Council Bluffs, Iowa	September 8, 2004 8:30 to 9:30 a.m.
3911 West Locust Davenport, Iowa	September 8, 2004 9 to 10 a.m.
1901 Bell Avenue, Suite 8 Des Moines, Iowa	September 7, 2004 9:30 to 10:30 a.m.
799 Main Street Third Floor Conference Room Dubuque, Iowa	September 8, 2004 2 to 3 p.m.
520 Nebraska Street, Suite 225 Sioux City, Iowa	September 8, 2004 2 to 3 p.m.
501 Sycamore, Suite 400 Waterloo, Iowa	September 7, 2004 9 to 10 a.m.

Comments may be offered at the hearings either orally or in writing. Anyone who intends to attend a hearing and has special requirements, such as hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

ARC 3582B

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 147.76, the Board of Examiners for Nursing Home Administrators hereby gives Notice of Intended Action to amend Chapter 141, “Licensure of Nursing Home Administrators,” and Chapter 145, “Fees,” Iowa Administrative Code.

The proposed amendments change the appointment period for a provisional administrator to one year from six months as provided in the Iowa Code, adopt a new license renewal rule which includes a mandatory reporter training requirement, and add provisions for duplicate and reissued certificate and wallet cards as well as associated fees.

Any interested person may make written comments on the proposed amendments no later than September 14, 2004, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail pwilson@idph.state.ia.us.

A public hearing will be held on September 14, 2004, from 9 to 10 a.m. in the Fifth Floor Board 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 amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 155, and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 645—141.6(155), introductory paragraph, as follows:

645—141.6(155) Provisional administrator. Under certain limited circumstances, and only upon the filing of an application requesting approval, a provisional administrator may be appointed to serve as the administrator of a nursing home. A provisional administrator is considered a temporary appointment, and the person appointed may serve as an administrator for a period of time not to exceed ~~six~~ 12 months. The ~~six~~ 12-month appointment runs from the date approved by the board, and the 12 months in service do not need to be consecutive. The person serving as a provisional administrator shall not be permitted to serve in that capacity for more than a total of ~~six~~ 12 months in an entire career. *It is the responsibility of an approved provisional administrator to maintain documentation of the actual dates the administrator serves in that capacity.*

ITEM 2. Amend subrule **141.6(2)** by adopting **new** paragraphs “**e**” and “**f**” as follows:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

e. Provide evidence to establish that the provisional appointment will not exceed the maximum lifetime period of 12 calendar months in duration. Official employment verification is required for any period in which the applicant previously served as a provisional administrator.

f. Provide evidence that the time period of the provisional appointment complies with the requirements in 481—subrule 58.8(4). A written attestation of the facility owner or chief operating officer shall satisfy this requirement.

ITEM 3. Rescind rule 645—141.9(155) and adopt the following **new** rule in lieu thereof:

645—141.9(155) License renewal.

141.9(1) The biennial license renewal period for a license to practice nursing home administration shall begin on January 1 of an even-numbered year and end on December 31 two years later. The board shall notify the licensee at the address on record at least 60 days prior to expiration of the license. Failure to receive the renewal application shall not relieve the licensee of the obligation to pay the biennial renewal fee on or before the renewal date.

141.9(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

141.9(3) A licensee shall:

a. Meet the continuing education requirements of rule 645—143.2(272C) and the mandatory reporting requirements of subrule 141.9(4); and

b. Submit the completed renewal application, continuing education report form and renewal fee before the license expiration date.

141.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of the licensee's employment responsibilities, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 143.

f. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

141.9(5) When all requirements for license renewal are met, the licensee shall be sent a wallet card by regular mail.

141.9(6) A person licensed to practice as a nursing home administrator shall keep the license certificate displayed in a conspicuous public place at the primary site of practice.

141.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 145.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within 30 days following the expiration date on the wallet card.

ITEM 4. Renumber rule **645—141.12(272C)** as **645—141.14(272C)** and adopt the following **new** rules:

645—141.12(155) Duplicate certificate or wallet card.

141.12(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

141.12(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—145.1(147,155).

141.12(3) If the board receives a completed application for duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—141.13(155) Reissued certificate or wallet card. The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in rule 645—145.1(147,155).

ITEM 5. Amend subrule 145.1(5) as follows:

145.1(5) Duplicate *or reissued* license *certificate* fee is \$10.

ITEM 6. Renumber subrules **145.1(6)** to **145.1(9)** as **145.1(7)** to **145.1(10)** and adopt the following **new** subrule:

145.1(6) Duplicate or reissued wallet card fee is \$10.

ARC 3586B**PUBLIC SAFETY
DEPARTMENT[661]****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 97A.5, the Board of Trustees of the Iowa Department of Public Safety Peace Officers' Retirement, Accident, and Disability System hereby gives Notice of Intended Action to rescind 581—Chapter 24, “Peace Officers' Retirement, Accident, and Disability System,” and to adopt 661—Chapter 400, “Peace Officers' Retirement, Accident, and Disability System—Governance and Administration,” Chapter 401, “Peace Officers' Retirement, Accident, and Disability System—Administrative Procedures,” Chapter 402, “Peace Officers' Retirement, Accident, and Disability System—Eligibility, Benefits, and Payments,” Chapter 403, “Peace Officers' Retirement, Accident, and Disability System—Line-of-Duty Death Benefit,” and Chapter 404, “Peace Officers' Retirement, Accident, and Disability System—Temporary Incapacity,” Iowa Administrative Code.

Two bills enacted during the 2003 regular session of the Iowa General Assembly made significant changes in Iowa Code chapter 97A, which establishes the Iowa Department of Public Safety Peace Officers' Retirement, Accident, and Disability System. 2003 Iowa Acts, chapter 145, sections 168 and 169, transferred responsibility for providing administrative support for the system from the former Iowa Department of Personnel to the Iowa Department of Public Safety. 2003 Iowa Acts, chapter 20, amended a provision of the statute concerning active members of the system who are temporarily incapacitated as a result of an injury or illness which occurs or is aggravated at a definite time or place while on duty. A review of the current rules in 581—Chapter 24 identified several omissions. The amendments proposed here move the System's rules from the Department of Personnel to the Department of Public Safety, deal with the subject of temporary incapacity, and address other omissions in the current rules, including benefits paid subsequent to a line-of-duty death, procedures for waivers of these rules, and appeal and contested case procedures.

A public hearing on these proposed amendments will be held on September 8, 2004, at 10 a.m. in the third floor conference room of the Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515) 281-5524, or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may con-

tact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These amendments are intended to implement Iowa Code chapter 97A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

Rescind **581—Chapter 24** and adopt the following **new** chapters:

CHAPTER 400**PEACE OFFICERS' RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM—GOVERNANCE AND
ADMINISTRATION**

661—400.1(97A) Establishment of system. The Iowa department of public safety peace officers' retirement, accident, and disability system is established by Iowa Code chapter 97A. The administrative rules governing the system are found in this chapter and in 661—Chapters 401, 402, 403, and 404.

661—400.2(97A) Definitions. The following definitions apply to 661—Chapters 400 through 404.

“Active member,” “actively engaged member” or “member in service” means a currently employed peace officer of the Iowa department of public safety who is not reemployed pursuant to Iowa Code section 97A.3, subsection 3.

“Board” means the board of trustees of the peace officer retirement system.

“Commissioner” means the commissioner of the Iowa department of public safety who also serves as the chairperson of the board of trustees.

“Department” means the Iowa department of public safety.

“Line-of-duty death” means the death of a member in service which was the direct and proximate result of a traumatic personal injury incurred in the line of duty. Line-of-duty death does not include the death of a member which resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the member's death.

“Medical board” means a board of three physicians appointed by the board of trustees pursuant to Iowa Code section 97A.5, subsection 8.

“Peace officers' retirement system,” also referred to as “the system,” means the Iowa department of public safety peace officers' retirement, accident, and disability system.

“Retired member” means a person formerly employed as a peace officer of the Iowa department of public safety who is currently receiving or has received pension benefits from the system.

“Secretary” means an employee of the administrative services division of the Iowa department of public safety designated by the division director to provide staff support to the board.

“Temporary incapacity” means a condition in which a member in service becomes unable to perform assigned duties as a natural and proximate result of an injury, disease, or exposure incurred or aggravated while in the actual performance of duty at some definite time and place.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—400.3(97A) Governance. The system is governed by a board of trustees, appointed and elected as provided in Iowa Code section 97A.5, subsection 1. The board of trustees shall have five members, including the commissioner of public safety, who shall serve as chairperson of the board, the treasurer of state, an actively engaged member of the system, a retired member of the system, and a person appointed by the governor.

400.3(1) Terms of office. Terms of office of members of the board of trustees are as follows:

a. The commissioner of public safety shall serve a term that is concurrent with appointment as commissioner of public safety.

b. The treasurer of state shall serve a term that is concurrent with the term of treasurer of state.

c. The actively engaged member of the system shall serve a two-year term commencing on July 1 of an odd-numbered year and terminating on June 30 of the next odd-numbered year.

d. The retired member of the system shall serve a two-year term commencing on July 1 of an even-numbered year and terminating on June 30 of the next even-numbered year.

e. The member appointed by the governor shall serve a two-year term commencing on May 1 of the year of appointment and terminating on April 30 in the year of expiration.

400.3(2) Election of board members.

a. The actively engaged member shall be elected by secret ballot of the actively engaged members of the system. The retired member shall be elected by secret ballot of the retired members of the system. The actively engaged member shall be elected in odd-numbered years, and the retired member shall be elected in even-numbered years.

b. At least 90 days prior to the start of the term of office for the actively engaged member or the retired member, the secretary shall distribute by regular mail a write-in nomination ballot to each member of the system who is eligible to vote. The deadline for return of the ballots shall be established by the secretary at no less than 30 days nor more than 35 days after the date of distribution of the ballots and shall be printed on each ballot. In order to record a nomination, a member shall return the nomination ballot with a postmark or by personal delivery prior to the deadline specified on the ballot, filled in with the name of the member whom the member casting the ballot wishes to nominate.

c. The secretary shall contact each of the nominees who receive the three highest numbers of nominations to determine if each nominee is willing to serve if elected. For each nominee contacted who is unwilling to serve, the secretary shall contact the next nominee in descending order of nominations until three nominees willing to serve are identified.

d. The names of those three eligible members willing to serve if elected who receive the highest number of write-in nominations shall be placed on an election ballot.

e. The secretary shall distribute by regular mail election ballots to the members of the system who are eligible to vote. The deadline for return of the ballots shall be established by the secretary at no less than 30 days nor more than 35 days after the date of distribution of the ballots and shall be printed on each ballot. Any eligible member who receives a ballot and wishes to vote shall return the ballot to the secretary with a postmark or by personal delivery prior to the deadline printed on the ballot with a choice of one of the three candidates listed indicated. The candidate who receives the highest number of votes shall serve as the actively engaged member or the retired member of the system on the board of trustees.

f. In the event that two of the three candidates tie with the highest number of votes, a new election ballot with the names of the two candidates who tied shall be distributed by regular mail by the secretary to all members who are eligible to vote. The deadline for return of the ballots shall be established by the secretary at no less than 30 days nor more than 35 days after the date of distribution of the ballots and shall be printed on each ballot. Any eligible member who wishes to vote shall return the ballot to the secretary prior to the deadline with the member's preference indicated. The candidate who receives the highest number of votes shall serve as the actively engaged member or the retired member on the board of trustees.

g. In the event that all three candidates receive the same number of votes in the initial election balloting or that the two remaining candidates receive the same number of votes in an election held to break a tie between two candidates, the selection of the board member shall be determined by drawing of lots under the supervision of the commissioner of public safety, acting as chairperson of the board of trustees.

400.3(3) Vacancies. A vacancy in a position held by an elected member shall be filled in the same manner as the original election, and the newly elected member shall serve for the balance of the original term for the position filled.

661—400.4(97A) Meetings of board of trustees. The board of trustees shall meet at least quarterly, or upon the call of the chairperson. A quorum of the board shall consist of three members, and three concurring votes shall be necessary for a decision by the board. For purposes of a quorum or for voting, a member may participate in person, by audio conference or by videoconference.

661—400.5(97A) Administrative support. The department provides administrative support to the system, through the administrative services division. The secretary shall be an employee of the department. Employees of the system shall be under the administrative supervision of the director of the administrative services division. Additional administrative support may be provided by other employees of the department at the direction of the commissioner of public safety.

661—400.6(97A) Forms and information. Persons who wish to obtain forms or information about the peace officers' retirement, accident, and disability system shall address requests to:

Secretary
Peace Officers' Retirement System
Iowa Department of Public Safety
Wallace State Office Building
Des Moines, Iowa 50319
asinfo@dps.state.ia.us

661—400.7(97A) Annual statements.

400.7(1) As soon as practical after the close of each fiscal year, a statement of account shall be furnished to each actively engaged member, which shall include the member's contribution for the year.

400.7(2) As soon as practical after the end of a calendar year, and in any event within any deadlines for this purpose established by the Internal Revenue Service or the Iowa department of revenue, a Form 1099, W2-P or an equivalent shall be prepared for and mailed to each person who received benefits during the year. The form shall detail the total pension paid during the year and shall comply with any applicable requirements established by the Internal Revenue Service and the Iowa department of revenue.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—400.8(97A) Books of account. The following books of account shall be maintained by the secretary.

400.8(1) Self-balancing combination journal that records all receipts, disbursements and necessary adjustments.

400.8(2) Self-balancing ledger of control accounts.

400.8(3) Schedules at the close of the fiscal year which shall detail all control accounts except:

- a. Pension reserve account.
- b. Pension accumulation account.

661—400.9(97A) Investments. Investments of assets of the system shall be administered through the office of the treasurer of state. The board of trustees has the authority to direct the investment of funds, including, but not limited to, the execution of contracts with appropriately qualified individuals or firms to provide advice regarding investments.

These rules are intended to implement Iowa Code chapter 97A.

CHAPTER 401

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—ADMINISTRATIVE PROCEDURES

661—401.1(97A) Applications. Applications for benefits under Iowa Code chapter 97A shall be filed with the secretary on forms provided by the secretary. Applications for service retirement shall be made not more than 90 days nor less than 30 days in advance of the date of retirement. Applications for service retirement, ordinary or accidental disability, or temporary incapacity shall be reviewed by the secretary for completeness and then forwarded to the board of trustees.

401.1(1) Manner of review for ordinary or accidental disability or for temporary incapacity. The secretary shall compile the following materials, if available and applicable, for the board's review of a claim:

- a. The application;
- b. Any materials provided by the applicant;
- c. Any available medical information in the possession of the board or the state;
- d. Any information available through any workers' compensation claims made by the applicant; and
- e. Recommendations and reports from the medical board.

NOTE: This subrule does not impose a responsibility on the secretary to discover documents or evidence not in the secretary's possession. It is only intended to outline the types of evidence the secretary should provide to the board if available.

401.1(2) Commissioner's application. The commissioner may file an application for ordinary or accidental disability on behalf of a member in service. The secretary shall review such applications in the same manner as those filed by a member. The fact that the commissioner has filed an application on a member's behalf shall not prevent the commissioner or the board from denying the application. All applications for accidental disability benefits shall be deemed cross-filed by the commissioner for the purpose of considering disability benefits. Nothing in this rule prevents the board from denying either type of benefits.

661—401.2(97A) Determination on initial review.

401.2(1) Board approval. The board may approve or deny the application as presented, or direct the applicant to provide further medical information.

401.2(2) Denial and appeal. A decision by the board to deny the application may be appealed by the applicant. Writ-

ten notice of a denial shall be provided to the applicant by certified mail. The written notice shall include the applicant's right to appeal and the deadline for filing an appeal. An appeal must be filed in writing with the secretary within 30 calendar days after the applicant receives written notice of the decision of the board. The board may extend the deadline for filing an appeal. At a minimum, an appeal shall include a short and concise statement of the basis for the appeal.

661—401.3(17A) Contested case proceeding. Consideration of an appeal of a decision of the board shall be a contested case proceeding subject to the provisions of Iowa Code chapter 17A.

401.3(1) Delivery of notice. Delivery of the notice of hearing by the secretary constitutes the commencement of a contested case proceeding. Delivery may be executed by regular mail. The notice shall be delivered to the applicant, the applicant's attorney if known, and the assistant attorney general designated to represent the public interest.

401.3(2) Contents of notice. The notice of hearing shall contain a statement of the time, place, and nature of the hearing. The notice shall contain a statement that it is the applicant's burden to prove each of the statutory elements relative to the application. The notice shall also contain a reference to the applicable statute and rules.

401.3(3) Scope of issues. The applicant shall prove each of the statutory elements required before the application may be granted. Denial of an application shall be upheld based on the applicant's failure to prove any of the statutory elements. When an applicant has requested accidental disability benefits, the board has the option of denying accidental disability benefits, but granting ordinary disability benefits based on the evidence.

401.3(4) Legal representation. Following the filing of the notice of hearing, the office of the attorney general shall be responsible for the legal representation of the public interest in all proceedings before the board. The public interest, as referenced in this rule, shall include the responsibility to protect the assets of the system from applications that do not meet the standards set by the statute for disability benefits. Any private party to a contested case shall be entitled to legal representation at the discretion and expense of that party.

401.3(5) Presiding officer. The presiding officer in a contested case shall be an administrative law judge assigned by the department of inspections and appeals.

401.3(6) Procedural matters. Procedural matters and motions, including, but not limited to, motions to continue, may be heard and ruled upon by the presiding officer.

401.3(7) Service and filing.

a. Service—when required. Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as attorney for the state or the agency, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16, subsection 2, the party filing a document is responsible for service on all parties.

b. Service—how made. Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by personal delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

c. Filing—when required. After the notice of hearing, all documents in a contested case proceeding shall be filed

PUBLIC SAFETY DEPARTMENT[661](cont'd)

with the secretary. All documents that are required to be served upon a party shall be filed simultaneously with the secretary.

d. Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the secretary at the location set forth in rule 661—400.6(97A), delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

e. Proof of mailing. Proof of mailing includes either:

- (1) A legible United States Postal Service postmark on the envelope;
- (2) A certified mail return receipt;
- (3) A notarized affidavit; or
- (4) A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Secretary of the Board of Trustees, Iowa Department of Public Safety, Peace Officers' Retirement System, Wallace State Office Building, Third Floor, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date) (Signature)

661—401.4(17A) Discovery.

401.4(1) Pursuant to Iowa Code chapter 17A, discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

401.4(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened by order of the presiding officer. The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

661—401.5(17A) Subpoenas in a contested case. Pursuant to Iowa Code section 17A.13, subsection 1, the board or the presiding officer acting on behalf of the board has the authority to issue subpoenas to compel the attendance of witnesses at depositions or hearings and to compel the production of professional records, books, papers, correspondence and other records which are deemed necessary as evidence in connection with a contested case. A subpoena issued in a contested case under the board's authority may seek evidence whether or not privileged or confidential under law.

401.5(1) The board chairperson shall, upon the written request of the applicant or the state, issue a subpoena to compel the attendance of witnesses or to obtain evidence which is deemed necessary in connection with a contested case. A command to produce evidence may be joined with a command to appear at deposition or hearing or may be issued separately.

401.5(2) A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

- a. The name, address and telephone number of the person requesting the subpoena;
- b. The name and address of the person to whom the subpoena shall be directed;
- c. The date, time, and location at which the person shall be commanded to attend and give testimony;
- d. Whether the testimony is requested in connection with a deposition or hearing;
- e. A description of the books, papers, records or other evidence requested;
- f. The date, time and location for production, or inspection and copying.

401.5(3) Each subpoena shall contain, as applicable:

- a. The caption of the case;
- b. The name, address and telephone number of the person who requested the subpoena;
- c. The name and address of the person to whom the subpoena is directed;
- d. The date, time, and location at which the person is commanded to appear;
- e. Whether the testimony is commanded in connection with a deposition or hearing;
- f. A description of the books, papers, records or other evidence the person is commanded to produce;
- g. The date, time and location for production, or inspection and copying;
- h. The time within which a motion to quash or modify the subpoena must be filed;
- i. The signature, address and telephone number of the board administrator or designee;
- j. The date of issuance;
- k. A return of service attached to the subpoena.

401.5(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the board administrator or designee shall mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

401.5(5) Any person who is aggrieved or adversely affected by compliance with the subpoena or any party to the contested case who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

401.5(6) Upon receipt of a timely motion to quash or modify a subpoena, the board chairperson shall request an administrative law judge to hold a hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge may quash or modify the subpoena or deny the motion.

401.5(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board's secretary, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge. If the decision of the administrative law judge to quash or modify the subpoena or to deny the motion to quash or modify the subpoena is appealed to the board, the board may uphold or overturn the decision of the administrative law judge.

401.5(8) If the person contesting the subpoena is not the member whose application for benefits is the subject of the

PUBLIC SAFETY DEPARTMENT[661](cont'd)

contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the member whose application for benefits is the subject of the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

661—401.6(17A) Motions.

401.6(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

401.6(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the board or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

401.6(3) The presiding officer may schedule oral argument on any motion.

401.6(4) Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

401.6(5) Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served at least 45 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 20 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 661—401.16(17A) and appeal pursuant to 661—subrule 401.14(2).

661—401.7(17A) Settlements. A contested case may be resolved by informal settlement, and settlements are encouraged. Settlement negotiations may be initiated at any stage of a contested case by the assistant attorney general appointed to represent the public interest or by the applicant. The board shall not be involved in negotiation until a written proposed settlement is submitted for approval, unless both parties waive this prohibition.

661—401.8(17A) Prehearing conference.

401.8(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause, the presiding officer may permit variances from this rule.

401.8(2) Each party shall bring to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded

from testifying unless there was good cause for the failure to include their names.

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

401.8(3) In addition to the requirements of subrule 401.8(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;
b. Enter into stipulations on the admissibility of exhibits;
c. Identify matters that the parties intend to request be officially noticed;
d. Enter into stipulations for waiver of any provision of law; and
e. Consider any additional matters that will expedite the hearing.

401.8(4) Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

661—401.9(17A) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

401.9(1) A written application for a continuance shall:
a. Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;

b. State the specific reasons for the request; and
c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible. The presiding officer may waive notice of such requests for a particular case or an entire class of cases.

401.9(2) In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;
b. The interests of all parties;
c. The likelihood of informal settlement;
d. The existence of an emergency;
e. Any objection;
f. Any applicable time requirements;
g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
h. The timeliness of the request; and
i. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

661—401.10(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing. Unless otherwise provided, a withdrawal shall be with prejudice.

661—401.11(17A) Hearing procedures.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

401.11(1) The presiding officer shall have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections.

401.11(2) All objections shall be timely made and stated on the record.

401.11(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at the party's own expense.

401.11(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

401.11(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

401.11(6) Witnesses may be sequestered during the hearing.

401.11(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings.

b. The parties shall be given an opportunity to present opening statements.

c. The parties shall present their cases in the sequence determined by the presiding officer.

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law.

e. When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

f. The presiding officer may enter a default judgment against a party which fails to appear at the hearing.

401.11(8) The presiding officer has the right to question a witness. Examination of witnesses by the presiding officer is subject to properly raised objections.

401.11(9) The hearing shall be open to the public, except as otherwise provided by law.

401.11(10) Oral proceedings shall be electronically recorded. Upon request, the board shall provide a copy of the whole or any portion of the audio recording at a reasonable cost. A certified shorthand reporter may be engaged to record the proceeding at the request of a party and at the expense of the party making the request. A transcription of the record of the hearing shall be made at the request of either party at the expense of the party making the request. The parties may agree to divide the cost of the transcription. A record of the proceedings, which may be either the original recording, a copy, or a transcript, shall be retained by the secretary for five years after the resolution of the case.

401.11(11) Default.

a. If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

c. Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested

case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by 661—subrule 401.14(2). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

d. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

e. Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

f. "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

g. A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding.

h. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

i. A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues (but, unless the defaulting party has appeared, it cannot exceed the relief demanded).

661—401.12(17A) Evidence.

401.12(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

401.12(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

401.12(3) Evidence in the proceeding shall be confined to the contested issues as provided in Iowa Code section 97A.6.

401.12(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

401.12(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

401.12(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it

PUBLIC SAFETY DEPARTMENT[661](cont'd)

shall be marked as part of an offer of proof and inserted in the record.

661—401.13(17A) Ex parte communication.

401.13(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this rule is intended to preclude board members from communicating with other board members or members of the board staff, including the secretary, other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

401.13(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending before the board.

401.13(3) Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

401.13(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

401.13(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

401.13(6) The secretary may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating.

401.13(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines.

401.13(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

a. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order; or

b. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

401.13(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13, subsection 2, or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

401.13(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule. Violation of ex parte communication prohibitions by staff shall be reported to the board and to the director of the administrative services division of the department.

661—401.14(17A) Decisions.

401.14(1) Proposed decision. The decision prepared by the presiding officer is a proposed decision. The proposed decision becomes the final decision of the board without further proceedings unless there is an appeal to, or review on motion of, the board within the time provided in 661—subrule 401.14(2).

401.14(2) Appeals and review.

a. Appeal by party. Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

b. Review. The board may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

c. Notice of appeal. An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- (1) The parties initiating the appeal;
- (2) The proposed decision or order appealed from;
- (3) The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- (4) The relief sought;
- (5) The grounds for relief.

d. Requests to present additional evidence. A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

e. Scheduling. The board shall issue a schedule for consideration of the appeal.

f. Briefs and arguments. Unless otherwise ordered, briefs, if any, must be filed within five days of meeting.

661—401.15(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a

PUBLIC SAFETY DEPARTMENT[661](cont'd)

matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

661—401.16(17A) Applications for rehearing.

401.16(1) By whom filed. Any party to a contested case proceeding may file an application for rehearing from a final order.

401.16(2) Content of application. The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought.

401.16(3) Time of filing. The application shall be filed with the board within 20 days after issuance of the final decision.

401.16(4) Notice to other parties. A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

401.16(5) Disposition. The board may meet telephonically to consider an application for rehearing. Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

661—401.17(17A) Waivers of rules. This rule outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from that rule.

401.17(1) Applicability of rule. The board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The board may not waive requirements created or duties imposed by statute.

401.17(2) Criteria for waiver or variance. In response to a petition completed pursuant to this rule, the board may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

a. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

c. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

401.17(3) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

a. Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

b. Other. If the petition does not relate to a pending contested case, the petition may be submitted with a caption con-

taining the name of the person for whom the waiver is requested.

c. File petition. A petition is deemed filed when it is received in the secretary's office. A petition should be sent to the Board of Trustees, Peace Officers' Retirement, Accident, and Disability System, Attention: Secretary of the Board, Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319-0050.

401.17(4) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

a. The name, address, and telephone number of the entity or person for whom a waiver is being requested; the case number of or other reference to any related contested case; and the name, address, and telephone number of the petitioner's legal representative, if any.

b. A description of and citation to the specific rule from which a waiver is requested.

c. The specific waiver requested, including the precise scope and duration.

d. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in subrule 401.17(2). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver.

e. A history of any prior contacts between the board, other departments or agencies of the state of Iowa, or political subdivisions and the petitioner relating to benefits or potential benefits or eligibility requirements affected by the proposed waiver, including a description of each affected benefit or eligibility requirement held or requested by the requester, any formal charges filed, notices of violation, contested case hearings, or investigations relating to the membership in the system within the last five years.

f. Any information known to the requester regarding the board's action in similar cases.

g. The name, address, and telephone number of any public agency or political subdivision which might be affected by the granting of a waiver.

h. The name, address, and telephone number of any entity or person who would be adversely affected by the granting of a petition. This does not create any duty to individually notify other members of the system, unless they are known to have requested or received a waiver of the identical provisions.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

401.17(5) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and a representative or representatives of the board related to the waiver request.

401.17(6) Notice. The secretary shall acknowledge a petition upon receipt and shall notify the members of the board, the legal counsel to the board and the agency rules administrator of the department of the receipt of the petition as soon as practical after its receipt. The board shall ensure that, within 30 days of the receipt of the petition, notice of the

PUBLIC SAFETY DEPARTMENT[661](cont'd)

pending petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, including the petitioner. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the board attesting that notice has been provided.

401.17(7) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case, and shall otherwise apply to board proceedings for a waiver only when the board so provides by order or is required to do so by statute.

401.17(8) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person or legal entity and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

a. Board discretion. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the board based on the unique, individual circumstances set out in the petition.

b. Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a rule.

c. Narrowly tailored exception. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

d. Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

e. Conditions. The board may place on a waiver any condition that the board finds desirable to protect the public health, safety, and welfare.

f. Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impractical. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

g. Time for ruling. The board shall grant or deny a petition for a waiver as soon as practical but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

h. When deemed denied. Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

i. Service of order. Within seven days of its issuance, any order issued under this rule shall be transmitted or delivered to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law. A copy of the order shall be provided to the agency rules administrator of the department to facilitate compliance with this rule.

401.17(9) All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. If petitions or orders may contain information the board is authorized or required to keep confidential, the board may instruct the secretary to accordingly redact confidential information from petitions or orders prior to public inspection.

401.17(10) Summary reports. Summary information identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests shall be included in semiannual reports prepared by the agency rules administrator of the department containing such information for administrative rules of the department.

401.17(11) Cancellation of a waiver. A waiver issued by the board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

a. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

b. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or

c. The subject of the waiver order has failed to comply with all conditions contained in the order.

401.17(12) Violations. Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

401.17(13) Defense. After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein only for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

401.17(14) Judicial review. Judicial review of the board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

401.17(15) Sample petition for waiver. A petition for waiver filed in accordance with this rule must meet the requirements specified herein and must substantially conform to the following form:

BEFORE THE BOARD OF TRUSTEES—
PEACE OFFICERS' RETIREMENT, ACCIDENT,
AND DISABILITY SYSTEM

Petition by (name of petitioner) for the waiver/variance of (insert rule citation) relating to (insert the subject matter).



PETITION
FOR WAIVER/
VARIANCE

1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver or variance). Also provide the name, address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

2. Describe and cite the specific rule from which a waiver is requested.
3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend.
4. Explain the relevant facts and reasons that the petitioner believes justify a waiver. Include in the answer all of the following:
 - Why application of the rule would result in undue hardship to the petitioner;
 - Why waiver of the rule would not prejudice the substantial legal rights of any person;
 - Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
 - How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.
5. Provide a history of any prior contacts between the board, other departments or agencies of the state of Iowa, or political subdivisions and petitioner relating to the benefits or rights affected by the requested waiver. Include a description of each contested case hearing held, or any investigations related to the benefits or rights.
6. Provide information known to the petitioner regarding the board's action in similar cases.
7. Provide the name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of the petition.
8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver or variance.
9. Provide the name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

I hereby attest to the accuracy and truthfulness of the above information.

Petitioner's signature

Date

661—401.18(97A) Petitions for rule making. Any person or agency may file a petition for rule making with the secretary at the location specified in rule 661—400.6(97A). A petition is deemed filed when it is received by the secretary. The secretary shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The secretary shall transmit a copy of the petition to the agency rules administrator. The petition must be typewritten or legibly handwritten in ink and should substantially conform to the following form:

PUBLIC SAFETY PEACE OFFICERS'
RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM

Petition by (name of petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).



PETITION FOR
RULE MAKING

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the board's authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by or interested in the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by subrule 401.18(5).

401.18(1) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

401.18(2) The board may deny a petition because it does not substantially conform to the required form.

401.18(3) The petitioner may attach a brief to the petition in support of the action urged in the petition. The board may request a brief from the petitioner or from any other person concerning the substance of the petition.

401.18(4) Inquiries concerning the status of a petition for rule making may be made to the Agency Rules Administrator, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, or via electronic mail at admrule@dps.state.ia.us.

401.18(5) Upon request by petitioner in the petition, the chairperson of the board may schedule a brief and informal meeting between the petitioner and the board, a member of the board, the secretary, or other staff of the department to discuss the petition. Such meeting shall include the agency rules administrator of the department or another employee of the department knowledgeable about the administrative rule-making process jointly designated by the agency rules administrator and the director of the administrative services division of the department. The board may request the petitioner to submit additional information or argument concerning the petition. The board may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the board by any person.

401.18(6) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board shall, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it will institute rule-making proceedings on the subject of the petition. Notice shall be sent by the secretary to the petitioner by regular mail. Petitioner shall be deemed notified of the denial or granting of the petition on the date when the secretary mails the required notification to the petitioner.

401.18(7) Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the board's rejection of the petition.

These rules are intended to implement Iowa Code chapters 17A and 97A.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

CHAPTER 402
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM—ELIGIBILITY, BENEFITS,
AND PAYMENTS

661—402.1 to 402.99 Reserved.

DIVISION I
ELIGIBILITY

661—402.100(97A) Age of qualification. The age of qualification for benefits under Iowa Code Supplement chapter 97A shall mean the age on the member's last birthday.

661—402.101(97A) Date of retirement. Date of retirement shall mean the first day on retirement and not the last day on duty.

661—402.102(97A) Application of Iowa Code Supplement section 97A.6, subsection 12. Iowa Code Supplement section 97A.6, subsection 12, applies to the deceased member's spouse and children only if the spouse was married to the deceased member at or before the time of retirement and the children are the natural children of the deceased member or were legally adopted at or before the time of retirement of the member. If there is no surviving spouse of a marriage solemnized prior to retirement of a deceased member, then "surviving spouse" means a surviving spouse of a marriage of two years or more solemnized subsequent to the retirement of the member.

661—402.103(97A) Date of death. In the event of the death of a member, the date of death will be considered to be the member's last day on the payroll for earned compensation or on pension, and the next day following will be the first day for the spouse's and children's benefits. The start of benefits shall not be delayed by the payout of any other compensation.

661—402.104(97A) Age of spouse. When the spouse of a deceased active member is to receive an annuity payment from the member's contributions, the age of the spouse at the spouse's nearest birthday shall govern. The computation shall be the spouse's birth date subtracted from the first date that spouse's benefits begin to accrue.

661—402.105 to 402.199 Reserved.

DIVISION II
BENEFITS AND PAYMENTS

661—402.200(97A) Computation of average final compensation. Computation of the average final compensation shall be made using the earnable compensation of the member during the three years of the member's service as a member of the department during which the member received the highest amount of compensation. Overtime compensation, if any, and periods without pay shall not be considered in this computation.

EXCEPTION: If a member retires before attaining three years of service, the average final compensation shall be the total of the earnable compensation from the date the member was sworn into service divided by the number of months of service and multiplied by 12.

661—402.201(97A) Workers' compensation—effect on benefit payment. If workers' compensation benefits are payable because of a member's disability or death, the retirement or death benefit payable, other than a line-of-duty death benefit paid pursuant to 661—Chapter 403, from the system

shall be reduced by the actuarial equivalent of the total workers' compensation.

402.201(1) Monthly peace officer's retirement system benefits shall be reduced by the monthly benefit received from workers' compensation.

402.201(2) Peace officer's retirement system benefits shall be reduced in the amount of permanent partial disability benefits paid by workers' compensation. Benefits will be withheld in the amount of permanent partial disability benefits.

402.201(3) Salary payments made by the department to a member in temporary incapacity status pursuant to the provisions of 661—Chapter 404 shall be reduced by the amount of any workers' compensation payments to the member received while the member is in temporary incapacity status.

661—402.202(97A) Errors in payments. If an error in payments already made to a member or beneficiary is discovered, arrangements shall be made to correct the error, either through recovery of overpayments from the member or beneficiary or through additional compensation paid to the member or beneficiary to adjust for underpayments. Schedules referenced in this rule shall commence only after presentation to and approval by the board of trustees.

402.202(1) As soon as practical after being discovered, underpayments shall be corrected through a lump-sum payment to the member or beneficiary in an amount equal to the total amount of underpayments to date and an amount of interest such that the total lump-sum payment is actuarially equivalent to the total amount of underpayments. The member or beneficiary may request a method of repayment other than a lump-sum payment, in which case a repayment schedule may be mutually agreed upon between the board and the member or beneficiary.

402.202(2) Overpayments other than those which resulted from fraudulent acts on the part of the member or beneficiary receiving the payments shall be recovered from the member or beneficiary. The preferred method of recovery, if the member or beneficiary is continuing to receive payments from the system, shall be withholding monthly an amount equivalent to the monthly average of the amount of overpayments during the period in which the overpayments were made, until total repayments equal a sum actuarially equivalent to the total amount of overpayment. If the member or beneficiary is not receiving payments from the system, the board may seek repayment in a lump sum including the amount of overpayments and interest in amount such that the total repayment is actuarially equivalent to the total amount of overpayments, although the member or beneficiary may request a repayment schedule be established and the board may agree to do so.

402.202(3) An overpayment which resulted in whole or in part from a fraudulent act or acts on the part of the member or beneficiary receiving the payments shall be repaid to the system in an amount which is actuarially equivalent to the amount of the overpayment plus a reasonable assessment of the administrative costs to the system and the department to recover the overpayment. The preferred method of repayment is a lump-sum payment collected as soon as practical after the overpayment and the fraudulent act are discovered, although the board shall accept a repayment schedule established by a court which orders restitution in relation to a conviction stemming from the fraudulent act or acts. The board may agree to an alternative payment schedule at the request of the member or beneficiary if there is no applicable order of restitution.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The board may find, on the basis of clear and convincing evidence, that an overpayment resulted from a fraudulent act or acts on the part of a member or beneficiary. A conviction based upon a fraudulent act or acts committed in relation to the receipt of benefits from the system shall be prima facie evidence of fraud for purposes of this subrule.

661—402.203(97A) Initial benefit for a child. Initial benefit for a child as specified in Iowa Code Supplement section 97A.6, subsection 8, 9 or 12, shall be 6 percent of the monthly earnable compensation payable to an active member having the rank of senior trooper of the Iowa state patrol. A senior trooper, for the purposes of Iowa Code Supplement chapter 97A, is a peace officer having at least ten years of active service with the Iowa state patrol.

661—402.204(97A) Computation for partial month. Computation of retirement benefits for a partial month shall be based on the actual number of days in the month, i.e., monthly benefits divided by the number of the days in the month multiplied by the number of days due.

661—402.205(97A) One year of service. For the purpose of computing service, service for fewer than six months of a year is not creditable as service. Service of six months or more in any year shall be equivalent to one year of service; however, in no case shall a member receive more than one year of service credit for each 12-month period of service.

661—402.206(97A) Termination prior to retirement.

402.206(1) Members who terminate covered employment prior to age 55 other than by death or disability have certain rights to their accumulated contributions.

a. A member with fewer than four years of service is not entitled to benefits under the system. A member terminating employment with less than four years of service has the following options for the handling of the member's contributions to the system:

(1) The member may withdraw the member's contributions along with accumulated interest.

(2) The member may have all or a part of the member's qualifying contributions along with accumulated interest rolled forward to a qualified retirement plan and may withdraw the balance of the member's contributions.

(3) The member may leave the member's contributions in the system as long as the member continues to be a member of the system. A member ceases to be a member of the system should the member in any period of five consecutive years after last becoming a member be absent from service for more than four years. Should a member cease to be a member, the member's contributions shall be paid to the member as provided in this paragraph.

b. A member with four or more years of service is a "vested member" and is entitled to benefits under the system. The member's options under the system are as follows:

(1) Upon attaining retirement age, the member may receive a service retirement allowance of four twenty-seconds of the retirement allowance the member would receive at retirement if the member's employment had not been terminated, and an additional one twenty-second of such retirement allowance for each additional year of service not exceeding 22 years of service. Should the member have over 22 years of service, upon the member's retirement there shall be added $2\frac{3}{4}$ percent of the member's average final compensation for each year over 22 years for up to 10 additional years of service. The amount of the retirement allowance shall be calculated in the manner provided in this subpara-

graph using the average final compensation at the time of termination of the member's employment.

(2) The member may withdraw the member's contributions pursuant to Iowa Code section 97A.16, along with accumulated interest.

(3) The member may have all or a part of the member's qualifying contributions along with accumulated interest rolled forward to a qualified retirement plan and may withdraw the balance of the member's contributions.

402.206(2) The interest rate shall be the composite rate of return for the fiscal year as reflected in the investment performance analysis, provided by the investment consultants for the system, as specified in the report for the quarter ending June 30 of the fiscal year, adjusted by the administrative expense of the system for the fiscal year. The administrative expense rate shall be calculated by dividing the actual administrative expense for the fiscal year by the fund balance on June 30 of the fiscal year.

402.206(3) Interest shall be credited to the member's account annually as of June 30. The interest credited to the member shall be calculated by multiplying the annual interest rate by the member's average balance for the fiscal year, with interest credited for each full month of membership.

402.206(4) Members withdrawing contributions under this rule shall submit a written request to the secretary.

661—402.207(97A) Optional retirement benefits. Members of the system who retire under a service retirement may elect to receive one of the following optional retirement benefits and have the optional retirement benefit or a designated fraction of the benefit paid to the member's beneficiary:

1. Straight life annuity.
2. Straight life annuity with five years certain.
3. Straight life annuity with ten years certain.
4. Joint and 50 percent survivor annuity.
5. Joint and 75 percent survivor annuity.
6. Joint and 100 percent survivor annuity.
7. Single life annuity with a designated lump sum.

For the purposes of this rule, a "beneficiary" means a member's spouse, child, or dependent parent.

661—402.208(97A) Options not reversible once payments begin—exceptions.

402.208(1) The member may change or cancel the member's selected optional benefit until the first monthly benefit payment is made using the selected option. After the first monthly payment to the member or beneficiary, the option shall become permanent and not subject to cancellation or change.

402.208(2) If a member dies without designating a beneficiary prior to receipt in benefits of an amount equal to the total amount in the member's credit at the time of separation from service, the election is void.

402.208(3) If a member who has designated a beneficiary dies and the beneficiary subsequently dies prior to receipt in benefits of an amount equal to the total amount in the member's credit at the time of separation from service, the election remains valid.

661—402.209(97A) Method of calculating annual adjustments when optional retirement benefits are selected. Whenever an optional benefit as provided for in rule 661—402.207(97A) has been selected by a member, the annual adjustments provided for in Iowa Code Supplement section 97A.6, subsection 14, shall continue to be provided.

661—402.210(97A) Termination of benefits when optional retirement benefits are selected. Whenever an optional

PUBLIC SAFETY DEPARTMENT[661](cont'd)

benefit as provided for in rule 661—402.207(97A) has been selected by a member, benefit payments shall terminate as follows, except as provided in rule 661—402.208(97A):

1. Straight life annuity. Upon the death of the retired member, all future retirement payments shall cease.

2. Straight life annuity with five years certain. Upon the death of the retired member, or five years from the member's original retirement date, whichever is later, all future retirement payments shall cease.

3. Straight life annuity with ten years certain. Upon the death of the retired member, or ten years from the member's original retirement date, whichever is later, all future retirement payments shall cease.

4. Joint and 50 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the beneficiary's annual annuity established at 50 percent of the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.

5. Joint and 75 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the beneficiary's annual annuity established at 75 percent of the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.

6. Joint and 100 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the annual annuity continue at the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.

7. Single life annuity with a designated lump sum. Upon the death of the retired member, the beneficiary shall receive the single lump-sum payment, and all future retirement payments shall cease.

661—402.211(97A) Impact of optional benefit selections on child benefits. The selection of an optional retirement benefit by a member shall not change the benefit that a child of a deceased member would otherwise be eligible to receive.

These rules are intended to implement Iowa Code Supplement chapter 97A.

CHAPTER 403

PEACE OFFICERS' RETIREMENT, ACCIDENT,
AND DISABILITY SYSTEM—
LINE-OF-DUTY DEATH BENEFIT

661—403.1(97A) Member death benefit program. As provided in Iowa Code Supplement section 97A.6, subsection 16, the board will administer the payment of line-of-duty death benefits to beneficiaries of members who die in the line of duty.

Information about the program may be obtained by mail from the Secretary of the Board of Trustees, Iowa Department of Public Safety, Peace Officers' Retirement System, Wallace State Office Building, Third Floor, Des Moines, Iowa 50319, by telephone, or by electronic mail to asinfo@dps.state.ia.us.

661—403.2(97A) Application. Application forms for the line-of-duty death benefit program may be obtained on request from the secretary. The board may accept a legible copy of a completed application for the federal Public Safety Officer Benefits Program as an application for payment of benefits from the member death benefit program. Completed application forms shall be mailed or delivered to the Secretary of the Board of Trustees, Iowa Department of Public Safety,

Peace Officers' Retirement System, Wallace State Office Building, Third Floor, Des Moines, Iowa 50319.

661—403.3(97A) Determination. After receiving a completed application for benefits from the member death benefit program, the board shall make a determination as to whether or not the application meets the requirements for payment of benefits. Prior to making a determination, the board may require the beneficiary or responsible supervisory official who has certified that the death is a line-of-duty death to submit any additional information that the board deems material to making the determination. If the determination is that the requirements for payment of benefits have been met, the board shall so notify the beneficiary or cobeneficiaries and shall instruct the secretary to prepare documents to cause the department of administrative services to issue a warrant payable to the beneficiary in the amount of the lump-sum payment provided or, if there are cobeneficiaries, to issue warrants in equal shares of the lump-sum amount payable to each of the cobeneficiaries. Payments pursuant to this rule shall come from the system's funds.

403.3(1) Denial and notification. If the board determines that the eligibility criteria have not been met, the board shall notify in writing the beneficiary or cobeneficiaries and the responsible supervisory official who certified that the death occurred in the line of duty of the determination and of the reason or reasons for the denial.

403.3(2) Appeals. If an application for benefits is denied, the beneficiary or any cobeneficiary may appeal that decision to the board by filing an appeal in writing to the secretary within 30 days of the date of the denial of the application by the board. Appeals shall be processed in accordance with contested case procedures specified in 661—Chapter 401.

These rules are intended to implement Iowa Code Supplement section 97A.6A(16).

CHAPTER 404

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM—TEMPORARY INCAPACITY

661—404.1(97A) Temporary incapacity defined. Temporary incapacity is defined as a condition from which a member in service becomes incapacitated for duty as a natural and proximate result of an injury, disease, or exposure incurred or aggravated while in the actual performance of duty at some definite time and place.

661—404.2(97A) Application for temporary incapacity status. An application for temporary incapacity status may be filed in accordance with rule 661—401.1(97A). The application must be filed by the member or by a person with legal standing in relation to the member in the event that the member is unable to do so. It shall be accompanied by a copy of the first report of injury, if one is available; workers' compensation medical reports and determinations; and all other workers' compensation documents related to the injury or other medical reports and records as may be available.

An application may be filed at any time; however, it shall not become effective until all of the elements of temporary incapacity have been met. If the incapacity has ended by the time the application is made, then the application for temporary incapacity status shall include a medical release to return to duty.

661—404.3(97A) Processing applications for temporary incapacity status. Applications for temporary incapacity status shall be processed in accordance with rule 661—401.2(97A). Available workers' compensation medical rec-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ords, as well as other medical reports and records as may be available and acceptable to the board of trustees, shall serve as the basis for medical evaluation to determine the status of the applicant.

661—404.4(97A) Actions by the board. The board of trustees may accept the application as submitted and grant temporary incapacity, may reject the application for temporary incapacity status or may delay action on the application.

The board may at any time direct further medical examination of a member who is in temporary incapacity status or who has an application pending for temporary incapacity status, by a physician or physicians, or other appropriate licensed health care providers.

661—404.5(97A) Sick leave. When temporary incapacity is granted, the member will no longer be charged sick leave and will have sick leave that has been used to date during the period of incapacity reinstated. No other form of leave utilized prior to a determination by the board will be reinstated. Holidays occurring during a period of temporary incapacity shall be used as holiday time. The department shall pay the difference between the workers' compensation salary and the member's regular salary including any adjustments that occur during the time of temporary incapacity. In the event that a member does not have sufficient sick leave to ensure complete pay until action is taken by the board on the temporary incapacity application, a special board meeting shall be called to consider an application for temporary incapacity as soon as practical.

661—404.6(97A) Recurrences. If a member is incapacitated as a result of a previous work-related injury for which temporary incapacity had been granted and from which the member has been released, then the member must file a new application to be eligible for temporary incapacity status.

661—404.7(97A) Review. The status of each application for temporary incapacity which has been previously approved shall be reviewed at least quarterly by the board of trustees until the member is released from temporary incapacity status, unless the board establishes a different period for review for an individual case. Approval may be either continued or terminated as a result of the review. The board may also direct further medical examination.

If a member currently in temporary incapacity status returns to work, a copy of the member's medical release shall be submitted to the secretary. The board shall review the member's temporary incapacity status as soon as practical after receipt of the medical release.

661—404.8(97A) Discontinuance of temporary incapacity status.

404.8(1) Action by the board that results in the approval of disability benefits shall result in the immediate termination of temporary incapacity status.

404.8(2) Disapproval of an application for disability benefits shall result in an immediate review of the member's temporary incapacity status. If the temporary incapacity status is discontinued based on that review and if the disapproval of disability benefits is reversed on appeal, then the benefits that would have been accrued for temporary incapacity shall be restored.

404.8(3) The commissioner shall file an application for disability retirement when it is medically determined that a member in temporary incapacity status is permanently disabled.

661—404.9(97A) Appeals. Decisions of the board to deny or discontinue temporary incapacity status may be appealed in accordance with the procedures established in 661—Chapter 401.

These rules are intended to implement Iowa Code Supplement chapter 97A.

ARC 3596B**REVENUE 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 sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

These amendments are proposed as a result of 2004 Iowa Acts, Senate File 443.

Item 1 amends subrule 42.18(1) to provide that individuals may receive a tax credit for individual income tax for investments made to a qualifying business by a partnership, S corporation, limited liability company, estate or trust for investments made on or after January 1, 2004.

Item 2 updates an implementation clause.

Item 3 amends subrule 52.21(1) to provide that corporations may receive a tax credit for corporation income tax for investments made to a qualifying business for investments made on or after January 1, 2004.

Item 4 updates an implementation clause.

Item 5 amends subrule 58.11(1) to provide that financial institutions may receive a tax credit for franchise tax for investments made to a qualifying business for investments made on or after January 1, 2004.

Item 6 updates an implementation clause.

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

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

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.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 20, 2004, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

REVENUE DEPARTMENT[701](cont'd)

Any interested person may make written suggestions or comments on these proposed amendments on or before September 7, 2004. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 2004.

These amendments are intended to implement Iowa Code chapter 15E as amended by 2004 Iowa Acts, Senate File 443.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 42.18(1) as follows:

42.18(1) Investment tax credit for an equity investment in a qualifying business or community-based seed capital fund. See rule 123—2.1(15E) for the discussion of the investment tax credit for an equity investment in a qualifying business or community-based seed capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a community-based seed capital fund *or equity investments made in a qualifying business on or after January 1, 2004*, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

For equity investments made in a qualifying business *prior to January 1, 2004*, only direct investments made by an individual are eligible for the investment tax credit. Individuals receiving income from a revocable trust's investment in a qualifying business are eligible for the investment tax credit for the portion of the revocable trust's equity investment in a qualifying business.

ITEM 2. Amend the implementation clause for rule **701—42.18(15E,422)** as follows:

This rule is intended to implement Iowa Code section 15E.43 as amended by 2003 2004 Iowa Acts, ~~chapter 179 Senate File 443~~, and sections 15E.51, 15E.66, 422.11F and 422.11G.

ITEM 3. Amend subrule 52.21(1) as follows:

52.21(1) Investment tax credit for an equity investment in a community-based seed capital fund *or qualifying business*. See rule 123—2.1(15E) for the discussion of the investment tax credit for an equity investment in a community-based

seed capital fund *or an equity investment made on or after January 1, 2004, in a qualifying business*, along with the issuance of tax credit certificates by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a community-based seed capital fund *and equity investments made on or after January 1, 2004, in a qualifying business*, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

ITEM 4. Amend the implementation clause for rule **701—52.21(15E,422)** as follows:

This rule is intended to implement Iowa Code section 15E.43 as amended by 2003 2004 Iowa Acts, ~~chapter 179 Senate File 443~~, and sections 15E.51, 15E.66, 422.11F and 422.33(13).

ITEM 5. Amend subrule 58.11(1) as follows:

58.11(1) Investment tax credit for an equity investment in a community-based seed capital fund *or qualifying business*. See rule 123—2.1(15E) for the discussion of the investment tax credit for an equity investment in a community-based seed capital fund *or an equity investment made on or after January 1, 2004, in a qualifying business*, along with the issuance of tax credit certificates by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a community-based seed capital fund *and equity investments made on or after January 1, 2004, in a qualifying business*, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

ITEM 6. Amend the implementation clause for rule **701—58.11(15E,422)** as follows:

This rule is intended to implement Iowa Code section 15E.43 as amended by 2003 2004 Iowa Acts, ~~chapter 179 Senate File 443~~, and sections 15E.51, 15E.66, 422.11F and 422.60(5).

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for August is 6.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

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

New official state interest rates, effective August 12, 2004, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 0.70%
- 32-89 days Minimum 0.85%
- 90-179 days Minimum 1.05%
- 180-364 days Minimum 1.20%
- One year to 397 days Minimum 1.50%
- More than 397 days Minimum 2.65%

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

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

ARC 3592B

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 Iowa Code sections 17A.3, 17A.4, 476.1, 476.2, 476.27, 476.41, 478.1, 478.7, 478.18 to 478.20, 479.1, 479.5, 479.12, 479.17, 479B.1, 479B.5, and 479B.9, the Utilities Board (Board) gives notice that on July 30, 2004, the Board issued an order in Docket No. RMU-04-6, In re: Revisions and Updates to Pipeline and Electric Line Rules [199 IAC Chapters 10, 11, 13, 15, 19, 20, and 25], “Order Commencing Rule Making.”

The proposed amendments update several references to technical standards, make minor revisions to reflect the Board’s new rules regarding public utility crossings of railroad rights-of-way, correct inconsistencies in the current rules, and reflect new information or requirements, including one statutory change. The order commencing rule making contains a more thorough discussion of the background and reasons for this proposed rule making. The order is available on the Board’s Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before September 7, 2004, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author’s name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to present oral comments on the proposed amendments will be held at 9 a.m. on September 14, 2004, in the Board’s hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 476.27, 476.41, 478.1, 478.7, 478.18 to 478.20, 479.1, 479.5, 479.12, 479.17, 479B.1, 479B.5, and 479B.9.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 199—10.1(479) by adding new subrule 10.1(4) as follows:

10.1(4) Railroad crossings. Where these rules call for the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by a petitioner which states that proper application for approval of railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476), and that 35 days have

UTILITIES DIVISION[199](cont'd)

passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing.

ITEM 2. Amend paragraph **10.2(1)“F”** as follows:

f. Exhibit F. *This exhibit shall contain the following:*

(1) *A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.*

(2) *A general statement covering each of the following topics: the nature of the lands, waters, and public or private facilities to be crossed; the possible use of alternative routes; the relationship of the proposed pipeline to present and future land use and zoning ordinances; and the inconvenience or undue injury which may result to property owners as a result of the proposed project.*

(3) *For an existing pipeline, the year of original construction and a description of any amendments or significant modifications since the last permit action.*

ITEM 3. Amend subrule 10.12(1) as follows:

10.12(1) All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

a. 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through ~~March 13, 2002~~ *[effective date to be inserted]*.

b. 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline; Minimum Federal Safety Standards,” as amended through ~~March 13, 2002~~ *[effective date to be inserted]*.

c. 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through ~~March 13, 2002~~ *[effective date to be inserted]*.

d. ASME B31.8 - 1999 2003, “Gas Transmission and Distribution Piping Systems.”

e. 199 IAC 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”

f. *At railroad crossings, 199 IAC 42.7(476), “Engineering standards for pipelines.”*

Conflicts between the standards established in paragraphs 10.12(1)“a” through “e” “f” or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

ITEM 4. Amend subrule 10.14(2) as follows:

10.14(2) Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on such right-of-way, ~~will not be granted a pipeline permit by the board shall not be constructed~~ unless a showing of consent by the appropriate authority ~~is has been~~ provided by the petitioner (ref: 199—10.2(1)“e”). *as required in paragraph 10.2(1)“e.”*

ITEM 5. Amend rule 199—10.16(479) as follows:

199—10.16(479) When a permit is required. A pipeline permit shall be required for any pipeline which will be operated at a pressure of *over* 150 pounds per square inch gage or more, or which, regardless of operating pressure, is a transmission line as defined in ASME B31.8 or 49 CFR Part 192. Questions on whether a pipeline requires a permit are to be resolved by the board.

ITEM 6. Amend rule 199—10.17(479) as follows:

199—10.17(479) Accidents and incidents. Any pipeline incident or accident which is reportable to the U.S. Department of Transportation under 49 CFR Part 191 as amended through ~~March 13, 2002~~ *[effective date to be inserted]*, shall also be reported to the board, except that the minimum economic threshold of damage required for reporting to the board is \$15,000. Duplicate copies of any written accident reports and safety-related condition reports submitted to the U.S. Department of Transportation shall be provided to the board.

ITEM 7. Amend rule 199—11.1(478) by adding **new** subrule 11.1(8) as follows:

11.1(8) Railroad crossings. Where a petition for temporary construction permit is made as provided for in Iowa Code section 478.31, an affidavit filed by the petitioner which states that proper application for approval of railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476) and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of railroad approval for the crossing.

ITEM 8. Amend subparagraph **11.2(1)“d”(2)** as follows:

(2) If the route or any portion thereof is not near and parallel to roads, railroad right-of-way, or along division lines of the lands, according to government surveys, a showing of why such parallel routing is not practicable or reasonable.

ITEM 9. Amend subrule 11.3(1) as follows:

11.3(1) Forms. The following forms are available from the utilities board, and the appropriate form shall be used when filing any petition. An original and ~~one copy~~ *three copies* of the petition and exhibits shall be filed.

a. to f. No change.

ITEM 10. Amend rule 199—13.1(479B) by adding **new** subrule 13.1(4) as follows:

13.1(4) Railroad crossings. Where these rules call for the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by a petitioner which states that proper application for approval of railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476) and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing.

ITEM 11. Amend paragraph **13.2(1)“F”** as follows:

f. Exhibit F. *This exhibit shall contain the following information:*

(1) *A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.*

(2) *A general statement covering each of the following topics: the nature of the lands, waters, and public or private facilities to be crossed; the possible use of alternative routes; the relationship of the proposed pipeline to present and future land use and zoning ordinances; and the inconvenience or undue injury which may result to property owners as a result of the proposed project.*

(3) *For an existing pipeline, the year of original construction and a description of any amendments or significant modifications since the last permit action.*

ITEM 12. Amend subrule 13.14(2) as follows:

13.14(2) Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on the right-of-way, ~~will not be~~

UTILITIES DIVISION[199](cont'd)

~~granted a pipeline permit by the board shall not be constructed unless a showing of consent by the appropriate authority is has been provided by the petitioner as required in paragraph "e" of subrule 13.2(1)"e."~~

ITEM 13. Amend subrule **15.10(1)** by adding **new** paragraph "**h**" as follows:

h. Standard for Interconnecting Distributed Resources with Electric Power Systems, ANSI/IEEE 1547-2003.

ITEM 14. Amend paragraph **19.2(5)"g"** as follows:

g. Reports to federal agencies. Copies of reports submitted pursuant to 49 CFR Part 191 as amended through ~~February 1, 2003~~ [effective date to be inserted], "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," shall be filed with the board. Utilities operating in *other* states besides Iowa shall provide to the board data for Iowa only.

ITEM 15. Amend subrule 19.5(2) as follows:

19.5(2) Standards incorporated by reference.

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through ~~February 1, 2003~~ [effective date to be inserted].

(2) 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through ~~February 1, 2003~~ [effective date to be inserted].

(3) 49 CFR Part 193, "Liquefied Natural Gas Facilities: Federal Safety Standards," as amended through ~~February 1, 2003~~ [effective date to be inserted].

(4) 49 CFR Part 199, "Drug and Alcohol Testing," as amended through ~~February 1, 2003~~ [effective date to be inserted].

(5) ASME B31.8 ~~1999 2003~~, "Gas Transmission and Distribution Piping Systems."

(6) ANSI/NFPA No. 59-~~2001 2004~~, "Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants."

(7) *At railroad crossings, 199 IAC 42.7(476), "Engineering standards for pipelines."*

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-~~1999 2002~~, "National Fuel Gas Code."

(2) ANSI A225/NFPA 501A-~~2000 2003~~, "Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities."

ITEM 16. Amend subrule 19.6(3) as follows:

19.6(3) Accepted good practice. The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

a. American National Standard for Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Under), ANSI B109.1-2000.

b. American National Standard for Diaphragm Type Gas Displacement Meters (Over 500 Cubic Feet Per Hour Capacity), ANSI B109.2-2000.

c. American National Standard for Rotary Type Gas Displacement Meters, ANSI B109.3-2000.

d. Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-~~1997 1986 (R1997)~~.

e. Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, ~~ANSI/API 2530-1991~~ *API MPMS Chapter 14.3, Parts 1-4*.

ITEM 17. Amend subrule 19.8(3) as follows:

19.8(3) Turning on gas. Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter which is a warning that the customer's piping or appliances are not safe for gas turn on (Ref: Sec. 4.2 and Appendix D, ANSI Z223.1/NFPA 54-~~1999 2002~~).

ITEM 18. Amend rule 199—19.8(476) by adding **new** subrule 19.8(6) as follows:

19.8(6) Burial near electric lines. Each pipeline shall be installed with at least 12 inches of clearance from buried electrical conductors. If this clearance cannot be maintained, protection from damage or introduction of current from an electrical fault shall be provided by other means.

ITEM 19. Amend subrule **20.1(3)**, definition of "transmission line," as follows:

"Transmission line" means any single or multiphase electric power line operating at nominal voltages in excess of either ~~26,000 69,000~~ volts between ungrounded conductors or ~~15,000 40,000~~ volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

ITEM 20. Amend subrule **20.5(2)** by adding **new** paragraph "**j**" as follows:

j. At railroad crossings, 199 IAC 42.6(476), "Engineering standards for electric and communications lines."

ITEM 21. Amend subrule **25.2(2)** by adding **new** paragraph "**g**" as follows:

g. Lines crossing railroad tracks shall comply with the additional requirements of 199 IAC 42.6(476), "Engineering standards for electric and communications lines."

ITEM 22. Amend paragraph **25.2(5)"b"** as follows:

b. "The Lineman's and Cableman's Handbook," ~~Ninth Tenth~~ Edition; Kurtz, Edwin B. and Shoemaker, Thomas M.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the "National Electrical Safety Code" or "National Electrical Code," and for developing the inspection and maintenance plans required by 199 IAC 25.3(476,478).

ITEM 23. Amend subrule 25.3(5) as follows:

25.3(5) Guidelines. Applicable portions of Rural ~~Electrification~~ *Utilities Service (RUS)* Bulletins ~~161-3, 1730-1, 1730B-121, and 165-1 1724E-300~~ and "The Lineman's and Cableman's Handbook" are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-2001, "Pruning," and Section 35 of "The Lineman's and Cableman's Handbook" are suggested as guides for tree trimming practices.

ARC 3591B
ADMINISTRATIVE SERVICES
DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code Supplement sections 8A.104, 8A.203, and 8A.311, the Administrative Services Department hereby rescinds 401—Chapter 5, “Printing Division,” and 471—Chapter 13, “Acquisition of Information Technology Devices and Services”; adopts 11—Chapter 102, “State Printing”; and amends 11—Chapter 105, “Procurement of Goods and Services of General Use,” Iowa Administrative Code.

These amendments incorporate rules on the purchasing of information technology and printing into the Department’s present chapter of rules for procurement of goods and services of general use.

New Chapter 102 addresses services provided by the printing division of the Department’s General Services Enterprise that are not related to procurement. The Department provides printing and procures printing for state agencies. Printing is now offered by the Department as a marketplace service. Consequently, the Department has delegated authority to agencies to either use the services of the Department or procure printing from another source without regard to the \$5,000 threshold which applies to the purchase by agencies of other goods and services of general use. When an agency chooses to procure printing without submitting the order to the Department, the agency shall follow the same rules that apply to procurement by the Department.

In addition, Chapter 105 is amended by providing in rule 11—105.10(8A) certain unique guidelines for contracting for public printing by both the Department and state agencies.

Currently all information technology acquisitions made by or for participating agencies are subject to review and approval by the Department prior to purchase. However, the present approval process allows for certain items on a preapproved software list to be exempted from the prepurchase review and approval process. These amendments instead implement a threshold so that all types of information technology purchases by participating agencies of \$50,000 or more are subject to prepurchase review and approval by the Department to determine the compliance of the procurement with information technology operational standards prescribed by the Department. All purchases of information technology shall be subject to postaudit review by the Department for the compliance of the purchases with standards.

The threshold for requiring direct vendor notification through the vendor on-line system is raised from \$2,500 to \$5,000 to coincide with the increase in the threshold for direct agency purchases. The change provides agencies more flexibility by allowing bidding by vendors that may have not yet registered with the vendor on-line system.

Subrule 105.5(1) is amended to implement 2004 Iowa Acts, House File 2520, signed by the Governor on April 7, 2004, and effective July 1, 2004. 2004 Iowa Acts, House File 2520, amends Iowa Code section 73.1 to ensure that Iowa-based companies are not excluded from the request for proposal process.

Notice of Intended Action was published in the June 9, 2004, Iowa Administrative Bulletin as **ARC 3415B**. There was a public hearing on June 29, 2004. No persons appeared at the hearing, although other input was received during the

comment period and has been taken into consideration. Changes to the Notice were made as follows:

- In rule 105.2(8A), the definition of “material modification” was added to clarify when a change to an approved purchase must be submitted for review and approval. The definition now reads as follows:

“‘Material modification’ relating to an approved IT procurement means a change in the procurement of 10 percent or \$25,000, whichever is more, or a change of sufficient importance or relevance so as to have possible significant influence on the outcome.”

- The word “operational” was added to paragraph 105.10(1)“a” to clarify the type of standards that must be met by participating agency IT procurements. The paragraph now reads as follows:

“a. All procurement of information technology devices and services must meet operational standards prescribed by the department.”

- In paragraph 105.10(1)“b,” the word “all” was added, and the paragraph now reads as follows:

“b. Procurement of all information technology devices and services of \$50,000 or more must receive prior approval from the department of administrative services, information technology enterprise (DAS/ITE), before a participating agency issues a competitive selection document or any other procurement document or otherwise seeks to procure information technology devices or services or both through the department or on its own purchasing authority. The agency’s approval request shall be in a form prescribed by the department.”

- In paragraph 105.10(2)“k,” the Web address was changed and the word “approved” was deleted to clarify that the Department will no longer use lists of preapproved IT goods and services to create exemptions from the IT procurement preapproval process. The paragraph now reads as follows:

“k. The department shall establish and maintain a Web page (http://www.iowa.gov/government/ite/standards/enterprise_it/itprocurement.html) of current operational standards for information technology devices and services. The Web page shall be updated from time to time with additions, deletions and modifications.”

- Subrule 105.12(6) was clarified by omitting the word “new,” as some purchases made involving trade-ins may not be for new items. The purchase may be for an item that has been formerly leased by the state. The subrule now reads as follows:

“**105.12(6) Trade-ins.** When applicable and in the best interest of the state, the department may trade in devices or services to offset the cost of devices or services in a manner consistent with procurement practices to ensure accountability with the state’s fixed asset inventory system.”

- Paragraph 105.15(5)“a” was modified to clarify that master contracts are to be used by state agencies, and the paragraph now reads as follows:

“a. Purchasing authority delegated to agencies shall not be used to avoid the use of master agreements. Because it is cost-effective to purchase a good or service of general use from a master agreement, the agency shall do so. The agency shall not break purchasing into smaller increments for the purpose of avoiding threshold requirements in subrules 105.15(1) and 105.15(2).”

These amendments will become effective on September 22, 2004.

These amendments are intended to implement Iowa Code Supplement sections 8A.201 to 8A.203, 8A.206, 8A.207,

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

8A.301, 8A.302, 8A.311, and 8A.341 to 8A.345, Iowa Code section 618.11 and 2004 Iowa Acts, House File 2520.

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 [rescind 401—Ch 5 and 471—Ch 13; adopt 11—Ch 102; amend 11—105.1 to 105.20] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3415B**, IAB 6/9/04.

[Filed 7/30/04, effective 9/22/04]
[Published 8/18/04]

[For replacement pages for IAC, see IAC Supplement 8/18/04.]

ARC 3583B

ARCHITECTURAL EXAMINING BOARD[193B]

Adopted and Filed

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby amends Chapter 2, "Registration," Iowa Administrative Code.

The amendment to Chapter 2 clarifies the Board's processes for reinstatement of a lapsed registration and the continuing education hours required for reinstatement.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3394B** on June 9, 2004. Two changes were made to the Notice. Paragraphs 2.6(1)"b" and 2.6(2)"b" are identical and were changed to read as follows:

"b. Option 2. The individual shall:

"(1) File a new application for registration prescribed in rules 193B—2.2(544,17A) and 193—2.3(544A,17A), particularly subrules 2.2(1) and 2.3(3); and

"(2) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant."

The Board approved the amendment on July 15, 2004. This amendment will become effective September 22, 2004.

This amendment is intended to implement Iowa Code chapters 17A and 544A.

The following amendment is adopted.

Rescind rule 193B—2.6(544A,17A) and adopt the following **new** rule in lieu thereof:

193B—2.6(544A,17A) Reinstatement. An individual may reinstate a lapsed certificate of registration as follows:

2.6(1) If the individual's registration has been lapsed for up to 24 months, the individual may reinstate the registration by selecting either Option 1 or Option 2 as follows:

a. Option 1. The individual shall:

(1) Pay the reinstatement fee of \$25 per month of expired registration;

(2) Pay the current renewal fee;

(3) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with

which the applicant had involvement and shall explain the service provided by the applicant; and

(4) Submit documented evidence of completion of 12 contact hours (8 hours in public protection subjects) of continuing education requirements for each year of expired registration in compliance with requirements in 193B—Chapter 3 in addition to the 24 hours (16 hours in public protection subjects) which should have been reported on the June 30 renewal date on which the applicant failed to renew. The continuing education hours used for reinstatement may not be used again at the next renewal.

b. Option 2. The individual shall:

(1) File a new application for registration as prescribed in rules 193B—2.2(544A,17A) and 193B—2.3(544A,17A), particularly subrules 2.2(1) and 2.3(3); and

(2) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

2.6(2) If an individual's registration has been lapsed for more than 24 months, the individual may reinstate the registration by selecting either Option 1 or Option 2 as follows:

a. Option 1. The individual shall:

(1) Pay the reinstatement fee of \$25 per month of expired registration, up to a maximum of \$750;

(2) Pay the current renewal fee;

(3) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant; and

(4) Submit documented evidence of completion of 12 contact hours (8 hours in public protection subjects) of continuing education requirements for each year of expired registration in compliance with requirements in 193B—Chapter 3 up to a maximum of 48 contact hours (32 hours in public protection subjects). The continuing education hours used for reinstatement may not be used again at the next renewal.

b. Option 2. The individual shall:

(1) File a new application for registration as prescribed in rules 193B—2.2(544A,17A) and 193B—2.3(544A,17A), particularly subrules 2.2(1) and 2.3(3); and

(2) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

[Filed 7/21/04, effective 9/22/04]

[Published 8/18/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/18/04.

ARC 3588B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.133 and 459.207, the Environmental Protection Commission hereby adopts new Chapter 32, "Animal Feeding Operations Field Study," Iowa Administrative Code.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

In recent years, livestock production in Iowa has involved fewer farms with more animals produced at each farm. As the number of animals at a given farm has increased, so have the air emissions from these farms, including odor, ammonia, and hydrogen sulfide. Some of the rural neighbors of animal feeding operations have expressed concern that the increasing amount of air contaminants present at their homes and on their property is decreasing their quality of life.

In January 2001, the Department was asked to consider developing an air pollution control program to limit the air contaminants emitted by animal feeding operations. In June 2001, Governor Vilsack asked a panel of experts from the University of Iowa and Iowa State University to consider which pollutants from animal feeding operations should be regulated and to propose health emissions standards. Until 2002, the Iowa General Assembly had directed the Department to regulate air emissions from animal feeding operations by establishing setback distances applicable to application of manure and the construction of new animal feeding operations. The construction rules specified setback distances between manure storage structures at animal feeding operations and nearby residences, churches, schools, businesses, and public use areas. In 2002, following publication of the University Study requested by Governor Vilsack, the Iowa General Assembly directed the Department to conduct a field study to measure levels of odor, ammonia, and hydrogen sulfide. The legislation gave the Department the authority to establish air pollution control requirements for animal feeding operations provided that air pollution levels measured at "separated locations" (objects or locations requiring setback distances under existing legislation) exceeded commonly accepted health standards.

The Department currently is conducting a monitoring study to measure hydrogen sulfide and other air pollutants emitted by animal feeding operations, as required by Iowa Code section 459.207. This rule making establishes the conditions for evaluating the hydrogen sulfide data obtained from the field study in order to establish whether development of additional plans and programs for abatement of hydrogen sulfide emissions from animal feeding operations is necessary.

Direction to the Department regarding the development of comprehensive plans and programs to regulate atmospheric emissions from animal feeding operations is provided in Iowa Code section 459.207. The Department must conduct a field study in which concentrations of ammonia, hydrogen sulfide and odors are measured. The Department may develop comprehensive plans and programs if the field study demonstrates to a reasonable degree of scientific certainty that airborne pollutants emitted by an animal feeding operation are present at a separated location at levels commonly known to cause a material and verifiable adverse health effect.

This rule making establishes an animal feeding operations "health effects value" (HEV) and a "health effects standard" (HES) for hydrogen sulfide. The HEV represents a level commonly known to cause a material and verifiable adverse health effect. The Department adopts a level for hydrogen sulfide of 30 parts per billion (ppb) averaged over one hour. The HES represents a level to determine if the baseline data from the field study date indicates a need to develop plans and programs to mitigate hydrogen sulfide emissions from animal feeding operations. The Department adopts a level of 30 parts per billion (ppb) daily maximum one-hour average, not to be exceeded more than seven days in one year. These values are applicable to animal feeding operations only. The HEV is based on recommendations from the Iowa Depart-

ment of Public Health and standards from the state of California.

This rule making also establishes an Iowa Air Sampling Manual that will be incorporated by reference in 567—Chapter 32. This manual contains monitor siting requirements, data handling procedures, approved monitoring methods and equipment, quality assurance requirements, and requirements for public availability of data required to implement the HEV and HES for hydrogen sulfide. The manual will not be published in the Iowa Administrative Code, but will be available from the Department upon request.

Iowa Code section 459.207 is structured such that the Department has to establish the level of an airborne pollutant commonly known to cause a material and verifiable adverse health effect and demonstrate that the level is being exceeded at a separated location before plans and programs to regulate emissions of airborne pollutants can be developed. This mandated sequential approach to regulating air emissions from animal feeding operations does not allow for the development and notice of a rule making that would thoroughly outline proposed plans and programs to regulate air emissions from animal feeding operations. Proposed plans and programs, if necessary, will be the subject of future rule makings. The Department will regulate hydrogen sulfide emissions from animal feeding operations by species type if the comparison of the field study monitoring data for the animal species in question to the HES established by this rule making triggers the need for plans and programs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 7, 2004, as **ARC 3092B**. An Amended Notice of Intended Action to add another public hearing was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3261B**. An informational meeting was held December 12, 2003, and seven public hearings were held in accordance with Iowa Code chapter 17A. This amendment has been modified from that published under the Notice of Intended Action based on the public comments received.

Comments were submitted orally or in writing during the public hearings. All comments were received between January 7, 2004, and April 8, 2004.

As part of its review procedure, the Department issued a responsiveness summary containing the Department's response to the comments. The summary also explains the Department's rationale for changes made to the proposed amendments.

In response to public comment, the Department made modifications to the proposed amendments. These modifications are summarized below.

Chapter 32 establishes a health effects value for hydrogen sulfide, establishes conditions for the development of additional air pollution control programs based on the results of the field study mandated by Iowa Code section 459.207, and requires that hydrogen sulfide be measured using the methods and procedures indicated in the Department's Iowa Air Sampling Manual. The chapter also contains definitions of "health effects standard," "health effects value" and "separated location." The HEV and HES are to be used as a "bar" to evaluate data obtained in the animal feeding operations field study to determine if a material and verifiable adverse health effect exists at a separated location.

General. The rule making has been reorganized to both improve clarity and define the scope. Specifically, the changes include:

1. Changing the title of Chapter 32 from "Health Effects Value (HEV)" to "Animal Feeding Operations Field Study"

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

to clarify that the HEV and HES will be used only for the duration of the animal feeding operations field study.

2. Omitting proposed text in 32.1(1), 32.1(2), and 32.2(1) and adopting new text in 32.1(455B), 32.3(455B) and 32.4(455B) to clarify the purpose and scope of the field study and more clearly define the conditions necessary to trigger comprehensive plans and programs.

3. Omitting text in 32.2(2) that references December 1, 2004, in order to eliminate confusion between the rule and Iowa Code section 459.207. However, the Department shall not enforce an air quality standard prior to December 1, 2004.

HEV. The level of the HEV was changed to 30 ppb (one-hour average) to directly relate the HEV to public health data. The Iowa Air Sampling Manual was modified accordingly. The level of the HEV was changed to 30 ppb based on public comment, recommendations from the Iowa Department of Public Health, and public health data from the state of California.

HES. The level of the HES was changed to 30 ppb to reflect changes in the HEV. The Iowa Air Sampling Manual was modified accordingly. The provision allowing seven days during which the HEV may be exceeded before a violation of the HES occurs was retained.

Monitor siting. The Iowa Air Sampling Manual was revised so that sites eligible for comparison with the HES must meet standard EPA siting criteria, must be located within 100 meters of a separated location, and must be outside of the legally required separation distance.

Definitions. The definitions will be placed into Chapter 32 instead of Chapter 20 of the Iowa Administrative Code, as was proposed in the Notice. The definitions of "health effects standard" and "health effects value" remain as presented in the Notice, but the definition of "separated location" has been changed to reference Iowa Code sections 455B.134, 459.202, and 459.204 in order to include all separated locations defined in statute.

This amendment is intended to implement Iowa Code sections 455B.133 and 459.207.

This amendment is not subject to waiver.

This amendment shall become effective September 22, 2004.

The following amendment is adopted.

Adopt the following **new** chapter.

CHAPTER 32

ANIMAL FEEDING OPERATIONS FIELD STUDY

567—32.1(455B) Animal feeding operations field study. The department shall conduct a field study to measure the levels of hydrogen sulfide, ammonia and odor near animal feeding operations as defined in 567—65.1(455B).

567—32.2(455B) Definitions. For the purposes of this chapter, the following terms shall have the meaning indicated in this rule.

"Health effects standard" means the level of an airborne pollutant required to trigger plans and programs to abate emissions of airborne pollutants.

"Health effects value" means the level of an airborne pollutant commonly known to cause a material and verifiable adverse health effect.

"Separated location" means a location or object from which a separation distance is required under Iowa Code sections 455B.134, 459.202 or 459.204, other than a public thoroughfare.

567—32.3(455B) Exceedance of the health effects value (HEV) for hydrogen sulfide. The health effects value for hydrogen sulfide is exceeded at a monitoring site when the one-hour average concentration exceeds 30 ppb.

567—32.4(455B) Exceedance of the health effects standard (HES) for hydrogen sulfide. The health effects standard for hydrogen sulfide is exceeded at a monitoring site when the daily maximum one-hour average concentration exceeds 30 ppb more than seven times per year. The department shall develop plans and programs to abate hydrogen sulfide emissions from animal feeding operations if hydrogen sulfide levels measured at a separated location exceed the health effects standard for hydrogen sulfide.

567—32.5(455B) Iowa Air Sampling Manual. Monitor siting requirements, data handling procedures, approved monitoring methods and equipment, quality assurance requirements, and requirements for public availability of the data for determining compliance with the HEV or HES for hydrogen sulfide shall be in accordance with the Iowa Air Sampling Manual* adopted by the commission on July 19, 2004, and adopted by reference herein.

These rules are intended to implement Iowa Code sections 459.207 and 455B.133.

*Available from the department.

[Filed 7/29/04, effective 9/22/04]

[Published 8/18/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/18/04.

ARC 3589B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.304 and 455D.6(6), the Environmental Protection Commission hereby amends Chapter 118, "Discarded Appliance Demanufacturing," Iowa Administrative Code.

The rules being amended make Chapter 118 consistent with federal regulations and clarify the intent of the chapter. The changes include:

- Requiring as part of the permit application documentation that shows that the facility meets local zoning requirements.
- Striking the requirement that all generators of sodium chromate obtain an EPA identification number.
- Correcting references to the Code of Federal Regulations.
- Removing the provision that allows for the storage of mercury for one year.

Notice of Intended Action was published in the May 12, 2004, Iowa Administrative Bulletin as **ARC 3359B**. A public hearing was held on June 2, 2004. At the hearing, two persons commented on the proposed amendments. The Department made one change as a result of those comments. The proposed amendment to rule 118.6(455B,455D) that would have allowed an appliance demanufacturer to obtain a permit, with conditions, prior to completing a Department-approved training course was omitted.

These amendments are intended to implement Iowa Code chapter 455B, division IV, part 1, and section 455D.6(6).

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

These amendments shall become effective September 22, 2004.

The following amendments are adopted.

ITEM 1. Amend rule **567—118.3(455B,455D)**, definition of “appliances,” as follows:

“Appliances” means devices such as refrigerators, freezers, kitchen ranges, air-conditioning units, dehumidifiers, gas water heaters, furnaces, thermostats, clothes washers, clothes dryers, dishwashers, microwave ovens and commercial coolers with components containing mercury, refrigerants, or PCB-containing capacitors that are discarded from all sources.

ITEM 2. Amend subrule 118.5(3) as follows:

118.5(3) An applicant must establish a unique marking system, to be submitted with the permit application for DNR approval, signifying that all refrigerants, PCBs, and mercury-containing components have been removed. The unique marking system must be a minimum of nine inches square by nine inches and must be applied to the appliances after demanufacturing.

ITEM 3. Amend subrule **118.7(1)** by adding **new** paragraph “o” as follows:

o. Documentation that a permanent facility meets local zoning requirements.

ITEM 4. Amend subrule **118.9(6)**, paragraph “g,” as follows:

g. Persons generating sodium chromate waste must obtain an EPA identification number and maintain records to determine if they are a *conditionally exempt small-quantity generator*, *small-quantity generator*, or *large-quantity hazardous waste generators based on a yearly accumulation generator of hazardous waste*.

ITEM 5. Amend subrule 118.10(2) as follows:

118.10(2) All mercury-containing component storage containers must be labeled with the proper EPA-approved mercury label stating “mercury” or “hazardous waste” (49 CFR Part 262.34(a)(2) and (3)) in both English and the predominant language of any non-English-reading workers. In addition to the label, the date when the first mercury-containing component was placed in the container must be affixed on the container (40 CFR Part 162). ~~Storage of mercury is limited to one year after which it must be transported to an EPA-approved recycler.~~

ITEM 6. Amend rule 567—118.10(455B,455D) by adding **new** subrule 118.10(6) as follows:

118.10(6) All mercury-containing components must be managed in accordance with all state and federal regulations.

ITEM 7. Amend subrule **118.13(1)**, paragraph “a,” as follows:

a. The name of the facility or facilities to which demanufactured appliances were shipped, the date of each shipment, the weight or number of appliances in each shipment and the name and address of the transporter.

[Filed 7/29/04, effective 9/22/04]

[Published 8/18/04]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/18/04.

ARC 3587B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455D.6(7) and 455B.304(1), the Environmental Protection Commission hereby adopts new Chapter 122, “Cathode Ray Tube Device Recycling,” Iowa Administrative Code.

These rules are intended to satisfy Iowa Code section 455D.6(7), in which the Legislature directed the Department to propose rules for the recycling of electronics and the disassembly and removal of toxic parts from electronics.

The new rules were written by the Department with the input of a 19-member advisory committee. The advisory committee consisted of electronics recyclers, the Iowa Recycling Association (IRA), the Iowa Society of Solid Waste Operations (ISOSWO), the Association of Business and Industry (ABI), local government officials, and a representative from U.S. EPA Region 7.

Notice of Intended Action was published in the May 12, 2004, Iowa Administrative Bulletin as **ARC 3358B**.

A public hearing was held on June 1, 2004. At the hearing, one person submitted comments on the proposed rules. The Department made some changes to the adopted rules pursuant to those comments. The changes pertain to renaming the chapter and clarifying definitions and terms.

These rules are intended to implement Iowa Code sections 455D.6(7) and 455B.304(1).

These rules shall become effective September 22, 2004.

The following **new** chapter is adopted.

CHAPTER 122

CATHODE RAY TUBE DEVICE RECYCLING

567—122.1(455B,455D) Purpose. These rules are intended to satisfy the requirements of Iowa Code sections 455D.6(7) and 455B.304(1). The purpose of this chapter is to implement rules for the recycling of discarded CRTs and the disassembly and removal of toxic parts from discarded CRTs in a manner that is safe for human health and the environment.

567—122.2(455B,455D) Applicability and compliance.

122.2(1) This chapter applies to facilities that perform CRT recycling functions, including but not limited to the collection, refurbishing, demanufacturing, and processing of discarded CRTs.

122.2(2) This chapter does not apply to facilities solely engaged in CRT reuse activities. This chapter does not apply to businesses solely engaged in CRT service and repair. This chapter does not apply to batteries, circuit boards, CRTs, mercury-containing components, or PCB capacitors removed during the maintenance or service of equipment containing such items.

122.2(3) These rules do not pertain to appliance demanufacturing. For rules pertaining to appliance demanufacturing, see 567—Chapter 118.

122.2(4) The issuance of a permit by the department in no way relieves the applicant of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules or other requirements applicable to the construction and operation of a CRT recycling facility.

122.2(5) CRT recycling facilities and CRT collection facilities in operation before September 22, 2004, shall apply for a permit within 90 days of September 22, 2004. CRT re-

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

cycling facilities and CRT collection facilities in operation before September 22, 2004, shall comply with these rules or close within one year of September 22, 2004.

567—122.3(455B,455D) Definitions. In addition to the definitions set out in Iowa Code section 455B.301, which shall be considered to be incorporated by reference in these rules, the following definitions shall apply:

“Battery” means a device consisting of one or more electrically connected electrochemical cells, which is designed to receive, store, and deliver electric energy.

“Broken CRT” means a CRT that has had the glass broken or the vacuum released. “Broken CRT” does not include a CRT that is intact but not functional.

“Capacitor” means a device for accumulating and holding a charge of electricity that consists of conducting surfaces separated by a dielectric fluid. For the purposes of this chapter, “capacitor” does not include dry-cell capacitors.

“Cathode ray tube” and its abbreviation “CRT” mean a vacuum tube composed primarily of leaded glass and used to convert an electrical signal into a visual image.

“CFR” means Code of Federal Regulations.

“Circuit board” means a board in a computer or electronic good that holds integrated circuits and other electronic components.

“CRT collection” means any activity by a CRT recycling facility or CRT collection facility involving the collection of discarded CRTs.

“CRT collection facility” means a site where ongoing CRT collection is the only CRT recycling activity performed.

“CRT demanufacturing” means any activity involving the disassembly of discarded CRTs.

“CRT device” means any device that contains a CRT. Examples of a CRT device include, but are not limited to, computer monitors, televisions, some cash registers, and oscilloscopes.

“CRT fluff” means the residual waste from the shredding of discarded CRTs.

“CRT glass” means any glass generated from CRTs.

“CRT processing” means any activity that processes discarded CRTs into raw materials.

“CRT recycling” means any process by which discarded CRTs or electronic materials that would otherwise become waste are collected, processed, and returned to use in the form of raw materials or products. CRT recycling includes, but is not limited to, CRT demanufacturing, CRT processing, and CRT refurbishing.

“CRT recycling facility” means a site where CRT recycling takes place.

“CRT refurbishing” means any activity that repairs and rebuilds discarded CRTs, so that they may be used for their original intended purpose.

“CRT reuse” means any activity involving the donation or sale of discarded CRTs for their original intended purpose provided that the CRT devices are in good working order and do not require refurbishment.

“CRT reuse facility” means a facility where CRT reuse occurs and the only CRTs accepted are those in good working order, and the CRTs are sold or donated without being refurbished.

“Discarded” means no longer to be used for the original intended purpose and means the letting go or throwing away of materials that have become useless or superfluous though often not intrinsically valueless. CRTs that are returned to the original owner are not “discarded.”

“Discarded CRT” means a cathode ray tube or CRT device that has been discarded.

“DOT-approved container” means those containers approved by the U.S. Department of Transportation for shipping hazardous materials in the United States.

“Hazardous condition” means any situation involving the actual, imminent or probable release of a hazardous substance onto the land, into a water of the state, or into the atmosphere which, because of the quantity, strength or toxicity of the hazardous substance, its mobility in the environment and its persistence in the environment, creates an immediate or potential danger to the public health or safety, or to the environment.

“Mercury-containing components” means devices, other than batteries, containing a regulated amount of mercury.

“PCB” or “PCBs” means polychlorinated biphenyl, which is a chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees, or any combination of such substances.

“Short-term CRT collection” means any temporary activity involving the collection of discarded CRTs, which is not on the premises of a CRT recycling facility or CRT collection facility, and in which all discarded CRTs that have been collected are transported to a properly permitted CRT recycler or CRT reuse facility.

567—122.4(455B,455D) Short-term CRT collection notification. An entity conducting a short-term CRT collection event is encouraged to notify the local solid waste agency, the department field office with jurisdiction over the collection area, and the department at least 30 days prior to the event.

567—122.5(455B,455D) Operational requirements for short-term CRT collection. All short-term CRT collection shall be done in a manner that complies with the following requirements. So long as this rule is complied with, the only rules within this chapter that shall apply to the activity are rules 122.1(455B,455D) to 122.4(455B,455D) and this rule.

122.5(1) Event organizers shall work with and transport all discarded CRTs to a properly permitted CRT recycler or CRT reuse facility.

122.5(2) CRT glass and CRTs that show evidence of breakage, leakage, or damage that could cause the release of lead or other hazardous constituents into the environment shall be collected in enclosed and separate containers from other discarded CRTs. Such containers shall be protected from precipitation.

122.5(3) Litter shall be contained.

567—122.6(455B,455D) CRT recycling permits.

122.6(1) Permit required. A CRT recycling facility or CRT collection facility shall not be constructed or operated without a permit from the department.

122.6(2) CRT recycling permit exemption. If a CRT recycling facility or CRT collection facility is located at a permitted recycling or composting facility or sanitary disposal project, it shall not require its own permit; instead, the CRT recycling activities shall be amended into the host facility’s permit.

122.6(3) Construction and operation. CRT recycling facilities and CRT collection facilities shall be constructed and operated according to the plans and specifications approved by the department and the conditions of the permit. The approved plans and specifications shall constitute a condition of the permit.

122.6(4) Transfer of title and permit. If title to a CRT recycling facility or CRT collection facility is transferred, then the department shall transfer the permit within 60 days if the department has found that the following requirements have been met:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

a. The title transferee has applied in writing to the department to request a transfer of the permit within 30 days of the transfer of title.

b. The permitted facility is in compliance with Iowa Code chapters 455B and 455D, these rules and the conditions of the permit.

122.6(5) Permit conditions. Any permit may be issued subject to conditions specified in writing by the department that are necessary to ensure that the facility is constructed and operated in compliance with Iowa Code chapters 455B and 455D and these rules.

122.6(6) Effect of revocation. If a permit held by any public or private agency is revoked by the director, then no new permit shall be issued to that agency for that CRT recycling facility for a period of one year from the date of revocation. Such revocation shall not prohibit the issuance of a permit for the facility to another public or private agency.

122.6(7) Inspection prior to commencing new operation. The department shall be notified when the construction of a new facility has been completed. No discarded CRTs shall be accepted by the facility until it has been inspected and approved by the department or until 30 days have passed from the date of permit issuance and no inspection has been performed by the department.

122.6(8) Duration and renewal of permits. A permit shall be issued and may be renewed for a period of three years, unless otherwise authorized by the department.

122.6(9) Request and approval of permit renewal. A request for permit renewal shall be in writing and shall be filed at least 90 days before the expiration of the current permit by submitting Form 50 (542-1542) to the department. The department may request that additional information be submitted for review to make a permit renewal decision. The department shall renew the permit if, after a review and inspection of the facility and its compliance history, the department finds that the facility is in compliance with Iowa Code chapters 455B and 455D, these rules and the conditions of the permit, and is making a good-faith effort to maintain compliance. If the facility is found not to be in compliance with Iowa Code chapters 455B and 455D, these rules, and the conditions of the permit or if a good-faith effort to maintain compliance is not being made, the facility shall be brought into compliance or placed on a compliance schedule approved by the department before the permit is renewed.

122.6(10) Request for permit modification. A request for permit modification shall be submitted in writing to the department with supporting documentation and materials. The department may request that additional information be submitted for review to make a permit modification decision.

567—122.7(455B,455D) Permit application requirements for CRT collection facilities. An applicant for a CRT collection facility permit must submit the following information to the department:

122.7(1) The name, address, and telephone number of:

- a. The owner of the site where the collection project will be located.
- b. The permit applicant.
- c. The site where the collection project will be located.
- d. The individual responsible for the operation of the collection project.

122.7(2) Proof of the applicant's ownership of the site or legal entitlement to use the site for CRT collection.

122.7(3) Documentation that the facility meets local zoning requirements.

122.7(4) Days and hours of operation of the site.

122.7(5) The service area of the facility.

122.7(6) Area and estimated population to be served by the CRT collection facility.

122.7(7) A description of how the site and discarded CRTs will be secured.

122.7(8) Site plans, including floor plans of buildings where discarded CRTs will be collected and stored. Semi-trailers may also be utilized.

122.7(9) The name(s) of the CRT recycling facility or facilities serving the applicant.

567—122.8(455B,455D) Operational requirements for CRT collection facilities. All CRT collection shall be done in a manner that complies with the following requirements. So long as this rule is complied with, the only rules within this chapter that shall apply to the permitted activity are rules 122.1(455B,455D) to 122.3(455B,455D), 122.6(455B, 455D), 122.7(455B,455D), 122.9(455B,455D), 122.10(455B,455D), and this rule.

122.8(1) Collection activities for discarded CRTs shall occur in an area and through a process that minimizes the risk of hazardous conditions.

122.8(2) Any hazardous condition shall immediately be contained and remedied with proper equipment and procedures.

122.8(3) Discarded CRTs shall be collected and contained in a manner that is structurally adequate to prevent breakage and spillage under normal operating conditions, and that is compatible with the contents.

122.8(4) CRT glass and CRTs that show evidence of breakage, leakage, or damage that could cause the release of lead or other hazardous constituents into the environment shall be collected in enclosed and separate containers from other discarded CRTs. Such containers shall be protected from precipitation.

122.8(5) A CRT recycling facility may store discarded CRTs and materials derived from discarded CRTs outdoors if the following conditions are met:

- a. The facility has a stormwater permit, if applicable.
- b. The material is not harboring or attracting vectors.
- c. Litter is contained within the storage area or unit.
- d. The discarded CRTs and materials derived from discarded CRTs are not broken CRTs or CRT glass.

122.8(6) Discarded CRTs and materials derived from discarded CRTs shall not be speculatively accumulated. Speculative accumulation occurs when a facility cannot demonstrate that the amount of discarded CRTs and materials derived from discarded CRTs leaving the facility within a 12-month time period is greater than 75 percent, by weight or volume, of the discarded CRTs and materials derived from discarded CRTs received by the facility within a 12-month time period.

122.8(7) Containers or packages shall be labeled and transported in compliance with state and federal Department of Transportation (DOT) regulations.

567—122.9(455B,455D) Reporting requirements for CRT collection facilities. A CRT collection facility shall maintain copies of all invoices received from CRT recycling facilities to which discarded CRTs have been transported for each calendar year and report this information to the department within 30 days of the end of that calendar year.

567—122.10(455B,455D) Record-keeping requirements for CRT collection facilities. All CRT collection facilities shall maintain the following records, on a calendar-year basis, for three years:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

122.10(1) The name and address of the facility receiving a shipment that left the CRT collection facility, and contact information for that facility.

122.10(2) The type of service the receiving facility will provide to the CRT collection facility.

122.10(3) A description of the shipment contents.

122.10(4) All bills of lading.

122.10(5) All hazardous waste manifests.

567—122.11(455B,455D) CRT recycling facility permit application requirements.

122.11(1) A CRT recycling facility permit applicant shall submit the following permit application information to the department:

a. The name, address, and telephone number of:

(1) The owner of the site where the project will be located.

(2) The permit applicant.

(3) The individual responsible for the operation of the project.

(4) The professional engineer (P.E.) licensed in the state of Iowa and retained for the design of the facility, if any.

(5) The agency to be served by the project, if any.

(6) The responsible official of the agency to be served, if any.

b. A legal description of the site, and any collection sites if separate from the main facility.

c. A map or aerial photograph locating the boundaries of the site and identifying:

(1) North and other principal compass points.

(2) Zoning and land use within 250 feet of the property boundary.

(3) Homes and buildings within 250 feet of the property boundary.

(4) Section lines or other legal boundaries.

(5) The 100-year flood plain pursuant to rule 122.12(455B,455D).

d. Proof of the applicant's ownership of the site or legal entitlement to use the site for CRT recycling.

e. Documentation that the facility meets local zoning requirements.

f. Days and hours of operation of the site.

g. The service area of the facility.

h. The type, source, and number or weight of discarded CRTs expected to be handled each year.

i. A description of the CRT recycling process to be used, such as collection, demanufacturing, processing, reuse, refurbishing, or a combination thereof.

j. Site plans detailing how the site will comply with rule 122.13(455B,455D), including floor plans of buildings where discarded CRTs will be handled and the location within each building for specific recycling activities.

k. A plan of operations detailing how the site will comply with rules 122.14(455B,455D) to 122.22(455B,455D).

l. An emergency response and remedial action plan (ERRAP) pursuant to rule 122.23(455B,455D).

m. A reporting plan detailing how the site will comply with rule 122.25(455B,455D).

n. A closure plan detailing how the site will comply with rule 122.27(455B,455D).

122.11(2) If the department finds the permit application information to be incomplete, it shall notify the applicant of that fact and of the specific deficiencies. If the deficiencies are not corrected within 30 days, the department shall return the application materials to the applicant. The applicant may reapply without prejudice.

567—122.12(455B,455D) Site requirements for CRT recycling facilities. A CRT recycling facility shall not be located within a 100-year flood plain.

567—122.13(455B,455D) Design requirements for CRT recycling facilities. A CRT recycling facility shall be designed and constructed to meet the following requirements:

122.13(1) CRT recycling facilities shall be enclosed by walls, a roof, and a floor satisfactory to:

a. Prevent litter from exiting the building.

b. Keep precipitation out of the building.

122.13(2) A CRT recycling facility shall maintain a separation between stormwater and liquids generated inside the building.

122.13(3) Discarded CRTs shall be demanufactured and processed in an area where hazardous materials can be contained.

122.13(4) A sign shall be posted at the primary entrance to the facility. The sign shall be a minimum of $8\frac{1}{2} \times 11$ inches and visible from the outside of the building at approximately eye level. The lettering shall be a minimum of 1-inch high and state the following information:

a. Name and permit number of facility.

b. Telephone number of emergency contact person(s).

122.13(5) A CRT recycling facility may store discarded CRTs and materials derived from discarded CRTs outdoors if the following conditions are met:

a. The facility has a stormwater permit, if applicable.

b. The material is not harboring or attracting vectors.

c. Litter is contained within the storage area or unit.

d. The discarded CRTs and materials derived from discarded CRTs are not broken CRTs or CRT glass.

567—122.14(455B,455D) Operational requirements for permitted CRT recycling facilities.

122.14(1) Collection requirements for CRTs. All discarded CRTs coming into the CRT recycling facility shall be collected in a manner that complies with the following requirements:

a. Collection activities for discarded CRTs shall occur in an area and through a process that minimizes the risk of hazardous conditions.

b. Discarded CRTs shall be collected and contained in a manner that is structurally adequate to prevent breakage and spillage under normal operating conditions, and that is compatible with the contents.

c. CRT glass and CRTs that show evidence of breakage, leakage, or damage that could cause the release of lead or other hazardous constituents into the environment shall be collected in enclosed and separate containers from other discarded CRTs.

122.14(2) Transportation requirements for CRTs. All discarded CRTs leaving the CRT recycling facility shall be transported in a manner that complies with the following requirements:

a. Discarded CRTs shall be transported in a contained manner that is structurally adequate to prevent breakage and spillage under normal operating conditions, and that is compatible with the contents.

b. Containers or packages shall be labeled. Labeling shall specify the contents (e.g., CRTs, nonintact CRTs), point of origin, destination, and shipment date.

c. CRT glass and CRTs that show evidence of breakage, leakage, or damage that could cause the release of lead or other hazardous constituents into the environment shall be transported in enclosed and separate containers from other discarded CRTs.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

d. Discarded CRTs shall be transported in compliance with state and federal Department of Transportation (DOT) regulations.

122.14(3) General operating requirements. All CRT recycling facilities shall comply with the following requirements:

a. CRT refurbishing, CRT demanufacturing, and CRT processing shall be done in a specifically designated location within a facility.

b. Working conditions shall be in compliance with state and federal worker safety requirements.

567—122.15(455B,455D) Further requirements for batteries for CRT recycling facilities.

122.15(1) CRT recycling facilities shall manage waste batteries derived from discarded CRTs in a manner that prevents release of any hazardous material into the environment.

122.15(2) Any battery that shows evidence of leakage, spillage, or damage that could cause a release of hazardous material into the environment must be contained in a container that is compatible with the contents of the battery.

122.15(3) All batteries must be managed in accordance with all state and federal regulations.

567—122.16(455B,455D) Further requirements for circuit boards for CRT recycling facilities.

Spent circuit boards are regulated as scrap metal when recycled and stored in containers sufficient to prevent a release into the environment and the circuit board contains only minor battery or mercury switching components. If minor batteries and mercury switching components are removed, the minor batteries or mercury switching components may be universal waste under 40 CFR Part 273 or a hazardous waste under 40 CFR Parts 261, 262, and 263.

567—122.17(455B,455D) Further requirements for CRTs for CRT recycling facilities.

122.17(1) CRT recycling facilities shall manage CRT materials in a manner that prevents the release of any hazardous material or component into the environment as follows:

a. A CRT recycling facility shall immediately clean up and contain any CRTs, CRT devices, and CRT glass that are unintentionally broken.

b. A CRT recycling facility may disassemble or crush CRTs provided the handler crushes CRTs in a controlled manner.

122.17(2) All CRTs, CRT devices, and CRT glass must be managed in accordance with all state and federal regulations.

567—122.18(455B,455D) Further requirements for removal and disposal of mercury-containing components for CRT recycling facilities.

122.18(1) CRT demanufacturers and CRT processors that manage mercury-containing components may be considered hazardous waste generators. Precautions shall be taken to prevent the release of mercury.

122.18(2) All removed mercury-containing components shall be stored in a DOT-approved container and labeled with a label stating "hazardous waste—mercury" or "mercury components" in both English and the predominant language of any non-English-reading workers. Furthermore, the date when the first mercury-containing component was placed in the container shall be affixed on the container.

122.18(3) All mercury containers shall be sealed prior to shipment.

122.18(4) All mercury-containing components shall be managed at an EPA-approved mercury recycling or recovery facility.

122.18(5) Mercury-containing components must be managed in accordance with all state and federal regulations.

567—122.19(455B,455D) Further requirements for removal and disposal of PCB capacitors for CRT recycling facilities.

122.19(1) CRT demanufacturers and CRT processors shall remove all capacitors not marked as non-PCB unless the manufacturer certifies in writing that no PCBs were used in the manufacture of the discarded CRT or capacitor.

122.19(2) All capacitors are assumed to contain PCBs unless proven otherwise by an approved laboratory, unless the words "No PCBs" have been imprinted on the body of the capacitor by the manufacturer, or unless the manufacturer certifies in writing that no PCBs were used in the manufacture of the discarded CRT or capacitor.

122.19(3) Capacitors that are proven not to contain PCBs may be recycled or disposed of as nonhazardous waste.

122.19(4) PCB capacitors shall be stored and transported in compliance with the Toxic Substances Control Act (TSCA; 40 CFR Part 761) and disposed of at a TSCA-permitted disposal facility. Facilities used for the storage of PCB items designated for disposal shall comply with the following requirements:

a. PCB items shall be stored in a manner that provides adequate protection from the elements and adequate secondary containment. Storage shall be over an impervious material.

b. All capacitors containing or suspected of containing PCBs shall be placed in a DOT-approved container that shows no signs of damage. The bottom of the container shall be filled to a depth of two inches with an absorbent material (e.g., oil-dry, kitty litter).

c. All DOT-approved containers shall be affixed with an EPA-approved 6-inch × 6-inch yellow label stating "PCBs" in both English and the predominant language of any non-English-reading workers (Reference: 40 CFR Part 761.45). Furthermore, the date when the first capacitor was placed in the container shall be affixed on the container.

d. All containers must be sealed prior to shipment.

e. Capacitors shall be stored for no more than 270 days.

122.19(5) An EPA-approved PCB transporter using an EPA Uniform Hazardous Waste form may be required to transport the labeled and dated container. The demanufacturer has one year from the first date entered on the container to have the contents buried at a TSCA landfill or incinerated at a TSCA disposal facility (Reference: 40 CFR Part 761.65). The burial or incineration must be documented and the records kept by the demanufacturer for three years from the date the PCB waste was accepted by the initial transporter.

567—122.20(455B,455D) Spills and releases at CRT recycling facilities.

122.20(1) Any spills from leaking or cracked capacitors shall be handled by placing the capacitor or component containing the capacitor and any contaminated rags, clothing, absorbents, and soil into a DOT-approved container for PCBs for shipment to an EPA-approved PCB waste disposal facility. Spills of PCBs that occur outside a DOT-approved container shall be cleaned up pursuant to 40 CFR Part 761.125. Detailed records of such cleanups and sampling shall be maintained pursuant to 40 CFR Part 761.180.

122.20(2) Mercury spill kits, with a mercury absorbent in the kits, shall be readily available and immediately utilized in the event of a mercury spill. Any waste from the cleanup of a

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

mercury spill shall be managed in accordance with state and federal rules.

122.20(3) Any hazardous condition shall be immediately contained and remedied with proper equipment and procedures pursuant to 567—Chapter 131 and the emergency response and remedial action plan (ERRAP) pursuant to rule 122.23(455B,455D). Within six hours of the release, the department field office with jurisdiction over the spill or release location shall be notified.

567—122.21(455B,455D) CRT recycling facilities that shred CRTs. CRT fluff from the shredding of discarded CRTs shall be sampled quarterly, at a minimum, and analyzed according to Test Methods for Evaluation of Solid Waste, Physical-Chemical Methods SW 846, U.S. EPA, Third Edition 1986, or other method approved by the department, for the presence of PCBs. CRT fluff from the shredding of discarded CRTs shall be sampled quarterly at a minimum and analyzed for metals according to the toxicity characteristic leaching procedure (TCLP, EPA Method 1311). The fluff shall be sampled once per day for seven consecutive working days to make a composite sample. If the total PCB amount is less than 50 parts per million (ppm) and if the TCLP results demonstrate the CRT fluff is not hazardous, then the CRT fluff may be disposed of in a municipal solid waste (MSW) sanitary landfill in Iowa.

567—122.22(455B,455D) Storage requirements for CRT recycling facilities. All CRT recycling facilities shall store discarded CRTs in compliance with the following requirements:

122.22(1) Discarded CRTs and materials derived from discarded CRTs shall be stored in a manner that minimizes the risk of a release into the environment.

122.22(2) Discarded CRTs and materials derived from discarded CRTs shall not be speculatively accumulated. Speculative accumulation occurs when a facility cannot demonstrate that the amount of discarded CRTs and materials derived from discarded CRTs leaving the facility within a 12-month time period is greater than 75 percent, by weight or volume, of the discarded CRTs and materials derived from discarded CRTs received by the facility within a 12-month time period.

567—122.23(455B,455D) ERRAP requirements for CRT recycling facilities. A CRT recycling facility shall develop, submit to the department for approval, and maintain on site a detailed emergency response and remedial action plan (ERRAP).

122.23(1) Submittal requirements. An updated ERRAP shall be included with any request for permit modification, to incorporate a facility expansion, or for significant changes in facility operation that require modification of the currently approved ERRAP.

122.23(2) Content. The content of ERRAP documents shall be concise and readily usable as a reference manual by facility managers and operators during emergency conditions. The ERRAP document content shall address at least the following primary issues in detail, unless project conditions render the specific issue as not applicable. To facilitate department review, the rationale for exclusion of any issues that are not determined to be applicable must be provided either in the body of the plan or as a supplement. Additional ERRAP requirements unique to the facility shall be addressed, as applicable.

- a. Facility information.
 - (1) Permitted agency.
 - (2) DNR permit number.

- (3) Responsible individual and contact information.
- (4) Facility description.
- (5) Site and environs map.
 - b. Regulatory requirements—reference to provisions of the permit.
 - c. Emergency conditions—response activities—remedial action.
 - (1) Failure of utilities.
 1. Short-term (48 hours or less).
 2. Long-term (over 48 hours).
 - (2) Weather-related event.
 1. Tornado.
 2. Windstorms.
 3. Intense rainstorms.
 4. Lightning strikes.
 5. Flooding.
 - (3) Fire and explosions.
 1. Discarded CRT materials.
 2. Building and site.
 3. Equipment.
 4. Utilities.
 5. Working area.
 6. Evacuation.
 - (4) Regulated waste and hazardous material spills and releases.
 1. Collection.
 2. Transport.
 3. Working area.
 4. Storage.
 - (5) Emergency and release notifications and reporting.
 1. Federal agencies.
 2. State agencies.
 3. County and city agencies.
 4. Emergency response agencies.
 5. Special populations within 2 miles.
 6. Reporting requirements and forms.
 - (6) Emergency aid.
 1. Responder contacts.
 2. Medical services.
 3. Contracts and agreements.
 - (7) Primary emergency equipment inventory.
 1. Major equipment.
 2. Fire hydrants and water sources.
 3. Off-site equipment resources.
 - (8) ERRAP training requirements.
 1. Training providers.
 2. Employee orientation.
 3. Annual training updates.
 4. Training completion and record keeping.
 - (9) Reference tables, figures and maps.

567—122.24(455B,455D) Training requirements for CRT recycling facilities.

122.24(1) General training. Beginning July 1, 2005, all employees of a CRT recycling facility involved in activities relevant to CRT recycling shall be trained on the following requirements and procedures as appropriate to the employees' specific job responsibilities:

- a. The requirements of this chapter.
- b. Standard operating procedures utilized by the CRT recycling facility, including:
 - (1) The proper method of loading and unloading discarded CRTs and materials derived from discarded CRTs.
 - (2) The proper collection, storage, and transportation requirements for discarded CRTs and materials derived from discarded CRTs.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(3) The proper disposal of discarded CRTs and materials derived from discarded CRTs.

(4) The proper management of batteries.

(5) The proper management of CRTs.

(6) The proper management of circuit boards.

(7) The proper management of mercury-containing components.

(8) The proper management of PCBs.

(9) Spill and release response procedures.

(10) Worker health and safety.

(11) Use of the department-approved ERRAP.

122.24(2) DNR-approved training course. Beginning July 1, 2005, CRT recycling facilities shall ensure that at least one employee directly involved in operations has completed a DNR-approved training course. At least one employee who has completed a DNR-approved course shall be on site when CRTs are being intentionally broken.

567—122.25(455B,455D) Reporting requirements for CRT recycling facilities. A CRT recycling facility shall maintain the following records for each calendar year and report this information to the department within 30 days of the end of that calendar year:

122.25(1) The total weight or number of materials received from nonpermitted sources, listed by product category. The product categories shall be:

a. Monitors.

b. Televisions.

c. All other discarded electronics collected, but not mentioned above in aggregate.

122.25(2) The total aggregate weight or number of materials received from nonpermitted sources.

122.25(3) The percentage of materials covered by subrules 122.25(1) and 122.25(2) received from businesses and institutions.

122.25(4) The percentage of materials covered by subrules 122.25(1) and 122.25(2) received from households.

122.25(5) The total aggregate weight of shipments leaving the CRT recycling facility on a monthly basis.

567—122.26(455B,455D) Record-keeping requirements for CRT recycling facilities. All CRT recycling facilities shall maintain the following records, on a calendar-year basis, for three years:

122.26(1) The total aggregate weight and receipt date of each shipment of discarded CRTs received from businesses, institutions, CRT collection facilities, short-term CRT collection events, and other permitted CRT recycling facilities.

122.26(2) The name, address and contact information for shipments reported in subrule 122.26(1).

122.26(3) The total aggregate weight and date of each shipment leaving the CRT recycling facility.

122.26(4) The name and address of the facility receiving a shipment that left the CRT recycling facility, contact information for the receiving facility and a description of the shipment contents including all applicable bills of lading.

122.26(5) The type of service the receiving facility will provide to the CRT recycling facility.

122.26(6) All hazardous waste manifests.

122.26(7) Information related to the management of spills and releases pursuant to rule 122.20(455B,455D).

122.26(8) Information related to the management of CRT fluff pursuant to rule 122.21(455B,455D).

122.26(9) Information related to training requirements and a list of individuals who have received DNR-approved training pursuant to subrule 122.24(2).

567—122.27(455B,455D) Closure requirements for CRT recycling facilities. A CRT recycling facility shall submit to the department and department field office with jurisdiction over the facility written notice of intent to permanently close at least 60 days before closure. Closure shall be in conformance with the closure plan pursuant to paragraph 122.11(1)“n.” Closure shall not be official until the department field office with jurisdiction over the facility has given written certification of the proper disposal of all solid waste, discarded CRTs, and materials derived from discarded CRTs at the site.

These rules are intended to implement Iowa Code sections 455D.6(7) and 455B.304(1).

[Filed 7/29/04, effective 9/22/04]

[Published 8/18/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/18/04.

ARC 3590B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455D.7, the Environmental Protection Commission hereby rescinds Chapter 215, “Waste Tire Management County Grant Program,” Chapter 216, “Regents Tire-Derived Fuel Program,” and Chapter 217, “Waste Tire End-User Incentive Program,” Iowa Administrative Code.

These rules are rescinded to reflect the repeal of the authorizing language and cessation of funding for these programs as defined in the Iowa Code. Iowa Code sections 455D.11D, 455D.11E, and 455D.11F are repealed pursuant to 2004 Iowa Acts, House File 2549. The legislation directs that on July 1, 2004, any remaining funds in the programs related to the repealed Iowa Code sections revert to the Waste Tire Management Fund. Therefore, Chapters 215, 216, and 217 are no longer valid as of July 1, 2004, as no funding or statutory authority remains in support of these chapters.

Notice of Intended Action was published in the June 9, 2004, Iowa Administrative Bulletin as **ARC 3409B**. A public hearing was held on June 29, 2004. No verbal or written comments were received. No changes have been made from the Notice of Intended Action.

This amendment is intended to implement 2004 Iowa Acts, House File 2549.

This amendment shall become effective September 22, 2004.

The following amendment is adopted.

Rescind and reserve **567—Chapters 215, 216 and 217**.

[Filed 7/29/04, effective 9/22/04]

[Published 8/18/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/18/04.

ARC 3594B**IOWA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM[495]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends 495—Chapter 4, "Employers," and 581—Chapter 21, "Iowa Public Employees' Retirement System," Iowa Administrative Code.

The amendments comply with 2004 Iowa Acts, House File 2262, enacted by the Eightieth General Assembly during the Second Regular Session and signed by the Governor on April 26, 2004.

495—subrule 4.6(2) is amended to establish the new contribution rates for sheriffs and deputy sheriffs and change the cost distribution for the contribution rates of sheriffs and deputy sheriffs effective July 1, 2004.

495—paragraph 4.6(4)"d" is amended to move the airport firefighters to the protection occupation class effective July 1, 2004.

581—paragraphs 21.8(1)"b," 21.8(2)"b," and 21.8(2)"e" and 581—subrule 21.13(10) are amended to conform current rules with the foregoing changes and to establish 22 as the number of "applicable years" used in various retirement calculations for all special service members, as a result of prior legislative changes.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 23, 2004, as **ARC 3445B**. In addition, these amendments were previously Adopted and Filed Emergency and published in the June 23, 2004, Iowa Administrative Bulletin as **ARC 3446B**. A public hearing was held on July 13, 2004, at 9 a.m. in the IPERS Building, 7401 Register Drive, Des Moines, Iowa. No parties attended the public hearing, and no comments were received prior to the hearing. One scrivener's error was noted in the amendment to 581—paragraph 21.13(10)"a." Consequently, a cross reference to 97B.1A(21) was changed to Iowa Code section 97B.1A(22).

There are no waiver provisions included in these amendments.

These amendments will become effective September 22, 2004, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement 2004 Iowa Acts, House File 2262, and Iowa Code Supplement sections 97B.49B(1)"c," 97B.49B(1)"e," 97B.49B(3)"b," 97B.49C(1)"a," 97B.49C(1)"d," 97B.49C(2), 97B.49C(3)"a" and 97B.49C(3)"b."

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 [495—4.6(2), 4.6(4)"d"; 581—21.8(1), 21.8(2), 21.13(10)] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 3445B** and Adopted and Filed Emergency as **ARC 3446B**, IAB 6/23/04.

[Filed 7/30/04, effective 9/22/04]
[Published 8/18/04]

[For replacement pages for IAC, see IAC Supplement 8/18/04.]

ARC 3593B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 476.1, 476.2, 476.20, and 17A.4 (2003), the Utilities Board (Board) gives notice that on July 30, 2004, the Board issued an order in Docket No. RMU-04-2, In re: Revisions to Consumer Services Rules [199 IAC 19.4(10), 19.4(13), 19.4(15), 19.4(16), 20.4(11), 20.4(14), 20.4(15), and 20.4(16)], "Order Adopting Amendments." The Board proposed amendments to its consumer services rules based upon the results of a review conducted by the Board to address issues facing consumers who cannot pay their utility bills and to address issues related to second payment agreements raised in Docket No. RMU-03-12, In re: Second Payment Agreements [199 IAC 19.4(10)"c" and 20.4(11)"c"], filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate). Notice of the proposed amendments was published in a Notice of Intended Action in IAB Vol. XXVI, No. 25 (6/9/04) p. 1945, as **ARC 3411B**.

Comments were filed by the Iowa Association of Municipal Utilities (IAMU), the Iowa Association of Electric Cooperatives (IAEC), Legal Aid of Iowa (Legal Aid), the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Aquila, Inc., d/b/a Aquila Networks (Aquila), Atmos Energy Corporation (Atmos), Interstate Power and Light Company (IPL), and MidAmerican Energy Company (MidAmerican). IAMU also filed the comments of Atlantic Municipal Utility (Atlantic), and Mount Pleasant Municipal Utility (Mount Pleasant). An oral presentation was held on July 16, 2004. MidAmerican, IPL, IAEC, IAMU, Consumer Advocate, and Legal Aid made oral comments.

The Board adopted substantive revisions to the provisions in paragraphs 19.4(10)"c" and 20.4(11)"c" relating to the criteria for a second payment agreement. The Board removed the option of having paid 33 percent of the amount owed as a criterion for qualifying for a second payment agreement and left the requirement that a customer shall have made two payments. The Board also revised the paragraphs by removing the limit on the amount of a monthly payment under a second payment agreement and replacing it with a minimum on the term of the agreement. In addition, the Board decided not to adopt proposed subparagraphs 19.4(15)"d"(10) and 20.4(15)"d"(11) related to switching of the customer of record during the winter moratorium. The Board made other grammatical and clarifying revisions to the amendments. A discussion of the comments and the revisions to the amendments can be found in the Board's July 30, 2004, order.

The Board's order adopting the amendments can be found on the Board's Web site, www.state.ia.us/iub, or in hard copy in the Board's Records Center, 350 Maple Street, Des Moines, Iowa 50319-0069.

These amendments are intended to implement Iowa Code sections 476.1, 476.2, 476.20 and 17A.4.

These amendments will become effective September 22, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule 19.4(10) as follows:

19.4(10) Payment agreements.

a. Availability of a *first payment* agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for resi-

UTILITIES DIVISION[199](cont'd)

dential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. Terms of payment agreements.

(1) *First payment agreement.* The utility shall offer customers who have received a disconnection notice or have been disconnected for 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected for more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least six 6 months by paying specific amounts at scheduled times.

(2) 1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. *The utility may also require the customer to enter into a level payment plan to pay the current bill.*

(3) 2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

(4) 3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility will shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. *Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.*

(5) 2. *Second payment agreement.* ~~If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the utility may offer the customer a second payment agreement that will divide the past due amount into equal monthly payments with the final pay-~~

~~ment due by the fifteenth day of the next October. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement. The second payment agreement shall be for the same term as or longer than the term of the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.~~

d. No change.

ITEM 2. Amend paragraph 19.4(13)“e” as follows:

e. *Undercharges.* When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The time period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the billing dollar amount equivalent to the tariffed rate for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

ITEM 3. Amend paragraph 19.4(15)“d” as follows:

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 19.4(16) and 19.4(17), provided that the utility has complied with the following provisions when applicable:

(1) No change.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and remedies responsibilities available. Customers billed more frequently than monthly pursuant to subrule 19.3(7) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and remedies responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and remedies responsibilities must be approved by the board. Any utility providing gas service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word “gas” with the words “gas and electricity electric” in all instances.

UTILITIES DIVISION[199](cont'd)

**CUSTOMER RIGHTS AND RESPONSIBILITIES
TO AVOID AVOIDING SHUTOFF OF GAS SERVICE
FOR NONPAYMENT**

1. What can I do if I receive a notice from the utility that says my gas service will be shut off because I have a past due bill?

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your gas service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, the utility can refuse to offer you another payment plan you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement. ~~If your utility service is shut off, the utility may refuse to offer you any further payment plans.~~

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Contact the local community action agency in your area (see attached list); or

b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility ~~must be contacted~~ prior to disconnection of your service.

c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. *Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.*

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days.

This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be ~~colder than~~ 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service ~~between from~~ November 1 ~~and through~~ April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

7. How will I be told the utility is going to shut off my gas service?

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. ~~Between From~~ November 1 ~~and through~~ April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).

b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 350 Maple Street, Des Moines, Iowa 50319-0069,

UTILITIES DIVISION[199](cont'd)

or by E-mail at iubcustomer@iub.state.ia.us. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

(4) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and ~~their the customer's rights and remedies responsibilities.~~; *During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.*

~~If if an attempt at personal or telephone contact of a customer occupying a rental unit which a utility knows or should know is a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, their the customer's present location. The landlord shall also be informed of the date when service may be disconnected.~~

~~During the period November 1 to April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights and remedies available to avoid disconnection, at least one day prior to disconnection; if If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons therefor for the disconnection.~~

(5) and (6) No change.

(7) Severe cold weather. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will ~~go below be~~ 20 degrees Fahrenheit *or colder*. In any case where the utility has posted a disconnect notice in compliance with subparagraph 19.4(15)"d"(4) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 19.4(15)"d."

(8) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days; however, ~~the postponement may be extended by a renewal of the verification.~~ In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 19.4(15)"f."

(9) No change.

ITEM 4. Amend paragraph **19.4(15)"f"** as follows:

f. A utility may disconnect gas service without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, *except as provided in numbered paragraph 19.4(10)"c"(1)"4," provided that: the utility complies with the provisions of paragraph 19.4(15)"d."*

~~(1) In the case of a customer owning or occupying a residential unit that will be affected by disconnection, the utility has made a diligent attempt, at least one day prior to disconnection, to contact the customer by telephone or in person to inform the customer of the pending disconnection and the customer's rights and remedies. If an attempt at personal or telephone contact of the customer occupying a unit which a utility knows or should know is a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.~~

~~(2) During the period November 1 to April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights and remedies available to avoid disconnection at least one day prior to disconnection. If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with any notice informing any occupants of the date when service will be disconnected and the reasons therefor. Disconnection is subject to the provisions of paragraph 19.4(15)"d."~~

ITEM 5. Amend subrule **19.4(16)** by adding **new** paragraph **"h"** as follows:

h. Delinquency in payment for service by an occupant, if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

ITEM 6. Amend subrule 20.4(11) as follows:

20.4(11) Payment agreements.

a. Availability of a *first payment* agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agree-

UTILITIES DIVISION[199](cont'd)

ment with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. Terms of payment agreements.

(1) *First payment agreement.* The utility shall offer customers who have received a disconnection notice or have been disconnected for 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected for more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times.

(2) 1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. *The utility may also require the customer to enter into a level payment plan to pay the current bill.*

(3) 2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

(4) 3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility will shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. *Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.*

(5) 2. *Second payment agreement.* If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the utility may offer the customer a second payment agreement that will divide the past due amount into equal monthly payments with the final payment due by the fifteenth day of the next October. *The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has*

made at least two consecutive full payments under the first payment agreement. The second payment agreement shall be for the same term as or longer than the term of the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.

d. No change.

ITEM 7. Amend paragraph 20.4(14)“f” as follows:

f. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation meter or other similar reasons, the tariff may provide for billing the amount of the undercharge may be billed to the customer. The time period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill need shall not exceed the billing dollar amount equivalent to the tariffed rate for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

ITEM 8. Amend paragraph 20.4(15)“d” as follows:

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 20.4(16) and 20.4(17), provided that the utility has complied with the following provisions when applicable:

(1) No change.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and remedies responsibilities available. Customers billed more frequently than monthly pursuant to subrule 20.3(6) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and remedies responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and remedies responsibilities must be approved by the board. Any utility providing electric service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word “electric” with the words “gas and electricity electric” in all instances.

**CUSTOMER RIGHTS AND RESPONSIBILITIES TO
AVOID AVOIDING SHUTOFF OF ELECTRIC
SERVICE FOR NONPAYMENT**

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past

UTILITIES DIVISION[199](cont'd)

due bill?

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, ~~the utility can refuse to offer you another payment plan you may qualify for a second payment agreement under certain conditions.~~

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid ~~or you enter into another payment agreement. If your utility service is shut off, the utility may refuse to offer you any further payment plans.~~

3. How do I apply for low-income energy assistance? (Residential customers only)

- a. Contact the local community action agency in your area (see attached list); or
- b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, *you must contact the utility ~~must be contacted~~ prior to disconnection of your service.*
- c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.
- d. *Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.*

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

- a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.
- b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.
- c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).
- d. The utility will not shut off your service if the temperature is forecasted to be ~~colder than~~ 20 degrees Fahrenheit *or colder* during the following 24-hour period, including the day your service is scheduled to be shut off.
- e. If you have qualified for low-income energy assistance, the utility cannot shut off your service ~~between from~~ November 1 ~~and through~~ April 1. However, you will still owe the utility for the service used during this time.
- f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

7. How will I be told the utility is going to shut off my service?

- a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.
- b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.
- c. The utility must also try to reach you by telephone or in person before it shuts off your service. ~~Between From~~ November 1 ~~and through~~ April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

- a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).
- b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 350 Maple Street, Des Moines, Iowa 50319-0069, or by E-mail at iubcustomer@iub.state.ia.us. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

UTILITIES DIVISION[199](cont'd)

(4) No change.

(5) When disconnecting service to a residence, make a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and remedies responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of the customer occupying a rental unit which a utility knows or should know is a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

During the period November 1 to April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights and remedies available to avoid disconnection, at least one day prior to disconnection; if the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons therefor for the disconnection.

(6) and (7) No change.

(8) Severe cold weather. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below 20 degrees Fahrenheit or colder. In any case where the utility has posted a disconnect notice in compliance with subparagraph 20.4(15)"d"(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 20.4(15)"d."

(9) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, in-

cluding the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days; however, the postponement may be extended by a renewal of the verification. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 20.4(15)"f."

(10) No change.

ITEM 9. Amend paragraph 20.4(15)"f" as follows:

f. A utility may disconnect electric service without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, except as provided in numbered paragraph 20.4(11)"c"(1)"4," provided that the utility complies with the provisions of paragraph 20.4(15)"d."

(1) In the case of a customer owning or occupying a residential unit that will be affected by disconnection, the utility has made a diligent attempt, at least one day prior to disconnection, to contact the customer by telephone or in person to inform the customer of the pending disconnection and the customer's rights and remedies. If an attempt at personal or telephone contact of the customer occupying a unit which a utility knows or should know is a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

(2) During the period November 1 to April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights and remedies available to avoid disconnection at least one day prior to disconnection. If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with any notice informing any occupants of the date when service will be disconnected and the reasons therefor. Disconnection is subject to the provisions of paragraph 20.4(15)"d."

ITEM 10. Amend subrule 20.4(16) by adding new paragraph "h" as follows:

h. Delinquency in payment for service by an occupant if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

[Filed 7/30/04, effective 9/22/04]

[Published 8/18/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/18/04.

IOWA ADMINISTRATIVE BULLETIN
Customer Service Center
Department of Administrative Services
Hoover State Office Building, Level A
Des Moines, Iowa 50319

PRSRT STD
U.S. Postage
PAID
Des Moines, Iowa
Permit No. 1195
