STATE OF IOWA

1971

IOWA

DEPARTMENTAL

RULES

JULY

1971

SUPPLEMENT

Containing

The permanent rules and regulations of general application promulgated by the state departments from February 9, 1971 to July 13, 1971

WAYNE A. FAUPEL
CODE EDITOR

PUBLISHED BY THE
STATE OF IOWA
UNDER AUTHORITY OF CHAPTER 14, CODE 1971

NOTICE

The statutes provide that the Code Editor may publish cumulative, semi-annual supplements to the Iowa Departmental Rules. Inquiry should be made each six months of the Superintendent of Printing for distribution of these supplements.

PREFACE

This volume is published in compliance with section 14.6(5) of the Code. The rules of the various boards and departments are arranged in alphabetical order, using the names of the departments in general use.

Not all of the rules and regulations promulgated by the state departments have been included. The Act specifies "permanent" rules of "general application." Where rules have been omitted by the editor there is a notation indicating where such rules may be obtained.

THE EDITOR.

July 1971

PUBLICATION OF DEPARTMENTAL RULES

Section 14.6 of the Code, subsection 5, requires the Code editor to:

"Prepare the manuscript copy, and cause to be printed by the state superintendent of printing in each year in which a Code is published, a volume which shall contain the permanent rules and regulations of general application, promulgated by each state board, commission, bureau, division or department, other than a court, having state-wide jurisdiction and authority to make such rules. The Code editor may omit from said volume all rules and regulations applying to professional and regulatory examining and licensing provisions and any rules and regulations of limited application and temporary rules. The Code editor may make reference in the volume as to where said omitted rules and regulations may be procured.

"This volume shall be known as the Iowa Departmental Rules and any rule printed therein may be cited as_____I.D.R._____giving the year of publication and the page where the particular rule, by number, may be found.

"The volume of rules and regulations published by the Code editor shall be sold and distributed by the superintendent of printing in the same manner as Codes and session laws.

"The Code editor may provide cumulative, semiannual supplements for insertion in the latest published volume and a place shall be provided in the binding of such volume for insertion of such supplements."

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IOWA
DEPARTMENTAL RULES
JULY 1971

AGRICULTURE DEPARTMENT
and
CHEMICAL TECHNOLOGY REVIEW BOARD

Pursuant to the authority of sections 206A.2 and 206.12 of the Code, the following rules relating to the use of agricultural chemicals are hereby adopted.

[Filed February 17, 1971]

CHAPTER 1
AGRICULTURAL CHEMICALS

1.1(206A) Use of DDT and DDD. Pesticides containing dichloro diphenyl trichloroethane (DDT) or dichloro diphenyl dichloroethane (DDD) shall not be distributed, sold or used except for control of pests of public health importance and pests subject to state or federal quarantines where applications of pesticides are made under the direct supervision of public health officials or state or federal quarantine officials.

1.2(206A) Use of inorganic arsenic.* Formulations of inorganic arsenic, including but not limited to arsenic trioxide, calcium arsenate, lead arsenate, potassium arsenite, sodium arsenate, sodium arsenite and thioarsenite, shall not be distributed, sold or used as a herbicide, rodenticide, or insecticide for the purpose of preventing, destroying or repelling any weed, rodent or insect.

1.3(206A) Use of heptachlor. Pesticides containing heptachlor shall not be distributed, sold or used for the purposes of preventing, destroying or repelling mosquitoes or flies.

1.4(206A) Use of lindane.* Formulations of pesticides containing lindane or crystalline lindane shall not be distributed, sold or used for the purpose of preventing, destroying or repelling insects when the lindane is intended to be vaporized through the use of thermal vaporizing devices.

These rules are intended to implement chapters 206 and 206A.

*Rescinded June 8, 1971

[Effective June 8, 1971]

[Editor's Note: These rules have been filed by the department following disapproval by the Attorney General. See §17A.8 of the Code.]

AGRICULTURE DEPARTMENT
and
CHEMICAL TECHNOLOGY REVIEW BOARD
(continued)

Pursuant to the authority of sections 206A.2 and 206.12 of the Code, the rules relating to agricultural chemicals filed February 17, 1971, are amended as follows:

[Filed June 8, 1971]

Rules 1.2(206A) and 1.4(206A) are rescinded.

[Effective June 8, 1971]

ATHLETICS COMMISSIONER

Pursuant to the authority of chapter 727A, Code 1971, the following rules are adopted:

[Filed February 9, 1971]

CHAPTER 1

PROFESSIONAL WRESTLING RULES

1.1(727A) All bouts, unless expressly approved by the commissioner, will be limited to three falls; the contestant gaining the most falls will be the winner of the bout. If there have been no falls, or if each contestant has won one fall at the end of a specified time limit, the referee will declare the bout a draw. If, at the end of a time limit of a two fall out of three bout, only one contestant has been awarded one fall, that contestant will be declared the winner. If, at the end of a time limit of a single fall bout, no falls have been awarded, the bout will be declared a draw.

1.2(727A) Both shoulders touching the mat at the same time and held for three seconds will constitute a fall.

1.3(727A) If the contestants work off the mat so that any part of their bodies are in or underneath the ropes, the referee will order them to break and place them in the center of the ring in a standing position.

1.4(727A) If a contestant crawls through the ropes or out of the ring and refuses to return at the count of ten by the referee, said contestant will be disqualified.

1.5(727A) If a contestant does not break a hold and take two steps backward before continuing when ordered to do so by the referee, the referee will then count to four. If the hold is not broken he will award the fall or bout to the offending contestant's opponent.

1.6(727A) No contestant will be permitted to grasp or hang onto clothing, mats or ropes for support.

1.7(727A) Striking, pushing or in any way abusing the referee will not be allowed. After being warned by the referee, repeating of the offense by the offender will forfeit the fall or bout to his opponent.

1.8(727A) Contestants must not take anything into the ring with them, or pick up anything thrown into the ring to be used in any way to gain an advantage over an opponent.

1.9(727A) Fingernails will be trimmed closely. The use of strong-smelling substances on any part of the body, shoes or trunks is prohibited.

1.10(727A) Following each fall the contestants may or may not leave the ring. If they remain in the ring, the timekeeper will allow three minutes between the falls. If one or more of the contestants retire to the dressing rooms, five minutes will be granted.

1.11(727A) All wrestling contestants must be on the premises where the bout is to be held at least one-half hour before the start of the card.

1.12(727A) No promoter, matchmaker, or any other person shall arrange, match, or advertise any wrestling exhibition or contest between persons of opposite sex. Exhibitions are permitted between women when matched against women, but no male person will be permitted to engage in a wrestling contest or exhibition or tag team arrangement with a female person.

1.13(727A) No boxing bouts shall be permitted in any professional wrestling show, nor shall any wrestling bouts be permitted in any boxing show.

1.14(727A) Promoters are held responsible to insure that adequate public safety is maintained at all bouts. A minimum of at least one law enforcement officer, furnished by the promoter, must be in attendance as required by the need for adequate public safety maintenance. Failure to so provide, may result in the cancellation of the matches and the revocation of the promoters' licenses.

1.15(727A) The promoter shall make certain that no wrestler shall be permitted to wrestle who is suffering from any illness or disability which in any way interferes with or prevents such wrestler from giving a full, complete and satisfactory exhibition of his ability and skill, or endangers his health or the health of his opponent.

1.16(727A) All wrestling must take place within the ropes and no wrestler shall deliberately leave the enclosed ring

during the course of an exhibition or contest in pursuit of another wrestler.

1.17(727A) All professional wrestling programs under the supervision and the authority of the commissioner are exhibitions only and not contests and all such wrestling can only be advertised or announced as exhibitions, unless a special license is issued for a contest.

1.18(727A) The promoter shall have responsibility for compliance with the foregoing rules. He shall make certain that referees are familiar with rules and that referees enforce them. Promoters shall be answerable to the commissioner for noncompliance.

[Effective March 11, 1971]

ATHLETICS COMMISSIONER
(continued)

Pursuant to the authority of chapter 727A, Code 1971, the following rules are adopted:

[Filed February 10, 1971]

CHAPTER 2

PROFESSIONAL BOXING RULES

2.1(727A) Ten rounds shall be the maximum number of rounds for a boxing bout, except for a championship match which may not exceed fifteen rounds. Three minutes of boxing will constitute a round, or by special permission of the commissioner, two minutes. There will be a rest period of one minute between rounds.

2.2(727A) Permission must be received from the commissioner before a contestant will be permitted to box an opponent eighteen pounds heavier than himself in the welterweight or middleweight classes, or six pounds heavier than himself in or under the lightweight class.

2.3(727A) No contestant under the age of eighteen years will be permitted to participate in any event except by special permission of the commissioner. In any event, he will not be permitted to box more than four rounds. No contestant under the age of twenty-one normally will be permitted to box more than six rounds until he has participated in ten or more professional bouts. However, if in the judgment of the commissioner, he has had sufficient experience, he may be allowed to participate in bouts of longer duration.

2.4(727A) If a contestant claims to be injured during the bout, the referee will stop the bout and request the attending physician to make an examination. If the physician decides that the contestant has been injured as the result of a foul, he should so advise the referee. If the physician is of the opinion that the injured contestant may be able to continue, he will order a five minute intermission, after which he will make another examination and again advise the referee of the injured contestant's condition. It shall be the duty of the promoter to have an approved physician in attendance during the entire duration of all bouts.

2.5(727A) If a contestant falls due to fatigue, or is knocked down by his opponent, he will be allowed ten seconds in which to rise unassisted. When such contestant falls, his opponent will go to the farthest neutral corner and remain there while the count is being made. The referee will stop counting should the opponent fail to go to such neutral corner.

2.6(727A) Any boxing contestant who has agreed to take part in a bout of five rounds or more shall not be permitted to participate in any other bout, in Iowa or elsewhere, five days prior to the date thereof unless given permission by the commissioner.

2.7(727A) All main event contestants shall be in the city or locale at least twenty-four hours before the scheduled time of the bout or contest, and it shall be the duty of the promoter to advise the commissioner of such arrival time. Any exception to the foregoing must be approved by the commissioner.

2.8(727A) No person other than the contestants and the referee shall enter the ring during the bout, excepting the seconds between the rounds or the attending physician if asked by the referee to examine an injury to a contestant.

2.9(727A) Only one roll of cotton gauze surgical bandage, not to exceed two inches in width and ten yards in length, shall be used for the protection of each hand. Only one winding of surgeons' adhesive

tape not more than one and one-half inches in width, may be placed directly on the hand to protect that part of the hand near the wrist. Said tape may cross the back of the hand twice, but shall not extend within one inch of the knuckles when the hand is clenched to make a fist.

2.10(727A) Twenty points shall be the maximum number to be scored in any round. The contestant winning the round will receive ten points and his opponent proportionately less. If the round is even, each contestant will receive ten points.

2.11(727A) The gloves must not be twisted or manipulated in any way by the contestants or their handlers. If a glove breaks or a string becomes untied during the bout, the referee will instruct the timekeeper to take time out while the glove is being adjusted.

2.12(727A) Contestants must wear proper athletic attire, including a foul proof protective cup. Athletic attire of opposing contestants shall be of contrasting colors.

2.13(727A) Excessive use of cocoa butter, petroleum jelly, grease, ointments or strong-smelling liniment by a contestant during the progress of a bout will not be permitted.

2.14(727A) A boxer will be deemed down when:

1. Any part of his body other than his feet is on the ring floor.

2. He is hanging helplessly over the ring ropes; but then is not officially down until so pronounced by the referee, who may count him out either on the ropes or on the floor.

3. Rising from a down position.

2.15(727A) The following tactics will be deemed foul:

1. Hitting below the belt or after the bell has terminated the round.

2. Hitting an opponent who is down or who is getting up after being down.

3. Holding an opponent or deliberately maintaining a clinch.

4. Holding an opponent with one hand and hitting with the other hand.

5. Butting with head or shoulders or using the knee.

6. Hitting with inside or butt of the hand, the wrist, or the elbow and all backhand blows.

7. Hitting or "flicking" with the open glove, or thumbing.

8. Wrestling, or roughing at the ropes.

9. Purposely going down without being hit.

10. Striking deliberately at that part of the body over the kidneys.

11. Use of the pivot blow or rabbit punch.

12. Use of abusive or profane language.

13. Failure to obey the referee, or any physical actions which may injure a contestant, except by fair sportsmanlike boxing.

2.16(727A) The referee will penalize a contestant guilty of committing any of the above mentioned fouls by deducting points from his score in the round or rounds such fouls are committed; or if in his judgment the foul is of a serious nature, or intentionally inflicted, he may award the bout to the contestant so fouled.

2.17(727A) Scale of weights:

	[Pounds]
Flyweight	112
Bantamweight	118
Featherweight	126
Lightweight	135
Welterweight	147
Middleweight	160
Light heavyweight	175
Heavyweight	Over 175

2.18(727A) At each boxing card, the commissioner or a representative designated by him shall be in attendance.

2.19(727A) Contestants shall be weighed on the day of the scheduled match by the examining physician, at a time and place to be determined by the commissioner. Preliminary boxers may be allowed to weigh in and be examined not later than one hour before the scheduled time of the first match on the card. All weights stripped.

2.20(727A) Officials will consist of the referee, physician, timekeeper, and judges. These officials and the contestants, seconds and managers are subject to approval by the commissioner.

2.21(727A) The office will not approve bout permits for bouts on Christmas Day; nor for bouts in which more than two boxing contestants are to appear in the ring at the same time, such bouts being commonly referred to as "battles royal". In programs wherein both amateur and professional contestants appear on the same card, there shall be no more than four amateur bouts of three rounds each and they shall be under the complete control and supervision of A.A.U. authority, provided that on each such card there shall be at least an equal number of bouts of professional boxing. The amateur section of the card shall be held first with at least a fifteen minute intermission between the amateur and professional events.

2.22(727A) Promoters are held responsible to insure that adequate public safety is maintained at all bouts. A minimum of at least one law enforcement officer, furnished by the promoter, must be in attendance as required by the need for adequate public safety maintenance. Failure to so provide, may result in the cancellation of the matches and the revocation of the promoters' licenses.

2.23(727A) Excessive coaching and other detracting activities by seconds, managers, or trainers, while the bouts are in progress are prohibited. Offenders will be warned and if the violation continues, the offending contestant may be charged with a foul and loss of points.

2.24(727A) The use of foul or abusive language or mannerisms by any person associated with any bout will not be tolerated.

2.25(727A) Admission to locker rooms shall be restricted to officials, contestants, their managers and seconds. Locker rooms will be kept neat and clean.

2.26(727A) All contracts between promoters and contestants must be written on official forms furnished by the commissioner. One copy of each contract must be filed in the office of the commissioner at least seven days prior to the date of the bout, unless specific, individual delay is approved by the commissioner. Telegrams or letters indicating acceptance of terms will be considered an agreement between a contestant, his manager, and the promoter, pending the actual signing of the contract.

2.27(727A) The ring may not be less than sixteen nor more than twenty-two feet square within the ropes and must be elevated three and one-half feet above the floor. Suitable steps for the use of contestants must be provided.

2.28(727A) The ring posts must be made of metal not more than four inches in diameter, extending from the floor of the building to the height of fifty-eight inches above the ring floor and must be fastened securely to the floor or to the other posts.

2.29(727A) The ropes shall be a minimum of three in number, extending in a triple line eighteen inches, thirty-five inches and fifty-two inches from the floor of the ring; at least one inch in diameter; and wrapped in soft materials. The ropes may not be closer to the ring posts than eighteen inches. If four ropes are used, they will be proportionately spaced.

2.30(727A) The ring floor will extend beyond the lower rope for a distance of not less than eighteen inches and the entire floor will be padded to the thickness of at least one inch with felt, corrugated paper, matting or other soft materials to be approved by the office of the commissioner. A canvas covering, stretched tightly and laced to the ring platform will cover the padding.

2.31(727A) A suitable bell or gong must be provided and used.

2.32(727A) Gloves may not weigh less than eight ounces for professional bouts and must be new for all main events and bouts of ten rounds or greater.

2.33(727A) All gloves will be furnished by the promoter.

2.34(727A) Accurate scales will be furnished by the promoter.

2.35(727A) The referee is charged with the enforcement of all rules and regulations of the office of the commissioner which apply to the execution of performance, and the conduct of contestants and of contestants' seconds while in the ring.

2.36(727A) Before starting each bout the referee will ascertain the name of the chief second in each corner and will hold him responsible for all conduct in the corners.

2.37(727A) The promoters may be permitted to name the referee from the approved list.

2.38(727A) The referee will stop a bout whenever he deems it advisable because of the physical condition of one or both of the contestants, or when one of the contestants is clearly outclassed by his opponent, or whenever he decides that a contestant is not making his best efforts, or for any other reason he deems sufficient.

2.39(727A) The referee has the power to declare forfeited all or any part of a contestant's purse whenever in the referee's judgment, such contestant is not performing in good faith.

2.40(727A) The referee will inspect the gloves and bandages of the contestants in all main events and make sure that no foreign substances have been applied to the gloves or bodies of the contestants that might be detrimental to an opponent. In bouts preliminary to the main event, when the gloves are adjusted in the dressing rooms, he will inspect the gloves and bodies of the contestants.

2.41(727A) The contestants in all boxing bouts will be instructed by the referee to shake hands after his final instructions and not to do so again until the start of the last scheduled round.

2.42(727A) The contest will be decided by the vote of the referee and the two judges.

2.43(727A) The referee should instruct the judges, when used, to mark their scorecards accordingly when he has assessed a foul upon one of the contestants.

2.44(727A) The referee must insure that a bout moved to its proper completion. It should be stopped or completed, not delayed, except in cases of damaging fouls. Delaying and avoiding tactics should be avoided, and the contestant who employs such tactics should be penalized in the scoring.

2.45(727A) When a fallen contestant rises and falls again, without being hit again, the referee will continue the original count, rather than starting a new count.

2.46(727A) In assessing fouls, the referee must weigh the cause as well as the act. When a foul is unintentionally inflicted, but intentionally received it should be applied to the deliberate recipient.

2.47(727A) The referee shall penalize a contestant who uses the ropes to gain advantage by deducting points accordingly, and warning the contestant against continued use of the ropes for this purpose.

2.48(727A) Whenever a boxer has been injured seriously, knocked out or technically knocked out, the referee will immediately summon the attending ring physician to aid the stricken boxer. Managers, handlers, and seconds may not attend to the stricken boxer, except at the request of the physician.

2.49(727A) Except for championship fights of national recognition, the referee shall stop the fight after a fighter is knocked down three times in one round with a winner declared on a T.K.O.

2.50(727A) The timekeeper will provide a stopwatch, and a whistle which he will blow ten seconds before the start of each round in boxing bouts.

2.51(727A) It is the duty of the timekeeper to keep accurate time of all bouts. He will keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician, replacing a glove, or adjusting any equipment during a round.

2.52(727A) The timekeeper must be impartial, and it is a violation of these rules for any timekeeper to signal interested parties at any time during a bout.

2.53(727A) Unless special permission is given by the commissioner, the seconds may not be more than two in number, one of whom will announce to the referee at the start of the bout that he is the chief second.

2.54(727A) Seconds may not enter the ring until the timekeeper indicates the termination of the round and they must leave at the sound of the timekeeper's whistle before the beginning of each round. If the chief second or anyone for whom the promoter is responsible, such

as a manager, enters the ring before the bell ending the round has sounded, the fight will be terminated and the decision will be awarded to the opponent.

2.55(727A) Seconds shall not throw or splash water upon a contestant. A wet sponge may be used between rounds to refresh the contestant. Excess water on the floor of the ring must be wiped up at once by seconds. Water discharged from the mouth of a contestant must be caught in the bucket furnished for that purpose.

2.56(727A) Seconds may not smoke in the ring or corners and may not wear a hat or cap while working in the corner.

2.57(727A) The throwing of a towel into the ring to indicate the defeat of a contestant will not be recognized by the referee. If a second or manager desires to have the fight stopped, he should present himself on the ring apron.

2.58(727A) Before leaving the ring at the start of each round the seconds will remove all obstructions, buckets, stools, bottles, towels and robes from the ring floor and ropes.

2.59(727A) The judges will be two in number and their scorings together with the referee's will be used to determine the winner.

2.60(727A) The judges will reach their decision without conferring in any manner with any other official or person. Each judge will make out a score card to the best of his ability and in accordance with the provisions of the rules governing boxing. At the end of the bout the decision must be written on the score card and the card will be handed to the referee who will then announce the decision.

2.61(727A) In all professional boxing contests, the winner shall be determined on the majority vote of the two judges and the referee and each judge and referee shall select his choice on the highest number of points.

[Effective March 12, 1971]

COMPTROLLER, STATE

Pursuant to the authority of 8.6 of the Code, rules appearing in 1966 IDR, pages 125 and 126 [1971 IDR p. 192] relating to auditing claims are amended as follows:

[Filed February 17, 1971]

Amend Rule 5, line six (6) by striking the amount "$13.00", where it appears twice and insert, in each instance, the amount "$15.00".

[Effective July 1, 1971]

CONSERVATION COMMISSION

Pursuant to the authority of chapter 107 and chapter 111, Code 1971, the following rule is hereby adopted.

[Filed February 9, 1971]

DIVISION OF LANDS AND WATERS

CHAPTER 55

ANNUAL PERMIT AND RENTAL FEE SCHEDULE FOR STATE-OWNED RIVERBED, LAKE BED, AND WATERFRONT LANDS

55.1(111) General. Table 1 and Table 2 hereof are approved guidelines for the purpose of expediting the administration of applications for permit and use of land under the jurisdiction of the state conservation commission, excepting those lands leased for agricultural purposes, commercial concession agreements, and agreements covering the removal of sand, gravel, and other natural materials.

Fees for use of state-owned lands under the jurisdiction of the state conservation commission for agricultural purposes shall be determined by the usual "Co-operative Farm Agreement" depending on the crop, soil conditions, and other pertinent factors.

The fee for an area in which the primary use is to provide access, for the general public, from the river or lake to a commercial business may be determined by the noncommercial schedule, providing the renter does not offer any product for sale or collect any fees for services rendered on said state property.

55.2(111) Table 1—Areas designated for industrial or commercial use by the commission.

	FRONTAGE															
	50'	100'	150'	200'	250'	300'	350'	400'	450'	500'	550'	600'	650'	700'	750'	800'
DEPTH																
100'	$100	200	300	400	500	600	700	800	900	1000	1100	1200	1300	1400	1500	1600
200'	$175	350	525	700	875	1050	1225	1400	1575	1750	1925	2100	2275	2450	2625	2800
300'	$225	450	675	900	1125	1350	1575	1800	2025	2250	2475	2700	2925	3150	3375	3600
400'	$250	500	750	1000	1250	1500	1750	2000	2250	2500	2750	3000	3250	3500	3750	4000

When the area leased is larger than that designated by this table, the fee for each additional segment of 50'x100' or any portion thereof shall be determined as follows:

A. The fee for increased depth shall be at the rate of $25 per segment (50'x100') or any portion thereof.

B. The fee for additional frontage shall be proportionate to that indicated on the table.

55.3(111) Table 2—Areas designated for noncommercial use or use by nonprofit organizations.

	FRONTAGE									
	50'	100'	150'	200'	250'	300'	350'	400'	450'	500'
DEPTH										
50'	$50	100	150	200	250	300	350	400	450	500
100'	$75	150	225	300	375	450	525	600	675	750
150'	$87.50	175	262.50	350	437.50	525	612.50	700	787.50	875

The above table shall be used to determine the annual permit and rental fees for noncommercial use, or use by nonprofit organizations, except, irregular parcels of less than 5,000 square feet; in which case the commission shall rent and permit limited development which is appropriate for the area and the annual fee shall be not less than $50 nor more than $100.

When the area leased is larger than that designated by this table, the fee for each additional segment of 50'x50', or any portion thereof, shall be determined as follows:

A. The fee for increased depth shall be at the rate of $12.50 per segment (50'x50') or any portion thereof.

B. The fee for additional frontage shall be proportionate to that indicated on the table.

This rule is intended to implement section 111.4 and section 111.25, Code 1971.

[Effective February 9, 1971]

EMPLOYMENT SAFETY COMMISSION

Pursuant to authority of section 88A.11 of the Code, the following rules are adopted.

[Filed June 10, 1971]

GENERAL DIVISION

TITLE IV

CHAPTER 7

WELDING AND CUTTING EQUIPMENT

7.1(88A)T.IV Scope. These rules apply to all activities during welding and cutting operations and are for the safety and protection of persons from injury and illness and the protection of property (including equipment) from damage, fire and other causes arising from these operations.

7.2(88A)T.IV General provisions.

7.2(1) Gas welding, cutting and arc-welding operations shall be restricted to qualified persons designated by a responsible representative of the employer.

7.2(2) Electric welding equipment shall be installed and used only on the electric power service for which it is approved and as recommended by the manufacturer plus or minus ten percent.

7.2(3) *Exceptions.* Variations from the requirements of these rules may be granted by the Iowa employment safety commission only when it is demonstrated to the satisfaction of the commission that equivalent protection is afforded.

7.3(88A)T.IV Definitions.

7.3(1) *Mandatory and advisory rules.* Mandatory requirements of these rules are characterized by the word "shall". If a rule is of an advisory nature, it is indicated by the word "should" or is stated as a recommendation.

7.3(2) *Acetylene generator.* An apparatus in which acetylene gas is formed by the chemical action of water on calcium carbide.

7.3(3) *Arc cutting.* A group of cutting processes wherein the severing of metals is effected by melting with the heat of an arc between an electrode and the base metal.

7.3(4) *Arc welding.* A group of welding processes wherein coalescence is produced by heating with an electric arc or arcs, with or without the application of pressure and with or without the use of filler metal.

7.3(5) *Atomic hydrogen welding.* An arc-welding process wherein coalescence is produced by heating with an electric arc maintained between two metal electrodes in an atmosphere of hydrogen. Shielding is obtained from the hydrogen.

7.3(6) *Brazing.* A group of welding processes wherein coalescence is produced by heating with gas (fuel), acetylene, arc, resistance, or furnace to suitable temperatures and using nonferrous fill metal having a melting point above 800°F., and below that of the base metal. Shielding is accomplished by the application of bulk fluxes during the process.

7.3(7) *Carbon-arc cutting.* An arc-cutting process wherein the severing of metals is effected by melting with the heat of an arc between a carbon electrode and base metal.

7.3(8) *Carbon-arc welding.* An arc-welding process wherein coalesence is produced by heating with an arc between a carbon electrode and the work and no shielding used.

7.3(9) *Confined space.* A relatively small or restricted space where the natural ventilation is not adequate to maintain T.L.V.'s, L.E.L.'s or prevent oxygen deficiency such as a tank, boiler, pressure vessel or small compartment.

7.3(10) *Gas welding.* A welding process wherein coalescence is produced by heating with a gas flame or flames obtained from the combustion of fuel gas with oxygen, with or without the application of pressure and with or without the use of filler metal.

7.3(11) *Hand shield.* A protective device, used in arc welding or arc cutting for protection of the face and neck. A hand shield is equipped with a suitable shaded filter glass to protect the eyes and is designed to be held in the hand.

7.3(12) *Helmet.* A protective device used in arc welding or arc cutting, for protection of the face and neck. A helmet is equipped with suitable shaded filter glass to protect the eyes and is designed to be raised away from the face when the operator is not actually welding or cutting and is to be worn on the head.

7.3(13) *Inert-gas welding (gas-shielded arc welding).* An arc-welding process wherein coalescence is produced by heating with an arc between an electrode and the work. Shielding is obtained from a gas such as helium, argon, or carbon dioxide.

7.3(14) *Lower explosive limit (L.E.L.).* Percentage of fuel per volume of air (air-fuel mixture ratio) to support combustion or the propagation of flame once ignited.

7.3(15) *Manifold.* A multiple header for connecting several cylinders of identical gas to one or more torch supply lines.

7.3(16) *Oxygen deficiency.* The reduction of oxygen percentage in breathing air to eighteen percent or below by volume.

7.3(17) *Regulator.* A device for controlling the delivery of fuel or oxygen at some suitably constant pressure regardless of variation in the higher pressures at the source.

7.3(18) *Resistance welding.* A group of welding processes wherein coalescence is produced by the heat obtained from resistance of the work to the flow of electric current in a circuit of which the work is a part, and by application of pressure.

7.3(19) *Respirator.* A device designed to protect the wearer from inhalation of harmful atmospheres.

7.3(20) *Shielding.* Protecting the molten "puddle" from atmospheric contamination.

7.3(21) *Submerged arc welding.* An arc-welding process wherein coalescence is produced by heating with an arc or arcs between bare metal electrode or electrodes and the work. The actual welding is shielded by a blanket of granular, fusible material covering the base metal to be joined to prevent oxidation.

7.3(22) *Torch.* A device used in gas welding, cutting or torch brazing for mixing and controlling the flow of gases.

7.3(23) *Welder.* Equipment used to perform the welding operation.

7.3(24) *Weldor (operator).* One who performs a manual, semi-automatic or automatic welding operation.

7.3(25) *Work lead.* The electric conductor between the source of arc-welding or cutting current and the work to be welded or cut.

7.4(88A)T.IV Application. All welding and cutting shall be conducted in accordance with these rules.

7.5(88A)T.IV Installation and operation of gas-welding and cutting equipment.

7.5(1) *General.*

a. Premixing of fuel gases and oxygen. Mixtures of flammable gases and oxygen shall not be mixed except at the burner or in a torch.

b. Maximum acetylene pressure. Acetylene shall be generated, piped and utilized at not more than fifteen p.s.i. gage pressure.

c. Cylinders. All portable cylinders used for the storage and shipment of compressed gases shall be constructed and maintained according to interstate commerce commission regulations.

7.5(2) *Stationary automatic acetylene generators.*

a. Rating. The total hourly output of a generator shall not exceed the manufacturer's specified rate.

b. Charging instructions. The manufacturer's instructions shall be carefully followed when charging the generator.

c. Outside generator houses.

(1) No opening in any outside generator house shall be located within five feet of any adjacent building.

(2) A generator house shall be constructed of fire-resistant material.

(3) Explosion venting for outside generator houses shall be provided at the rate of one square foot per fifty cubic feet of room volume and shall be designed to relieve at a maximum pressure of twenty-five pounds per square foot.

(4) All generator houses shall be clearly marked on the outside at all entrances with a sign stating "Calcium carbide—Do Not Use Water in Case of Fire" (or equivalent wording). A similar sign shall be placed on the inside at or near the water supply.

d. Inside generator rooms. Acetylene generators shall be installed only in one story buildings without basements or on the top floor or roof of multistory buildings.

(1) There shall be no openings in the generator floor of installations above ground level.

(2) The walls, partitions, floors and ceilings of inside generator rooms shall be of noncombustible construction having a fire-resistance rating of at least one hour. The walls or partitions shall be continuous from floor to ceiling and shall be securely anchored. At least one wall of the room shall be an exterior wall.

(3) All doors in the generator room shall open outward and have opening latches on both sides. All windows in inside partitions shall be wired glass. Explosion venting for inside generator houses shall be provided in the outside wall or the roof at the rate of one square foot per fifty cubic feet of room volume and shall be designed to relieve at a max-

imum pressure of twenty-five pounds per square foot.

(4) The foundations shall be so arranged that the generator will be level and so that no excessive strain will be placed on the generator or its connections. Acetylene generators shall be grounded.

(5) All generator rooms shall be clearly marked on the outside at all entrances with a sign stating "Calcium carbide—Do Not Use Water in Case of Fire" (or equivalent wording). A similar sign shall also be placed on the inside at or near the water supply.

e. Ventilation. Generator houses and rooms shall be vented to the out-of-doors by vents placed at the floor and ceiling levels.

f. Heating. Only indirect heating shall be used to heat the generator house or room. The heating source shall not be installed in the generator house or room. Sodium chloride or corrosive chemicals shall not be used for protection from freezing.

g. Electrical equipment. All electrical equipment shall meet the requirements of the Iowa employment safety commission rule "Electrical Installations in Hazardous Locations", title III, chapter 1.

h. Water supply. An overflow shall be installed in the generator to drain through an open connection to an outdoor residue pit.

i. Generator escape or relief pipes. The escape or relief pipe shall be carried full size to a suitable point outside the building. It shall terminate in a hood or bend located at least twelve feet above-ground, preferably above the roof, and as far away as practicable from windows or other openings into buildings and as far away as practicable from sources of ignition. Generating chamber relief pipes shall not be interconnected but shall be so constructed that it will not be obstructed. The outlet shall be at least three feet from combustible construction.

7.5(3) *Portable automatic acetylene generators, location.*

a. Portable generators shall not be used within ten feet of combustible material other than the floor.

b. Portable generators shall be cleaned and recharged and the air mixture blown off outside buildings.

c. Portable generators shall not be housed in any room in which open lights or fires are used. Generator rooms shall be ventilated to avoid the accumulation of acetylene.

7.5(4) *Calcium carbide handling and storage.*

a. Containers. Calcium carbide shall be stored in the same metal containers as received from the supplier.

b. Handling. Drums shall be handled so that they will not be punctured or ruptured. Full drums of calcium carbide shall be used in rotation as received from the supplier.

c. Indoor storage of calcium carbide. Calcium carbide must be stored in dry, well-ventilated, weather-proofed rooms or buildings. The seals of all carbide containers shall remain unbroken except for one container from which carbide is being taken.

d. Outdoor storage of calcium carbide. Calcium carbide in full unopened metal containers may be stored out-of-doors in industrial areas. Containers with recessed, press-on type lids shall be stored horizontally in single or double rows. Containers with lock type ring covers shall be stored in an upright position. Containers having covers not described above shall be stored in such a manner as to prevent the contents from being exposed to moisture. The contents of drums longest in storage shall be used first.

7.5(5) *Service piping systems for all gases.*

a. Acetylene piping. Only steel or wrought iron shall be used for gas piping. Under no circumstances shall acetylene gas be brought into contact with unalloyed copper except in a torch.

b. Oxygen piping. Black steel, wrought iron, brass, copper, copper alloy or stainless steel shall be used for oxygen piping. Extra heavy pipe shall be used where the pressure is over 150 p.s.i. For pressures in excess of 700 p.s.i., stainless steel or copper alloy pipe and fittings shall be required.

c. Jointings.

(1) Joints in steel or wrought-iron pipe shall be welded or made up with threaded or flanged fittings.

(2) Joints in brass or copper pipe may be welded or made up with threaded or flanged fittings, or they may be brazed. Joints shall not be soldered.

(3) Joints in seamless copper, brass or other nonferrous gas tubing shall be made by means of suitable fittings, or they may be brazed. Joints shall not be soldered.

(4) Threaded connections shall be installed using a joint sealing compound approved for the gas service and pressures anticipated.

d. Installation.

(1) All piping subject to physical damage shall be protected against such damage. Pipe may be above or below ground and shall be protected against corrosion. Pipe carrying oxygen, acetylene or acetylene compounds laid underground in earth shall be located below the frost line.

(2) Only piping which has been welded or brazed shall be installed in tunnels, trenches, or ducts. Shutoff valves shall be located outside such conduits.

(3) *Testing.* All piping and valves shall be tested and proved gas-tight at one and one-half times the maximum working pressure and shall be thoroughly purged of air before being placed in service. Any medium used for testing oxygen lines must be oil free. Flames shall not be used to detect leaks.

7.5(6) *Storage, handling and use of oxygen and fuel-gas cylinders.*

a. Storage—general.

(1) Oxygen cylinders in storage inside shall be separated from fuel-gas cylinders or combustible materials (especially oil or grease), a minimum distance of twenty feet or by a noncombustible barrier at least five feet high having a fire-resistance rating of at least one-half hour.

(2) Cylinders containing a gas heavier than air shall not be stored in any building where such storage will be directly over or within fifty feet of any point directly over a basement or pit within such building.

(3) Cylinders shall not be stored within ten feet of elevators, stairs or gangways (excluding gangways used solely for servicing such storage areas). They shall be stored in assigned areas and shall be protected from all moving and falling objects. They shall be chained or placed in rack to prevent being knocked over.

(4) Inside of buildings, cylinders shall be stored in well-protected, well-ventilated, dry locations away from a source of ignition, at least twenty feet from highly combustible materials such as oil or excelsior.

(5) Valve protection caps shall always be in place except when cylinders are connected for use.

(6) Cylinders mounted upon a mobile vehicle for field welding or cutting shall not be considered as being in storage.

b. Handling—general.

(1) When transporting cylinders by a crane or derrick, a cradle or suitable platform shall be used. Slings or electric magnets shall not be used for this purpose.

(2) Single cylinders shall be moved by a suitable cylinder truck or by tilting or rolling them on their bottom edge. Dragging and sliding shall be avoided.

(3) A suitable cylinder truck, chain or steadying device shall be used to keep cylinders from being knocked over while in use.

(4) Cylinder valves shall be closed before moving cylinders to or from the carrying device and when work is finished.

(5) Cylinders shall not be dropped, struck, or handled to contact each other with sufficient force to cause damage to the cylinder.

(6) Cylinders, whether full or empty, shall not be used as rollers or supports.

(7) Cylinders shall be kept far enough away from the actual welding or cutting operation so that sparks, hot

slag or flame will not reach them, or fire-resistant shields shall be provided.

(8) Cylinders shall be securely fastened in place in an upright position.

(9) Cylinders shall never be opened except in an upright position.

(10) Valves on oxygen cylinders shall be fully opened when the cylinder is in use.

c. Storage—fuel-gas cylinders.

(1) Inside a building, cylinders, except those in actual use or attached ready for use, shall be limited to a total gas capacity of 2000 cubic feet or 300 pounds of liquefied petroleum gas. In large, well-ventilated, one-story buildings, exceptions to this rule may be granted by the Iowa employment safety commission. For storage in excess of 2000 cubic feet total gas capacity of cylinders or 300 pounds of liquefied petroleum gas, a special building, separate room or compartment shall be used having no open flame or heating or lighting and shall be well-ventilated. Signs shall be conspicuously posted on the entrance of special buildings, rooms or compartments reading "Danger—No Smoking, Matches or Open Lights."

(2) Fuel-gas cylinders shall be stored with the valve end up.

d. Storage—oxygen cylinders.

(1) Cylinders, cylinder valves, couplings, regulators, hose and apparatus shall be kept free from oily or greasy substances.

(2) Oxygen cylinders shall not be stored near oil and grease.

7.5(7) *Manifolding of cylinders.*

a. General.

(1) When acetylene cylinders are coupled, flash arresters shall be installed between each cylinder and the coupler block.

(2) Each fuel-gas cylinder lead shall be provided with a backflow check valve on a manifold system.

(3) Acetylene and liquefied fuel-gas cylinders shall be manifolded in a vertical position.

b. Fuel-gas manifolds.

(1) Fuel-gas cylinders connected to one manifold inside a building shall be limited to a total capacity not exceeding 400 pounds of liquefied petroleum gas or 3000 cubic feet of other fuel-gas. More than one such manifold with connected cylinders may be located in the same room provided the manifolds are at least fifty feet apart or separated by a noncombustible barrier at least five feet high having a fire-resistance rating of at least one-half hour.

(2) Fuel-gas cylinders connected to one manifold having an aggregate capacity exceeding 400 pounds of liquefied petroleum gas or 3000 cubic feet of other fuel-gas shall be located outdoors, or in a separate building or room constructed in accordance with 7.5(2)"*c*" and 7.5(2)"*d*".

c. Oxygen manifolds.

(1) Oxygen manifolds shall not be located in an acetylene generator room. Oxygen manifolds shall be separated from fuel-gas cylinders, combustible or flammable materials, a minimum distance of twenty feet or by a noncombustible barrier at least five feet high having a fire-resistance rating of at least one-half hour.

(2) Except as provided in 7.5(7)"*c*"(3), oxygen cylinders connected to one manifold shall be limited to a total gas capacity of 6000 cubic feet. More than one such manifold with connected cylinders may be located in the same room provided the manifolds are at least fifty feet apart or separated by a noncombustible barrier at least five feet high having a fire-resistance rating of at least one-half hour.

(3) An oxygen manifold, to which cylinders having an aggregate capacity of more than 6000 cubic feet of oxygen are connected, should be located outdoors or in a separate noncombustible building. Such a manifold, if located inside a building having other occupancy, shall be located in a separate room of noncombustible construction having a fire-resistance rating of at least one-half hour or in an area with no combustible material within twenty feet of the manifold.

7.5(8) *Hose.*

a. Fuel-gas hose and oxygen hose

shall be easily distinguishable. Hose carrying acetylene and other fuel-gas shall be colored red. Oxygen hose shall be green.

b. Oxygen and fuel-gas hose connections shall not be interchangeable.

c. A single hose having more than one gas passage with a common wall separation which, if failing, would permit the flow of one gas into the other gas passage, shall not be used. Twin hose having separate cord reinforced walls will be permitted.

d. When parallel sections of oxygen and acetylene hose are taped together, not more than four inches out of eight inches shall be covered by the tape.

e. Hose connections shall be clamped or otherwise securely fastened in a manner that will withstand, without leakage, twice the pressure to which they are normally subjected in service, but in no case less than a pressure of 300 p.s.i. Oil-free air or oil-free inert gas shall be used for the test.

f. When in use, all hose carrying acetylene, oxygen, natural or manufactured fuel-gas, or any gas or substance which may ignite or enter into combustion or be in any way harmful, shall be visually inspected by the operator or an authorized person weekly.

g. Where hose shows excessive wear or damage or has been subjected to flashback it shall be inspected and tested with oil-free air or an oil-free inert gas at twice the normal pressure to which it is subjected in service, but in no case less than 300 p.s.i.

h. Hose showing leaks, burns, worn places, or other defects rendering it unfit for service shall be repaired or replaced.

7.6(88A)T.IV Application and installation of arc and inert-gas welding.

7.6(1) ***Application of arc welding equipment.***

a. Equipment approval. All electric generator and transformer arc welding or arc cutting power sources shall carry a name plate indicating the manufacturer, model and type of equipment and pertinent data such as rated load voltage and rated duty cycle concerning the equipment.

b. Open circuit (no load) voltages of arc welding and cutting machines should be as low as possible consistent with satisfactory welding or cutting being done. The following limits shall not be exceeded:

(1) Alternating-current machines:

Manual arc welding and cutting—80 volts.

Automatic (machine or mechanized) arc welding and cutting—100 volts.

(2) Direct-current machines:

Manual arc welding and cutting—100 volts.

Automatic (machine or mechanized) arc welding and cutting—100 volts.

(3) When special welding and cutting processes require values of open circuit voltages higher than the above, means shall be provided to prevent the operator from making accidental contact with the high voltage by adequate insulation or other means.

(4) For AC welding under wet conditions or warm surroundings where perspiration is a factor, the use of reliable automatic controls for reducing no load voltage is recommended to reduce the shock hazard.

7.6(2) ***Installation of arc welding equipment.***

a. Grounding.

(1) The frame or case of the welding machine (except engine driven machines) shall be properly grounded.

(2) Welding current shall be returned to the welding machine by a single circuit from the work. Connection of a cable(s) from the welding machine to a common conductor or structure on which the work rests, or to which the work is connected, is permissible.

(3) Conduits containing electrical conductors shall not be used for completing a work lead circuit. Pipe lines shall not be used as a part of a work lead circuit excepting during the construction or repair of such pipe lines.

(4) Chains, wire ropes, cranes, hoists and elevators shall not be used to carry welding current.

(5) Long cables shall be substantially supported overhead, if practicable. Cables that are laid on the floor or ground shall be protected from damage and interference with safe passage. Welding supply cables shall not be placed adjacent to primary power supply cables or other high-voltage lines.

b. Supply connections and conductors.

(1) A disconnecting switch or controller shall be provided either at each welding machine or as an integral part of the machine.

(2) Conductors which supply one or more welders shall be protected by an overcurrent device rated or set at not more than two times conductor rating.

(3) For individual welding machines, the rated current-carrying capacity of the supply conductors shall be not less than the rated primary current of the welding machines.

(4) For groups of welding machines connected to the same branch circuit, the rated current-carrying capacity of conductors shall be not less than the sum of the rated primary currents of the welding machines supplied, except a demand factor can be used for machines operating intermittently.

(5) In operations involving several welders on one structure, DC welding process requirements may require the use of both polarities; or supply circuit limitations for AC welding may require distribution of machines among the phases of the supply circuit. In such cases no load voltages between electrode holders will be two times normal in DC or 1, 1.41, 1.73 or 2 times normal on AC machines. Similar voltage differences will exist if both AC and DC welding are done on the same structure. Care shall, therefore, be taken to eliminate the probability of weldors touching two electrode holders simultaneously. If this cannot be done machines shall be connected as follows:

All DC machines shall be connected with the same polarity.

All AC machines shall be connected to the same phase of the supply circuit and with the same instantaneous polarity.

7.7(88A)T.IV Installation and operation of resistance welding equipment.

7.7(1) ***Installation.***

a. Equipment approval. All power sources used in resistance welding shall carry a nameplate indicating the manufacturer, model, type of equipment and pertinent data concerning the equipment.

A safety-type disconnecting switch shall be installed at each machine.

b. Spot and seam-welding machines.

(1) All external weld initiating control circuits shall not exceed 120 volts.

(2) In case of stored energy or condenser discharge type of resistance-welding equipment, the control panels involving high voltage (over 550 volts) shall be insulated and protected by complete enclosures. The panel door shall have both a disconnect switch and an interlock which, when the door is opened, will automatically disconnect the power to the panel and discharge the panel condensers. Panel doors shall be kept locked.

c. Flash-welding equipment.

(1) Flash-welding machines which exceed fifty kva shall be equipped with a hood to control the flying flash.

(2) Fire-resistant curtains or suitable shields shall be set up around each machine.

d. Guards.

(1) All air and hydraulic clamps shall be effectively guarded.

(2) All air and electrical foot switches shall be guarded to prevent accidental operation of the machine.

7.8(88A)T.IV Ventilation.

7.8(1) Local exhaust or general ventilating systems shall be provided and arranged to keep the amount of toxic fumes, gases or dusts below the threshold limit values as established by the Iowa employment safety commission rules, general division, title IV, chapter 2, "Threshold Limit Values".

7.8(2) In spaces with good natural unrestricted air movement, mechanical ventilation is not required under the following conditions:

a. The space per weldor is at least 10,000 cubic feet and such spaces are free of low ceilings, partitions and similar barriers which might obstruct the natural ventilation.

b. In those instances where welding is being performed in limited amounts, that is where welding is performed and there is a lapse of time between welding operations being performed, of an hour or more, and each actual welding time period does not exceed one hour, the above specified cubic feet of space (10,000) need not be required provided the build-up of toxic fumes, gas, or dust, is kept within the threshold limit values as per reference stated in 7.8(1) above.

7.8(3) Where natural ventilating conditions as required in 7.8(2) do not exist, mechanical ventilation shall be provided at the minimum rate of 2,000 cubic feet per minute per weldor, except where supplied-air respirators are used by the workers.

7.8(4) *Ventilation in confined spaces.*

a. All welding and cutting operations carried on in confined spaces shall be adequately ventilated to prevent the accumulation of toxic materials in excess of the threshold limit value referred to in 7.8(1). Adequate ventilation shall be provided to prevent oxygen deficiency. This applies not only to the weldor but also to helpers and other personnel in the affected vicinity.

b. All replacement air shall be clean and respirable. In such circumstances where it is impossible to provide adequate ventilation to meet 7.8(1) air supplied respirators or hose masks approved for this purpose shall be used. Such devices shall be provided to all personnel in the affected area.

c. Where welding operations are carried on in confined spaces and weldors and helpers are provided with air-supplied respirators or hose masks for the purpose intended, a workman shall be stationed on the outside of such confined space to service the power and ventilation lines to insure the safety of those working within.

d. Oxygen from a cylinder or torch shall never be used for ventilation.

7.8(5) *Toxic materials.* In confined spaces where welding or cutting involves fluxes or other materials which contain fluorine compounds, zinc, lead, beryllium, cadmium, mercury, or other substances of toxic significance ventilating provisions shall comply with 7.8(4).

7.9(88A)T.IV Work in confined spaces.

7.9(1) When welding or cutting is being performed in any confined spaces, the gas cylinders and power sources shall be left on the outside. Before operations are started, heavy portable equipment mounted on wheels shall be securely blocked to prevent accidental movement.

7.9(2) In order to eliminate the possibility of gas escaping through leaks or improperly closed valves when gas welding or cutting, the torch valves shall be closed and the gas supply to the torch positively shut off at some point outside the confined area whenever the torch is not attended. The torch and hose shall also be removed from the confined space.

7.9(3) Hoses, power lines and ventilating units shall not be placed in such a position so as to block egress.

7.10(88A)T.IV Protection of personnel.

7.10(1) *Eye protection.*

a. Helmets or hand shields shall be used during all arc welding or arc cutting operations, excluding submerged arc welding or mechanically shielded open arc welding. Goggles, safety glasses or face shields shall be worn during all welding or cutting operations to provide protection from injurious rays from adjacent work and from flying objects. The goggles, safety glasses or face shields may have either clear glass or colored glass, depending upon the amount of exposure to adjacent welding operations. Helpers or attendants shall wear proper eye protection.

b. Where arc welding is regularly carried on in a building, the portion of the walls of the welding bay which reflects welding flashes into a work area shall be of low reflectivity. Where the work permits, the weldor shall be enclosed in an individual booth with a finish of low reflectivity, or shall be enclosed with noncombustible screens of similar finish. Booths and screens shall permit circulation of air at floor level. Low reflective fire retardant protective barriers shall be provided between weld-

ing or cutting operations and other persons within the work area, unless such persons are afforded protection by natural barriers or appropriate eye protection.

c. All operators and attendants of resistance-welding or resistance-brazing equipment shall use transparent face shields or goggles, depending on the particular job, to protect their faces or eyes as required.

d. Eye protection in the form of suitable goggles shall be worn where needed for brazing operations not covered in the preceding paragraphs.

e. Where helmets, hand shields, goggles, safety glasses and hard hats are required in this rule, they shall comply with the provisions of Iowa employment safety rules, general division, title IV, chapter 1, "Head, Eye and Respiratory Protection".

7.10(2) *Protective clothing.*

a. Suitable gloves shall be worn when engaged in welding or cutting operations, excluding fully automatic welding or cutting operations.

b. Incombustible shields or protective clothing shall be used to protect the worker when his position is necessarily such that some part of his body is exposed to falling hot metal or oxide.

c. Weldors shall not wear highly flammable or greasy clothing while welding or cutting. Light colored or lightweight clothing should not be worn while welding.

d. Where overhead hazards exist approved type hard hats shall be worn in accordance with the provisions of employment safety rules, general division, title IV, chapter 4, "Head, Eye, and Respiratory Protection".

7.10(3) *Working above others.* Unless unavoidable, gas welding or cutting, or arc welding shall not be done in any place above other workers. When such work is unavoidable, an incombustible shield shall be placed between the work and the workers beneath or a watchman shall be stationed to give warning.

7.11(88A)T.IV Operating procedures.

7.11(1) In arc welding or cutting operations power shall be disconnected or switched off from the electrodes when not attended. In gas welding or cutting operations the fuel-gas supply shall be shut off when not attended.

7.11(2) Workers should not coil or loop welding electrode cable around parts of his body.

7.11(3) Cables with splices or repaired insulation within ten feet of the cable end to which the electrode holder is connected shall not be used.

7.11(4) Electrode holders shall not be cooled by immersion in water.

7.11(5) *Beams secured before cutting.* Before steel beams or other structural shapes or elements of construction are cut, they shall be secured by ropes, chains, or other means to prevent unsafe conditions.

7.12(88A)T.IV Arc welding and cutting.

7.12(1) *General.* Welding equipment shall be of an approved type for the use intended.

7.12(2) *Manual electrode holders.*

a. Manual electrode holders shall be specifically designed for arc welding and shall be of a capacity capable of safely handling the maximum current required for the electrodes.

b. Any current-carrying parts passing through the portion of the holder which the weldor grips in his hand shall be fully insulated against the maximum voltage above ground.

7.12(3) *Welding cables and connectors.*

a. All welding cables shall be of the completely insulated, flexible type, capable of handling the maximum current requirements in progress, taking into account the duty cycle under which the welder is working.

b. Cables in poor repair shall not be used.

7.12(4) *Ground returns and machine grounding.*

a. A ground return shall have a safe current-carrying capacity at least equal to the specified maximum output capacity of the welding unit which it services.

b. When a single ground return services more than one unit its safe

carrying capacity shall be at least equal to the total specified maximum output capacities of all the units which it services.

c. All ground connections shall be inspected by the operator before each use to insure that they are mechanically strong and electrically adequate for the required current.

7.13(88A)T.IV Gas welding and cutting.

7.13(1) *Cylinders.* Only cylinders of an approved type shall be used.

7.13(2) *Manifolds.*

a. Manifolds shall bear the name of the substance they contain in letters either painted on the manifold or on a sign permanently attached to it of a size to permit easy identification.

b. All manifolds shall be placed in a safe and accessible location.

c. Manifold hose connections shall be such that hose cannot be interchanged between fuel gases and oxygen manifolds.

d. Adaptors shall not be used to permit the interchange of hose.

e. Manifold hose connections shall be kept free of grease and oil.

7.14(88A)T.IV Operating procedure.

7.14(1) *Fuel cylinders.* Cylinders of fuel-gas shall not be moved or shall not stand for any extended period when not in actual use, without the caps of such tanks in place. Cylinders in use may be moved without caps provided they are securely fastened on a portable welding unit.

In lieu of the valve protection caps, valves may be recessed within a protective housing or skirt which extends above the cylinder valve.

Oil shall not be used to lubricate protective caps.

7.14(2) *Cradles to handle cylinders.* Suitable cradles shall be used for lifting or lowering oxygen or fuel cylinders to reduce to a minimum the possibility of dropping them. Ordinary rope slings shall not be used.

7.15(88A)T.IV Fire prevention in welding or cutting.

7.15(1) When practical, objects to be welded, cut or heated shall be moved to a designated safe location. If the object to be welded, cut or heated cannot be readily moved, all fire hazards in the vicinity shall be moved to a safe place or equivalent safeguards provided.

7.15(2) If the object to be welded, cut or heated cannot be moved and if all the fire hazards cannot be removed, positive means shall be taken to confine the heat, sparks, and slag and to protect the immovable fire hazards from them.

7.15(3) No welding, cutting or heating shall be done where the application of flammable liquids, paints, or dust concentrations create a fire or explosion hazard.

7.15(4) Suitable fire extinguishing equipment shall be available and shall be maintained in a state of readiness for instant use.

7.15(5) When the welding, cutting or heating operations are such that normal fire prevention precautions are not sufficient, additional personnel shall be assigned to guard against fire while the actual welding, cutting or heating operations are being performed. Such personnel shall inspect the area of operations for a sufficient period of time after completion of the work to assure that no possibility of fire exists.

7.15(6) When welding, cutting or heating operations are on tank shells, decks, or any metal partition or wall, precautions shall be taken, also, on the opposite side of the work.

7.15(7) No welding, cutting or other hot work shall be performed on used drums, barrels, tanks, or similar containers until they have been cleaned so thoroughly as to make absolutely certain that there are no flammable materials present or any substances such as greases, tars, acids or other materials which, when subjected to heat, might produce flammable or toxic vapors. Any pipe lines or connections to the drum or vessel shall be disconnected or blanked.

7.15(8) All hollow spaces, cavities or containers as set forth in 7.15(7) shall be vented to permit the escape of air or gases before preheating, cutting or welding. Purging with inert gas is recommended.

These rules are intended to implement chapter 88A of the Code of Iowa (as provided above).

[Effective June 10, 1971]

These rules having remained with the Attorney General for more than the statutory thirty days (17A.8) are being filed without his approval.

S/ Jerry L. Addy

HEALTH DEPARTMENT

BOARD OF COSMETOLOGY EXAMINERS

Pursuant to authority of sections 135.11(17), 147.29, 147.36, 147.90, 157.4, Code 1971, the rules relating to the board of cosmetology examiners that appear in 1966 I.D.R. 265, 266 and 267 [1971 I.D.R., chapter 15, T.XXVI, pages 463-467] are hereby amended as follows.

[Filed April 19, 1971]

ITEM 1. By rescinding all of paragraph C of rule 1 [1971 I.D.R., 15.1(3)] and inserting in lieu thereof the following:

"**15.1(3)** The daily class hour schedule shall consist of not more than eight hours of instruction or work per day for five or six days a week. Instruction shall not be given on Sunday. The daily class hours schedule shall be posted in the classroom. In special circumstances, students absent for legitimate reasons shall be allowed to make up any lost time not to exceed six hours during any one week to permit them to complete their training with their regular class."

ITEM 2. By rescinding all of paragraph D of rule 1 [1971 I.D.R., 15.1(4)] and inserting in lieu thereof the following:

"**15.1(4)** The course of study in an approved school of cosmetology shall consist of not less than 2,100 hours training, and no school of cosmetology will be approved by the board of cosmetology examiners unless it complies with the requirements of study as provided in the following curriculum.

CURRICULUM

Demonstrations and lectures	Hours
Sanitation and sterilization	60
Hygiene and grooming	63
Professional ethics	40
Salesmanship	63
Public relations and psychology	63
Anatomy	63
Dermatology	42
Trichology	42
Nails	42
Chemistry and chemical hair straightening	70
Safety precautions	42
State law—rules and Code	21
Supervised practical instruction	
Sanitation and sterilization	60
Shampoos and rinses	70
Scalp and hair treatments	49
Hair shaping	210
Hair styling	315
Wiggery	49
Manicuring	49
Permanent waving	252
Hair coloring and lightening	280
Facial treatment and make-up	49
Safety precautions	49
Unassigned	
Specific needs	57
Total hours	2,100"

ITEM 3. By rescinding all of paragraphs A and B of rule 3 [1971 I.D.R., 15.3(147)T.XXVI, 15.3(1), 15.3(2)] and inserting in lieu thereof the following:

"**15.3(147)T.XXVI Cosmetology instructors.**

15.3(1) After the effective date of this regulation [May 19, 1971], instructors in approved schools of cosmetology in addition to being licensed in the state of Iowa as a cosmetologist shall:

a. Be nineteen years of age or older;

b. Be a graduate of an accredited high school or the equivalent thereof;

c. Have one thousand hours teachers' training with the curriculum content to be determined by the cosmetology board of examiners or two years experience in the field of cosmetology;

d. Obtain certification from the school of training with final examination grade to be submitted to the division of cosmetology.

All persons working as instructors in a school of cosmetology in Iowa at the time this regulation becomes effective shall register with the cosmetology board

of examiners within ninety days after effective date on forms supplied by the division of cosmetology.

15.3(2) An instructor may annually attend a cosmetology instructors institute approved by the cosmetology board of examiners to maintain instructor status.

A qualified instructor shall be responsible for and in direct charge of all theory classes and practical instructions at all times."

ITEM 4. By adding to rule 4 [1971 I.D.R., 15.4(147)T.XXVI] the following:

"15.4(13) All approved schools of cosmetology shall display in the entrance room a sign indicating that all work is done exclusively by students."

ITEM 5. By rescinding all of rule 7 [1971 I.D.R., 15.7(147)T.XXVI] and inserting in lieu thereof the following:

"15.7(147)T.XXVI Enrollment card and monthly report card. Cosmetology schools shall submit on or before the fifth day of each month to the cosmetology division of the state department of health a report of the names of the students enrolled, the total hours for each student previously reported, the total number of hours completed during the month for each student, and the total cumulative number of completed hours for each student at the end of the month."

ITEM 6. By rescinding lines one (1) through nineteen (19) of rule 8 [1971 I.D.R., 15.8(147)T.XXVI] and inserting in lieu thereof the following:

"15.8(147)T.XXVI Examination requirements. Examinees taking state board shall have at their disposal for the examination all necessary materials requested by the cosmetology board of examiners. Female examinees must have clean hair which must not be preshaped. Each male examinee must furnish his own model, who must be at least sixteen years of age. A mannequin may be used by any examinee. Hair of models or mannequin must comply with the aforesaid requirements."

ITEM 7. By rescinding all of paragraph M of the regulations pertaining to examinations in 1966 I.D.R. 267 [1971 I.D.R., 15.8(13)] and inserting in lieu thereof the following:

"15.8(13) A certificate of license may be issued by the cosmetology board of examiners to an applicant who has passed satisfactorily an examination conducted by said board to determine fitness to practice cosmetology in accordance with the established rules of the board. The board shall not be confined to any specific system or method. Such examination shall be consistent with the prescribed curriculum for licensed cosmetology schools of this state and may include practical demonstrations and written and oral tests as the board deems appropriate for the requirements of the profession. Such examination is to be prepared and conducted by the board so as to determine whether or not the applicant possesses the requisite skill in such profession to perform properly all the duties thereof and has sufficient knowledge of the prescribed curriculum.

a. If the applicant fails to receive a passing grade in the first examination, the applicant must be re-examined in the entire examination at a regularly scheduled state board and obtain a passing grade.

b. Failure to appear and take the examination shall result in forfeiture of the fee and temporary permit unless the failure to appear shall have been due to illness or similar cause in which case written request setting forth reasons why forfeiture should not occur shall be made to the cosmetology board of examiners."

These rules are intended to implement sections 147.29, 147.36, 147.90 and 157.4, Code 1971.

[Effective May 19, 1971]

These rules are filed without approval of the Attorney General.

S/ Arnold M. Reeve, M.D.

HEALTH DEPARTMENT
(continued)

Pursuant to authority of sections 135.11(13) and 144.3, Code 1971, the following rules are adopted.

[Filed June 8, 1971]

TITLE XVIII

STATEWIDE SYSTEM OF VITAL STATISTICS

CHAPTER 1

LOCAL REGISTRARS

1.1(144)T.XVIII Appointment of local registrars. Each county registrar shall transmit to the state registrar, on a form prescribed and furnished by the state

registrar, the names of those persons he selects as local registrars and deputy local registrars. The appointees are to assume the duties of office when approval is received from the state registrar. The county registrar may serve as local registrar.

1.2(144)T.XVIII Removal of local registrars. Failure to carry out the provisions of chapter 144 of the Code and rules adopted thereunder shall be considered reasonable cause for removal of local or deputy local registrars by the state registrar.

1.3(144)T.XVIII Duties of local registrars.

1.3(1) Each local registration officer shall serve as the agent of the state registrar in his district, and shall:

a. Maintain lists of hospitals, cemeteries, funeral directors and physicians in his district;

b. Maintain an adequate supply of all forms and blanks furnished by the state registrar and supply these to such persons as require them;

c. Notify the person responsible for the registration when any certificate submitted for registration is unacceptable and secure a complete and correct certificate.

1.3(2) For an event which occurred in his district, the local registrar shall sign each certificate of birth, death and fetal death and enter the date received by him.

1.3(3) Each shipment of certificates transmitted by the local registrar to the county registrar shall be accompanied by a transmittal form provided for that purpose. This same transmittal form shall also accompany these certificates when they are transmitted by the county registrar to the state registrar.

1.4(144)T.XVIII Absence, illness or disability of local registrar. In case of any extended absence of a local registrar, the county registrar and state registrar shall be notified in writing by the local registrar or deputy local registrar.

1.5(144)T.XVIII Forms property of state department of health. All forms, certificates and reports pertaining to the registration of vital events are the property of the state department of health and shall be surrendered to the state registrar or his representative upon demand. The forms supplied or approved for reporting vital events shall be used for official purposes as provided for by law, rules and instructions of the state registrar. No forms shall be used in the reporting of vital events or making copies of vital records except those furnished or approved by the state registrar.

1.6(144)T.XVIII Preparation of certificates. Death certificates must be prepared on a typewriter with a dark ribbon. All other certificates must either be prepared on a typewriter with a dark ribbon or written in dark, unfading ink. All signatures required shall be entered in dark, unfading ink. Unless otherwise directed by the state registrar, no certificate shall be complete and correct and acceptable for filing:

1. That does not have the names typed or printed legibly under all signatures for positive identification purposes;

2. That does not supply all items of information called for thereon or satisfactorily accounts for their omission;

3. That contains major alterations or erasures;

4. That does not contain genuine signatures;

5. That is marked "copy" or "duplicate";

6. That is a carbon copy;

7. That is prepared on an improper form;

8. That contains obviously improper or inconsistent data;

9. That is not prepared in conformity with these rules or instructions issued by the state registrar.

These rules are intended to implement section 144.3 of the Code, 1971.

[Effective July 8, 1971]

CHAPTER 2

DELAYED BIRTH, DEATH AND MARRIAGE REGISTRATION

2.1(144)T.XVIII Foundling registration. The certificate for a living infant of unknown parentage is to be filed on a regular live birth certificate and shall:

1. Have "foundling registration" plainly marked in the left top margin of the certificate;

2. Show the required facts as determined by approximation and have parentage data left blank;

3. Have the certification of the attendant changed to read "signature of custodian" indicating title, if any.

2.2(144)T.XVIII Birth registration—five days to one year. The registration of a birth after the statutory time prescribed for filing but within one year from the date of birth shall be registered on the standard form of live birth certificate. Such certificate shall not be marked delayed. In any case where the certificate is signed by one of the parents, a statement giving the reason why the certificate cannot be signed by the attendant must appear on the reverse side of the certificate. The state registrar may require additional evidence in support of the facts of birth or an explanation for the delay in filing in any case where there appears to him reason to question the adequacy of the registration.

2.3(144)T.XVIII Delayed birth registration—after one year. All births registered one year or more after the date of birth are to be registered on a special "delayed certificate of birth" form adopted by the state registrar.

2.4(144)T.XVIII Who may file delayed certificate. Any person born in Iowa and whose birth is not recorded in Iowa, or his parent, guardian, next of kin or other person acting for the registrant and having personal knowledge of the facts of birth, may file a delayed certificate of birth with the state registrar.

2.5(144)T.XVIII Delayed certificate to be signed. Each delayed certificate of birth shall be signed and sworn to before an official authorized to administer oaths by the person whose birth is to be registered if such person is sixteen years of age or over and is competent to sign and swear to the accuracy of the facts stated therein; otherwise, the certificate shall be signed and sworn to by one of the parents, the guardian, the next of kin, or if none of these exist, any other older person. In all cases when someone other than the applicant signs the certificate, such person must be older than the applicant and have personal knowledge of the facts of birth.

2.6(144)T.XVIII Facts to be established for delayed registration of birth. The minimum facts which must be established by documentary evidence shall be the following:

1. The full name of the person at the time of birth, except that an additional delayed certificate may reflect a name established by adoption or legitimation when such evidence is submitted;

2. The date of birth and place of birth;

3. The name of the mother;

4. The full name of the father, except that if the mother was not married to the father of the child at the time of birth or during the ten months preceding such birth, the name of the father shall not be entered on the delayed certificate unless the child has been adopted or legitimated or parentage has been determined by a court of competent jurisdiction or there is evidence of acknowledgement of paternity by both parents.

2.7(144)T.XVIII Documentary evidence.

2.7(1) To be acceptable for filing, the name of registrant and the date and place of birth entered on a delayed birth certificate shall be supported by at least:

a. Two pieces of documentary evidence if filed within seven years after the date of birth; or

b. Three pieces of documentary evidence if filed seven years or more after the date of birth.

2.7(2) Each document must be from an independent source and only one of which may be an affidavit of personal knowledge. Facts of parentage need be supported by only one document which may be one of the documents above other than an affidavit of personal knowledge. Documents presented shall be in the

form of the original record or a duly certified copy thereof or a certification statement from the custodian of the record or document.

2.7(3) All documents submitted in evidence, other than an affidavit of personal knowledge, must have been executed at least ten years prior to the date of application or have been established prior to the applicant's tenth birthday.

2.7(4) An affidavit of personal knowledge, to be acceptable, must be prepared and signed before an official authorized to administer oaths, by one of the parents, the next of kin, or any other older person. In all cases the affiant must be older than the applicant and have personal knowledge of the facts of birth.

2.8(144)T.XVIII Abstraction and certification by state registrar. The state registrar or his designated representative shall abstract on the delayed certificate of birth a description of each document submitted to support the facts on the delayed birth certificate. This description shall include:

1. The title or description of the document;

2. The name and address of the affiant if the document is an affidavit of personal knowledge or of the custodian if the document is an original or certified copy of a record or certification statement;

3. The date of the original filing of the document being abstracted;

4. The information regarding the birth and parentage contained in the document.

2.9(144)T.XVIII Documents returned.

2.9(1) The state registrar or his authorized agent shall by his signature certify:

a. That no prior birth certificate is on file for the person whose birth is to be recorded;

b. That he has reviewed the evidence submitted to establish the facts of birth;

c. That the abstract of the evidence appearing on the delayed birth certificate accurately reflects the nature and content of the document.

2.9(2) All documents submitted in support of the delayed birth registration shall be returned to the applicant after review and abstraction.

2.10(144)T.XVIII Cancellation after one year. Delayed certificates not completed within one year may be cancelled at the discretion of the state registrar. Upon cancellation, the state registrar shall return to the applicant all documents that have been submitted.

2.11(144)T.XVIII Duties of county registrar. Documentary evidence may be presented to the county registrar for review. If presented to the county registrar, he shall prepare an abstract for each document on a separate form provided by the state registrar. The abstracts along with the partially completed delayed certificate form and any affidavits that are being presented in evidence shall be transmitted to the state registrar for final determination of acceptability.

2.12(144)T.XVIII Delayed registration of death records.

2.12(1) The registration of a death after the statutory time prescribed for filing shall be registered on the standard form of death certificate in use at the time of registration.

2.12(2) If the attending physician or medical examiner at the time of death and the attending funeral director or person who acted as such are available to complete and sign the certificate of death, it may be completed without additional documentary evidence and filed with the state registrar. However, for those certificates filed one year or more after the date of death, the physician or medical examiner must state on the reverse side of the certificate that the information in the certificate is based on records kept in his files.

2.12(3) In the absence of the attending physician or medical examiner or the funeral director or person who acted as such, the certificate may be filed by a member of the immediate family of the deceased and shall be accompanied by:

a. An affidavit of the person filing the certificate swearing to the accuracy of the information in the certificate;

b. Two documents which identify the deceased and his date and place of death.

2.12(4) In all cases, the state registrar may require additional documentary evidence to prove the facts of death.

2.13(144)T.XVIII Delayed registration of marriage records.

2.13(1) A delayed certificate of marriage may be filed by the husband or wife, or survivor if either party has died, or an adult son or daughter for any marriage performed in Iowa and not recorded within the statutory time prescribed for filing

2.13(2) To be acceptable for registration by the state registrar, the delayed certificate of marriage must be supported by:

a. A copy of the license or the application for the license; and

b. A statement transcribed from the official records where the marriage was performed or of the person who performed the ceremony proving that there was a marriage and the date and place of such marriage. Such statements must be prepared and sworn to by the custodian of such records; or

c. An affidavit from one witness to the wedding ceremony swearing to the facts of the marriage.

2.13(3) The delayed certificate of marriage shall be the form of marriage certificate in use at the time of registration.

These rules are intended to implement section 144.3 of the Code, 1971.

[Effective July 8, 1971]

CHAPTER 3

ESTABLISHMENT OF NEW CERTIFICATES OF BIRTH

3.1(144)T.XVIII Certificates, forms. The standard form of certificate of birth in use at the time of preparation of the new certificate of birth shall be used.

3.2(144)T.XVIII Data required. To establish a new certificate following legitimation or determination of paternity, the necessary data to locate the original record and appropriate parental data shall be on a form furnished or approved by the state registrar.

3.3(144)T.XVIII Certificate following adoption. A new certificate of birth may be prepared by the state registrar for a child born in Iowa upon receipt of an adoption report or certified copy of an adoption decree from the courts of Iowa, the several states of the United States, or a foreign nation.

3.4(144)T.XVIII Certificate following legitimation.

3.4(1) If the natural parents of a child intermarry after the birth of the child, a new certificate of birth may be prepared if the child was born in Iowa. However, if another man is shown as the father on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction.

3.4(2) An affidavit of paternity prepared and signed by the natural parents and a certified copy of the parents' marriage record or a certified copy of the court determination of paternity must be submitted to the state registrar in order that a new certificate may be prepared.

3.5(144)T.XVIII Certificate following determination of paternity. A certified copy of the court determination of paternity along with the request of the mother that a new certificate be prepared must be submitted to the state registrar in order that a new certificate may be prepared.

3.6(144)T.XVIII Minimum information required. In addition to the information required by law, the new certificate shall also contain as a minimum the following items:

1. The name of the child;

2. The date and place of birth as transcribed from the original certificate;

3. The names and personal particulars of the adoptive parents or of the natural father;

4. The name of the attendant, printed or typed;

5. The same birth number as was assigned to the original certificate;

6. The original filing date.

3.7(144)T.XVIII Original certificate to be sealed. After preparation of the new certificate, the original certificate and the evidence upon which it was based

are to be sealed and placed in a special file. The state registrar may inspect such sealed information for purposes of properly administering the vital statistics program.

These rules are intended to implement section 144.3 of the Code, 1971.

[Effective July 8, 1971]

CHAPTER 4

DEATH CERTIFICATION, AUTOPSY, AND DISINTERMENT

4.1(144)T.XVIII Report of autopsy findings.

4.1(1) In cases where an autopsy is to be performed, it shall not be necessary to defer the entry of the cause of death pending a full report of microscopic and toxicological studies.

4.1(2) In any case where the gross findings of an autopsy are inadequate to determine the cause of death, the physician or medical examiner shall enter the cause as "pending" on the certificate and sign the certification. Immediately after the medical data necessary for determining the cause of death have been made known, the physician or medical examiner shall over his signature forward the cause of death to the registrar on a supplemental form provided by the state registrar.

4.1(3) In any case where the autopsy findings significantly change the medical diagnosis of cause of death, a supplemental report of the cause of death shall be made by the physician or medical examiner to the registrar as soon as the findings are available. Such report shall be made a part of the original certificate.

4.2(144)T.XVIII Attending physician not available. An associate physician, who relieves the attending physician while he is on vacation or otherwise unavailable, may certify to the cause of death in any case where he has access to the medical history of the case, provided that he views the deceased at or after death occurs and the death is from natural causes. In all other cases in which a physician is unavailable, the medical examiner shall prepare the medical certification of cause of death.

4.3(144)T.XVIII Hospital or institution may assist in preparation of certificate. When death occurs in a hospital or other institution and the death is not under the jurisdiction of the medical examiner, the person in charge of such institution or his designated representative where the cause of death is known may aid in the preparation of the death certificate as follows:

Place the full name of the deceased, date and place of death on the death certificate blank and obtain from the attending physician the medical certification of cause of death and his signature;

Present the partially completed death certificate identified by the name and the completed medical certification to the funeral director or person who acted as such.

4.4(135,144)T.XVIII Burial-transit permit.

4.4(1) The burial-transit permit shall be issued upon a form prescribed by the state registrar and shall state:

a. The name, age, sex, cause of death, and other necessary details required by the state registrar;

b. That a satisfactory certificate of death has been filed;

c. That permission is granted to inter, remove, or otherwise dispose of the body;

d. The name and location of the cemetery where interment of the body is to be made, or in case of cremation, the name of the person to whom the ashes are to be delivered.

4.4(2) The funeral director or embalmer, or person acting as such, shall deliver the burial-transit permit to the person in charge of the cemetery before interring, disposing of, or disinterring any body therein.

4.4(3) The person in charge of every cemetery shall see that all the requirements of this chapter relative to burial-transit permits have been complied with before any burial, disposal, or disinterment is made in said cemetery. Such person shall endorse upon said permit the date of burial or disposal over his signature, and shall return the same to the local registrar of the district in which the

death certificate is filed within ten days from the date of burial, or within the time fixed by the state registrar. In case reburial is made in another cemetery after disinterment, the burial-transit permit shall accompany the body.

4.5(135,144)T.XVIII Disposition of fetus. In all cases where a fetus has reached a gestation period of twenty completed weeks, a burial-transit permit must be obtained for the disposition of the fetus.

4.6(135,144)T.XVIII Removal of dead body or fetus.

4.6(1) Before taking charge of a dead human body or fetus, the funeral director or person acting as such shall:

a. Contact the attending physician and receive assurance from him that death is from natural causes and that the physician will assume responsibility for certifying to the cause of death or fetal death; or

b. Contact the medical examiner if the case comes within his jurisdiction and receive authorization from him to remove the body.

4.6(2) If the dead body or fetus is to be removed from the registration district where death occurred or the body was found prior to the obtaining of a burial-transit permit, the funeral director shall also notify the local registrar of the registration district of such removal and give him the following information regarding the decedent and removal: Name of the decedent; sex; date and place of death; cause of death, if known; name and address of the funeral director; and the place to which the body is to be removed.

4.6(3) Under no circumstances may a dead body or fetus be finally disposed of or removed from the state prior to obtaining a burial-transit permit. When a dead body or fetus is removed from the state, the burial-transit permit shall accompany the body.

4.7(135,144)T.XVIII Disinterment permits.

4.7(1) Disinterment permits shall be valid for thirty days after the date of issuance. Disinterment permits are to be issued in triplicate on a form prescribed by the state registrar: One copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made; one copy to be used during transportation and filed with the sexton or person in charge of the cemetery of reinterment; and one copy to be returned within ten days after the date of disinterment by the funeral director or embalmer to the state registrar.

4.7(2) A dead body, properly prepared by an embalmer and deposited in a receiving vault, shall not be considered a disinterment when removed from the vault for final burial.

4.8(144)T.XVIII Extension of time. If the attending physician or medical examiner is unable to complete the medical certification of cause of death or if the funeral director is unable to obtain the personal information about the deceased within the statutory time period, the funeral director shall file a death certificate form completed with all information available. Such certificate shall be authority for the local registrar to issue a burial-transit permit. As soon as possible, but in all cases within fifteen days, a supplemental report shall be filed with the local registrar providing the information missing from the original certificate.

These rules are intended to implement section 135.11(13) and section 144.3 of the Code, 1971.

[Effective July 8, 1971]

CHAPTER 5

CORRECTION AND AMENDMENT OF VITAL RECORDS

5.1(144)T.XVIII Application to amend records.

5.1(1) To amend a birth certificate, application may be made only by one of the parents, the guardian, or the registrant if of legal age.

5.1(2) To amend a death or fetal death certificate, application shall be made by the next of kin or the funeral director or person acting as such. Corrections or amendments to the medical certification of cause of death shall be requested by the attending physician or the medical examiner. The physician or medical examiner may by affidavit amend the cause of death within ninety days following the date of death or

fetal death. Any amendment after ninety days following death or fetal death can be made only by court order. Provided, however, that the cause of death may be amended at any point upon submission of a report of autopsy findings.

5.1(3) To amend a marriage record, application shall be made by the parties married, the officiant, or by the next of kin.

5.1(4) To amend a divorce record, a certification must be received from the clerk of court maintaining the record from which the report was prepared stating in what manner such record has been amended. Those items appearing on the divorce record which are not a part of the divorce decree may be corrected or amended either by query or upon application of the parties to the divorce or their legal representatives.

5.2(144)T.XVIII Correction of minor errors within first year. Corrections of obvious errors, transposition of letters in words of common knowledge, or omissions, may be made by the state registrar within the first year after the date of the event, either upon his own observation, upon query, or upon request of a person with a direct and tangible interest in the record. If such additions or minor corrections are made by the state registrar, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change, shall be made on the record. Certificates corrected under this section are not to be marked amended.

5.3(144)T.XVIII Amendments or major corrections.

5.3(1) All other corrections or amendments unless covered elsewhere in these rules or in the law, shall be supported by:

a. An affidavit setting forth

(1) Information to identify the certificate;

(2) The incorrect data as it is listed on the certificate;

(3) The correct data as it should appear.

b. One or more pieces of documentary evidence supporting the correction or amendment. If the application for correction or amendment is made one year or more after the event, the documentary evidence must be established at least five years prior to the date the correction or amendment is requested or within seven years of the date of event.

5.3(2) The state registrar may determine a priority of best evidence and may, at his discretion, require additional documentary evidence to support the requested correction or amendment. The state registrar shall evaluate the evidence submitted in support of any amendment, and when he finds reason to question its validity or adequacy, he may reject the amendment and shall advise the applicant of the reasons for this action.

5.4(144)T.XVIII Correction of same item more than once. Once a correction of an entry is made on a vital record, that entry shall not be corrected again unless:

1. It can be shown that the first correction was made through mistake; or

2. A court order is received from a court of competent jurisdiction.

5.5(144)T.XVIII Methods of amending certificates. Corrections or amendments shall be made by drawing a single line through the incorrect item, if listed, and inserting the correct or missing data immediately above it or to the side of it, or by completing the blank item, as the case may be. In all cases where a line must be drawn through an original entry, it must not obliterate the original entry. In addition, there shall be inserted on the certificate, or in a separate file, a statement identifying the affidavit and documentary evidence used as proof of the correct facts and the date the correction was made. The word "amended" shall be placed on the certificate. In every case where the word "amended" is required to appear on the certificate, it shall appear on all copies of such certificates.

5.6(144)T.XVIII Change of given names within first year.

5.6(1) Until the registrant's first birthday, given names may be added or changed upon written request of:

a. Both parents; or

b. The mother in the case of a

child born out of wedlock or the death or incapacity of the father; or

c. The father in the case of the death or incapacity of the mother; or

d. The guardian in the case of the death or incapacity of both parents.

5.6(2) This procedure may be employed to change a given name only once. Thereafter, and at any time after the first year, the given name may be changed only upon submission of a court order.

5.7(144)T.XVIII Addition of given names until seventh birthday.

5.7(1) Until the registrant's seventh birthday, the given name for a child whose birth was reported without a given name may be added based upon an affidavit signed by:

a. Both parents; or

b. The mother in the case of a child born out of wedlock or the death or incapacity of the father; or

c. The father in the case of the death or incapacity of the mother; or

d. The guardian or agency having legal custody of the registrant in the case of death or incapacity of both parents.

5.7(2) A certificate amended in this manner is not to be marked amended.

5.8(144)T.XVIII Addition of given name after seventh birthday. After the seventh birthday one or more pieces of documentary evidence must be submitted to substantiate the given name being added.

5.9(144)T.XVIII Legal change of name. For a legal change of name, a certified copy of the court order changing the name must be presented to the state registrar along with data to identify the birth certificate and a request that it be amended to show the new name.

These rules are intended to implement section 144.3 of the Code, 1971.

[Effective July 8, 1971]

CHAPTER 6

CONFIDENTIALITY OF RECORDS

6.1(144)T.XVIII Disclosure of data.

6.1(1) The state registrar or county registrar shall permit the inspection of a record or issue a certified copy of a record or part thereof only when he is satisfied that the applicant has a direct and tangible interest in the content of the record and that the information contained therein is necessary for the determination of a personal or property right.

a. A request from the registrant, a member of his immediate family, his guardian, or their respective legal representatives shall be considered to be a direct and tangible interest.

b. For the purpose of securing information or obtaining certified copies of vital records, the term legal representative shall include an attorney, physician, funeral director, insurance company, or an authorized agency acting in behalf of the registrant or his family.

c. For the purpose of securing and obtaining data from vital records, requests from natural parents of adopted children, in the absence of a court order, and requests from commercial firms or agencies requesting listings of names and addresses shall not be considered to be direct and tangible interest.

6.1(2) The state registrar may permit use of data of vital statistics records for research purposes subject to conditions the state registrar may impose to insure that the use of the data is limited to such research purposes.

6.1(3) The state registrar or county registrar may disclose data from vital statistics records to federal, state, county or municipal agencies of government which request such data in the conduct of their official duties, subject to conditions the state registrar may impose to insure that the use of the data is limited to official purposes.

6.1(4) Information on vital statistics records indicating a birth occurred out-of-wedlock may not be disclosed unless it can be shown that the information is needed to secure some benefit or privilege for the registrant and that the welfare of the registrant will not be compromised. Also such information may be made available for the official purposes of federal, state, county and municipal agencies charged by law with the duties of detecting or prosecuting crime, preserving the internal security of the United States, or for the determination of citizenship.

6.1(5) Whenever it shall be deemed necessary to establish an applicant's right to information from vital statistics records, the state registrar or county registrar may require written application, identification of the applicant, or a sworn affidavit.

6.1(6) No data shall be furnished from records for research purposes until the state registrar has prepared in writing the conditions under which the records may be used and received an agreement signed by a responsible agent of the research organization agreeing to meet with and conform to such conditions.

These rules are intended to implement section 144.3 of the Code, 1971.

[Effective July 8, 1971]

CHAPTER 7

COPIES OF VITAL RECORDS

7.1(144)T.XVIII Certified copies and verifications. Certified copies of vital statistics certificates may be prepared and issued by the state registrar or the county registrar.

7.1(1) Full or short form certified copies of vital records may be made by mechanical, electronic, or other reproductive processes, except that the medical and health data on birth and fetal death certificates, other than the cause of fetal death, shall not be included.

7.1(2) When a certified copy is issued, each certification shall contain a statement certifying that the facts are the true facts recorded in the issuing office; the date issued; the name of the issuing office; the registrar's signature or an authorized facsimile thereof; and the seal of the issuing office.

7.1(3) Confidential verifications of the facts contained in vital statistics records may be furnished by the state registrar to any federal, state, county or municipal government agency or other entity representing the interest of the registrant. Such confidential verifications shall be on forms prescribed and furnished by the state registrar or on forms furnished by the requesting agency and acceptable to the state registrar, or the state registrar may authorize the verification in other ways.

7.2(144)T.XVIII Cancellation of fraudulent records. When the state registrar is satisfied that a certificate was registered through fraud or misrepresentation, he shall give to the person named in the certificate a notice in writing of his intention to cancel said certificate. The notice shall give such person an opportunity to appear and show cause why the certificate should not be canceled. The notice may be served on such person, or in the case of a minor or incompetent, on his parent or guardian by forwarding the notice by certified mail to his last known address on file in the division. Unless such person or his parent or guardian shall within thirty days after the date of mailing the notice show cause satisfactory to the state registrar why the certificate shall not be canceled, the state registrar may cancel the certificate, and it shall not be available for certification.

These rules are intended to implement section 144.3 of the Code, 1971.

[Effective July 8, 1971]

HEALTH DEPARTMENT
(continued)

BOARD OF PHYSICAL THERAPY EXAMINERS

Pursuant to the authority of section 135.11, subsections 15 and 17, section 147.36 and section 147.53 of the Code, the rules appearing in the January 1967 Supplement to the IDR, pages 54 and 55 [1971 IDR, 452, 453 (Chapter 3, T.XXVI)] are amended as follows:

[Filed May 11, 1971]

ITEM 1. By striking rule 3.1"*f*" and inserting in lieu thereof the following:

"*f.* Fee in the amount of twenty dollars in the form of a check or money order made payable to the Iowa State Department of Health."

ITEM 2. By striking rule 4.3 and inserting in lieu thereof the following:

"**3.4(3)** An applicant for licensure by interstate endorsement must have practiced physical therapy on a full-time basis for at least one of the immediately preceding three years or must have graduated from an approved school of physi-

cal therapy within a period of one year from the date of graduation to the time of application for licensure."

ITEM 3. By striking rule 4.7 and inserting in lieu thereof the following:

"**3.4(7)** Fee in the amount of forty dollars in the form of a check or money order made payable to Iowa State Department of Health."

These rules are intended to implement section 147.36 and section 147.53 of the Code, 1971.

[Effective May 11, 1971]

HIGHWAY COMMISSION

Pursuant to the authority vested in the Iowa state highway commission by chapter 306A and 307, Code 1971, the following amendments to the rules and regulations pertaining to Class III and IV controlled access highways are adopted.

[Filed April 14, 1971]

ITEM 1. The rules appearing in July 1966 Supplement Iowa Departmental Rules [1971 IDR, 479] are amended by striking from rule 1.7(2)"*c*", line 8, the following: "forty-nine", and inserting in its place the following: "fifty-two".

ITEM 2. The rules appearing in July 1966 Supplement Iowa Departmental Rules [1971 IDR, 479] are amended by striking from rule 1.7(5), line 7, the following: "will", and inserting after the word "frontage", the following: "may".

ITEM 3. The rules appearing in July 1966 Supplement Iowa Departmental Rules [1971 IDR, 479] are amended by inserting in rule 1.7(5), line 9, after the word "extension", the following: "provided the service station does not abut another primary road or primary road extension. A second entrance will be granted to service stations abutting another primary road or primary road extension if sufficient frontage is available to provide that the curb drop nearest the intersection is located fifty feet or more from the curb tangent point."

ITEM 4. The rules appearing in July 1966 Supplement Iowa Departmental Rules [1971 IDR, 479] are amended by striking from rule 1.7(5), line 13, the following: "and", and inserting after the word "extension" the following: "provided".

ITEM 5. The rules appearing in July 1966 Supplement Iowa Departmental Rules [1971 IDR, 479] are amended by inserting in rules 1.7(7), after "*c*", the following:

"*d.* In cases where the entrance sought is to be paved the district engineer may approve entrances which include a radius in conformance with the following criteria.

(1) The radius of the entrance shall have a barrier curb section from the back of the highway curb to the end of the radius. The size of the radius is dependent on available parking width and each radius shall be a true radius.

(2) The maximum radius for Type B entrance shall be fifteen feet.

(3) The maximum radius for Type C entrance shall be ten feet.

(4) The entrance shall conform to all other provisions of rule 1.7.

(5) The width of entrance available at the end of the entrance curbed section or end of the radii, shall not exceed the entrance width noted above for the type of entrance sought."

[Effective May 14, 1971]

INSURANCE DEPARTMENT

Pursuant to the authority of section 502.2 of the Code, the rules appearing in 1966 IDR, pages 335, 336, [1971 IDR 550 (Chapter 17)] are rescinded and the following adopted in lieu thereof.

[Filed May 18, 1971]

SECURITIES DIVISION

CHAPTER 17

REGISTRATION AND OPERATION OF BROKER-DEALERS

17.1(502) General provisions. The broker-dealer shall be registered or reregis-

tered as such under chapter 502 of the Code, if the commissioner of insurance finds that the applicant is qualified, has personnel with sufficient training, knowledge and experience in the securities business, is of good repute, and has otherwise fully satisfied the requirements of said chapter and the rules hereunder. The license period for each such broker-dealer shall be for one year from date of issuance, and renewable annually.

17.2(502) Applications. An application for an original or renewal broker-dealer license shall be filed on the appropriate form prescribed by the commissioner of insurance.

17.2(1) Broker-dealer applications shall be accompanied by the filing fee, consent to service of process, and the scheduled exhibits specified in the appropriate form.

17.2(2) Additional exhibits or information not specifically required, but essential to a full presentation of all material facts relating to applicant's qualification should be furnished and properly identified.

17.2(3) An applicant for renewal license need not furnish the identical information, schedules or exhibits submitted in connection with the prior application unless there has been a change in circumstances affecting such previous disclosures, or such data is specifically requested by the commissioner of insurance.

17.2(4) As provided in sections 502.11 and 502.18, Code 1971, a surety bond in the amount of $5,000.00 shall be executed upon the appropriate form prescribed by the commissioner of insurance and filed with the application for original or renewal registration of a broker-dealer.

17.2(5) The statutory fee of fifty dollars for such registration and for each annual renewal shall be paid at the time the information and application is filed with the commissioner of insurance.

17.3(502) Examination requirements. A first time applicant for registration as a securities dealer will be required to pass a written examination to determine the skill, competency, and knowledge of such applicant with respect to general securities matters, the Iowa securities law and regulations.

17.3(1) In the case of dealer applicants, the following classes of persons shall be subject to examination:

a. The principal of a sole proprietorship.

b. General partners of a partnership.

c. The executive officers of a corporation, provided that if it can be shown to the satisfaction of the commissioner of insurance that certain corporate officers are not active in the conduct of the applicant's business in Iowa, such officers shall not be required to take the examination.

17.3(2) The date, time and place for taking such examination shall be determined and announced by the commissioner of insurance, and notice thereof shall be published or circulated and available to applicants at the time of filing.

17.3(3) All registration applications involving individuals subject to examination must be filed with the commissioner of insurance at least five days prior to the date of examination.

17.3(4) Applicants must furnish with their application a company draft in the amount of five dollars to cover the examination fee.

17.3(5) Examinations shall be composed of two parts:

a. Part I shall cover the general securities subject matter. Part II shall cover the Iowa securities law and regulations.

b. The passing score on each part of the examination shall be eighty percent for broker-dealers.

17.3(6) Exemptions—the following classes of persons shall be exempt from Part I of the examination:

a. Applicants who have passed the New York Stock Exchange or National Association of Securities Dealers "Principal's" examination given on or after July 1, 1963.

b. Applicants who have passed an examination essentially identical in subject matter in another state, provided that the passing score attained on such examination was at least as high as required by this department.

17.4(502) Responsibility for agents. The ultimate responsibility for the quality and conduct of agents must be with the broker-dealer employing said agent. Said employer broker-dealer must bear the ultimate responsibility for proper supervision and control of said agent employee.

17.5(502) Net capital requirements for broker-dealers.

17.5(1) Unless exempted as provided in subrule 17.5(2) of this rule, every broker-dealer shall at all times have and maintain net capital necessary to comply with the following conditions:

a. His aggregate indebtedness to all other persons shall not exceed 2,000 percent of his net capital; and

b. He shall have and maintain net capital of not less than $5,000.00.

17.5(2) Exemptions:

a. The provisions of this rule shall not apply to any member in good standing and subject to the capital rules of the New York Stock Exchange, the American Stock Exchange, Midwest or Pacific Coast Stock Exchange, whose rules, settled practices and applicable regulatory procedures are deemed by the commissioner of insurance to impose requirements more comprehensive than requirements of this rule; provided, however, that the exemption as to the members of any exchange may be suspended or withdrawn by the commissioner of insurance at any time, by sending ten days written notice to such exchange, if it appears to the commissioner of insurance to be necessary or appropriate in the public interest, or for the protection of investors to do so. This exemption shall not be available to the members of any exchange whose capital rules do not provide that in the computation of net capital there shall be a deduction of not less than ten percent of the contract price of each item in the securities "Failed to Deliver Account" which is outstanding forty to forty-nine calendar days; twenty percent of the contract price of each item in the securities "Failed to Deliver Account" which is outstanding fifty to fifty-nine calendar days; and thirty percent of the contract price of each item in the securities "Failed to Deliver Account" which is oustanding sixty or more calendar days.

b. The commissioner of insurance may, upon written application, exempt the provisions of this section, either unconditionally or on specified terms and conditions, any broker-dealer who satisfies the commissioner of insurance that, because of the special nature of his business, his financial position, and the safeguards he has established for the protection of customers' funds and securities it is not necessary in the public interest or for the protection of investors to subject the particular broker-dealer to such provisions.

17.5(3) Definitions for the purpose of this rule:

a. The term "aggregate indebtedness" shall mean the total monetary liabilities of a broker-dealer arising in connection with any transaction including, among other things: money borrowed; money payable against securities failed to receive the market value of securities borrowed (except for delivery against customers' sales) to the extent to which no equivalent value is paid or credited; customers' free credit balances; credit balances in customers' accounts having short positions in securities; and equities in customers' commodities futures accounts; but excluding:

(1) Indebtedness adequately collateralized, as hereinafter defined by securities or spot commodities owned by the broker-dealer;

(2) Indebtedness to other broker-dealers adequately collateralized, as hereinafter defined, by securities or spot commodities owned by the broker-dealer;

(3) Amounts payable against securities loaned which securities are owned by the broker-dealer.

(4) Amounts payable against securities "Failed to Receive" which securities were purchased for the account of, and have not been sold by, the broker-dealer.

(5) Indebtedness adequately collateralized, as hereinafter defined, by exempted securities.

(6) Amounts segregated in accordance with the commodity exchange Act and the rules and regulations thereunder;

(7) Fixed liabilities adequately secured by real estate or any other asset

which is not included in the computation of "Net Capital" under this rule;

(8) "Liabilities" on open contractual commitments; and

(9) Indebtedness subordinated to the claims of general creditors pursuant to a satisfactory subordination agreement, as hereinafter defined.

b. The term "Net Capital" shall mean the net worth of a broker-dealer (that is, the excess of total assets over total liabilities), adjusted by:

(1) Adding unrealized profits (or deducting unrealized losses) in the accounts of the broker-dealer and, if such broker-dealer is a partnership, adding equities (or deducting deficits) in accounts of partners, as hereinafter defined;

(2) Deducting fixed assets and assets which cannot be readily converted into cash (less any indebtedness secured thereby) including, among other things, real estate; furniture and fixtures; exchange memberships; prepaid rent; insurance and expenses; good will; organization expenses; all unsecured advances and loans; customers' unsecured notes and accounts; and deficits in customer's accounts, except in bona fide cash accounts within the meaning of section 4(*c*) of regulation T of the board of governors of the federal reserve systems;

(3) Deducting the percentages specified below of market value of all securities, long and short (except exempted securities) in the capital, proprietary and other accounts of the broker-dealer including securities loaned to the broker-dealer pursuant to a satisfactory subordination agreement, as hereinafter defined, and if such broker-dealer is a partnership, in the accounts of partners, as hereinafter defined:

In the case of nonconvertible debt securities having a fixed interest rate and a fixed maturity date which are not in default, if the market value is not more than five percent below the face value, the deduction shall be five percent of such market value; if the market value is more than five percent but not more than thirty percent below the face value, the deduction shall be a percentage of market value, equal to the percentage by which the market value is below the face value; and if the market value is thirty percent or more below the face value, such deduction shall be thirty percent;

In the case of cumulative, nonconvertible preferred stock ranking prior to all other classes of stock of the same issuer, which is not in arrears as to dividends, the deduction shall be twenty percent;

On all other securities, the deduction shall be thirty percent, provided, however, that such deduction need not be made in the case of: A security which is convertible or exchangeable for other securities within a period of thirty days, subject to no conditions other than the payment of money, and the other securities into which such security is convertible, or for which it is exchangeable, are short in the accounts of such broker-dealer or partner; or, a security which has been called for redemption and which is redeemable within ninety days.

(4) Deducting thirty percent of the market value of all "long" and all "short" futures commodity contracts (other than those contracts representing spreads of straddles in the same commodity and those contracts offsetting or hedging any "spot" commodity positions) carried in the capital proprietary or other accounts of the broker-dealer, and, if such broker-dealer is a partnership, in the accounts of partners as hereinafter defined;

(5) Deducting, in the case of a broker-dealer who has open contractual commitments, the respective percentages specified in subparagraph (4) above of the value (which shall be the market value whenever there is a market) of each net long and each net short position contemplated by any existing contractual commitment in the capital, proprietary and other accounts of the broker-dealer and, if such broker-dealer is a partnership, in accounts of partners, as hereinafter defined, provided, however, that this deduction shall not apply to exempted securities, and that the deduction with respect to any individual commitment shall be reduced by the unrealized profit, in an amount not greater than the percentage deduction provided for in subparagraph (3), (or increased by the unrealized loss) in such commitment; and that in no event shall an unrealized profit on any closed transaction operate to increase net capital;

(6) Deducting an amount equal to one and one-half percent of the total long or total short futures contracts in each commodity, whichever is greater, carried for all customers;

(7) Excluding liabilities of the broker-dealer which are subordinate to the claims of general creditors pursuant to a satisfactory subordination agreement, as hereinafter defined, and

(8) Deducting, in the case of a broker-dealer who is a sole proprietor, the excess of:

Liabilities which have not been incurred in the course of business as a broker-dealer over assets not used in the business;

Deducting ten percent of the contract price of each item in the securities "Failed to Deliver Account" which is outstanding forty to forty-nine calendar days; deducting twenty percent of the contract price of each item in the securities "Failed to Deliver Account" which is outstanding fifty to fifty-nine calendar days; and deducting thirty percent of the contract price of each item in the securities "Failed to Deliver Account" which is outstanding sixty or more calendar days.

The term "account of partners" where the broker-dealer is a partnership, shall mean accounts of partners who have agreed in writing that the equity in such accounts maintained with such partnerships shall be included as partnership property.

The term "contractual commitments" shall include underwriting, when issued, when distributed and delayed delivery contracts, endorsements of puts and calls, commitments in foreign currencies, and spot (cash) commodities contracts, but shall not include uncleared regular way purchases and sales of securities and contracts in commodities futures; a series of contracts of purchase of the same security conditioned, if at all, only upon issuance may be treated as an individual commitment.

Indebtedness shall be deemed to be "adequately collateralized" within the meaning of this rule, when the difference between the amount of the indebtedness and the market value of the collateral is sufficient to make the loan acceptable as a fully secured loan to banks regularly making comparable loans to broker-dealers in the community.

The term "satisfactory subordination agreement" shall mean a written agreement duly executed by the broker-dealer and the lender, which agreement is binding and enforceable in accordance with its terms upon the lender, his creditors, heirs, executors, administrators, and assigns, and which agreement satisfies all of the following conditions: It effectively subordinates any right of the lender to demand or receive payment or return of the cash or securities loaned to the claims of all present and future creditors of the broker-dealers; the cash or securities are loaned for a term of not less than one year; it provides that the agreement shall not be subject to cancellation by either party, and that the loan shall not be repaid and the agreement shall not be terminated, rescinded, or modified by mutual consent or otherwise if the effect thereof would be to make the agreement inconsistent with the condition of this rule or to reduce the net capital of the broker-dealer below the amount required by this rule; it provides that no default in the payment of interest or in performance of any covenant or condition by the broker-dealer shall have the effect of accelerating the maturity of the indebtedness; it provides that any notes or other written instruments evidencing the indebtedness shall bear on their face an appropriate legend stating that such notes or instruments are issued subject to the provisions of a subordination agreement which shall be adequately referred to and incorporated by reference; it provides that any securities or other property loaned to the broker-dealer pursuant to its provisions may be used and dealt with by the broker-dealer as part of his capital and shall be subject to the risks of the business; two copies of such agreement, and of any noted or written instruments evidencing the indebtedness, are filed within ten days after such agreement is entered into with the commissioner of insurance, together with a statement of the full name and address of the lender, the business relationship of the lender to the broker-dealer, and whether the broker-dealer carried funds or securities for the lender at or about the time the agreement was entered into.

The term "customer" shall mean every person except the broker-dealer; provid-

ed, however, that partners who maintain "accounts of partners" as herein defined, shall not be deemed to be customers insofar as such accounts are concerned.

17.6(502) Financial impairment. The requirement for the establishment and maintenance of minimum net capital and minimum ratio between net capital and aggregate indebtedness and the requirement for the posting and maintenance of surety bonds as herein specified are continuing requirements, and should a broker-dealer, during any portion of his or its registration fail to comply therewith, said registrant should immediately notify the commissioner of insurance in writing and request withdrawal, cancellation, or voluntary suspension of registration until such requirements and conditions are met. Failure to do so will be grounds for immediate suspension or termination of registration.

17.7(502) Dealer financial reporting requirements.

17.7(1) Financial statements required to be submitted with an original application for registration as a securities dealer in Iowa must be audited or, in lieu thereof, a copy of the financial questionnaire required by a recognized stock exchange of which the dealer is a member, or a copy of the financial statements prepared pursuant to securities and exchange commission requirements.

17.7(2) Application for dealer registration renewal may be submitted with unaudited financial statements of a date within thirty days of date of submission of application, provided audited statements, or in lieu thereof, a copy of the financial questionnaire required by a recognized stock exchange of which the dealer is a member, or a copy of financial statements prepared pursuant to securities and exchange commission requirements, are furnished during the period to be covered by the dealer's registration as renewed.

17.7(3) Both original and renewal applications must submit net capital computations pursuant to securities and exchange commission rule 15c3-1, indicating a minimum net capital of at least $5,000.00, unless otherwise exempted.

17.7(4) When the net capital of any broker-dealer is reduced to seven percent or less of his aggregate indebtedness or is reduced to less than 125 percent of his required minimum net capital, he shall within fifteen days of the date his net capital is so reduced, file a report with the commissioner of insurance in the form herein set forth, such report to be as of a date within such fifteen-day period. He shall in addition file a report in such form for each monthly accounting period thereafter, within ten days after the close of such accounting period, until the commissioner has in writing notified such broker-dealer to discontinue such reports. Each broker-dealer licensed after the effective date of this subdivision shall file monthly reports as provided herein until notified in writing to discontinue such reports. Net capital, minimum net capital, aggregate indebtedness and the ratio of net capital to aggregate indebtedness shall be computed in accordance with the net capital requirements for broker-dealers as set out in this section. A licensee who is required to file reports at least monthly containing substantially the information specified herein with the securities and exchange commission, or the national association of securities dealers, inc. may file copies of such reports with the commissioner of insurance in lieu of the reports required by this subdivision, provided such reports are filed within the times specified herein. Except as otherwise provided, the reports required by this subdivision shall be upon the form approved by the commissioner of insurance.

17.8 to 17.10 Reserved for future use.

17.11(502) Segregated accounts.

17.11(1) A broker-dealer shall at all times keep its customers' securities and funds in trust and segregated from its own securities and funds.

17.11(2) When a broker-dealer is engaged in more than one enterprise or activity, it shall maintain separate books of accounts and records relating to its securities business and its other businesses and the assets relating to its securities business shall not be commingled with those of such other businesses. There also shall be a clearly defined division among such businesses with respect to income and expense.

17.12(502) Confirmations. Confirmations by broker-dealers of all purchases

and sales of securities and notices of all other debits and credits for securities, cash and other items for the account of customers, officers, agents, partners, and employees shall be given or sent to such persons at or before completion of each transaction, disclosing at least the following:

17.12(1) The account for which entered.

17.12(2) Terms and conditions, whether executed or unexecuted.

17.12(3) Date of execution of transaction. (Time of trade shall be furnished upon request.)

17.12(4) Whether such broker-dealer is acting for its own account, as agent for both such customer and some other person.

17.12(5) If a broker-dealer is acting as agent for the customer, the following additional information or a statement that same will be furnished upon request:

a. The name of the person from whom the security was purchased, or to whom it was sold, and date and time the transaction occurred.

b. Source and amount of commission or remuneration received or to be received in connection with such transaction.

17.12(6) Name or identification number of agent handling transaction.

17.13(502) Records required of broker-dealers. Every broker-dealer shall make and keep current the following books and records relating to his business (provided, however, that compliance with the requirements of the S.E.C. with respect to maintenance of books and records shall be deemed to be in compliance with this section):

17.13(1) Blotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash, and all other debits and credits. Such records shall show the account for which each such transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered.

17.13(2) Ledgers (or other records) reflecting all assets and liabilities, income, and expense and capital accounts.

17.13(3) Ledger accounts itemized separately as to each cash and margin account of each customer and of such broker-dealer, partners, agents and employees thereof, all purchases, sales, receipts and deliveries of securities and commodities for such account and all other debits and credits to such account.

17.13(4) Ledgers (or other records) reflecting the following:

a. Securities in transfer;

b. Dividends and interest received;

c. Securities borrowed and securities loaned;

d. Moneys borrowed and moneys loaned (together with a record of the collateral therefor and substitutions in such collateral);

e. Securities failed to receive and failed to deliver.

17.13(5) A securities record or ledger reflecting separately for each security as of the clearance dates all "long" or "short" positions (including securities in safekeeping) carried by such broker-dealer for his account or for the account of his customers or partners and showing the location of all securities long, and the offsetting position to all securities short, and in all cases the name or designation of the account in which each position is carried.

17.13(6) A memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted. Such memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, the price at which executed and, to the extent feasible, the time of execution or cancellation. Others entered pursuant to the exercise of discretionary power by such broker-dealer, or any employee thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and employees of a broker-dealer. The term

"time of entry" shall be deemed to mean the time when such broker-dealer transmits the order or instruction for execution, if it is not so transmitted, the time when it is received.

17.13(7) A memorandum of each purchase and sale of securities for the account of such broker-dealer showing the price and, to the extent feasible, the time of execution.

17.13(8) Copies of confirmations of all purchases and sales of securities and copies of notices of all other debits and credits for securities, cash and other items for the account of customers and partners of such broker-dealer.

17.13(9) A record in respect of each cash and margin account with such broker-dealer containing the name and address of the beneficial owner of such account and, in the case of a margin account, the signature of such owner; provided that, in the case of a joint account or an account of a corporation, such records are required only in respect of the person or persons authorized to transact business for such account.

17.13(10) A record of all puts, calls, spreads, straddles and other options in which such broker-dealer has any direct or indirect interest of which such broker-dealer has granted or guaranteed, containing at least an identification of the security and the number of units involved. Such records shall not be required with respect to any cash transaction of $100.00 or less involving only subscription rights or warrants which by their terms expire within ninety days after the issuance thereof.

17.13(11) This rule shall not be deemed to require a member of a recognized national securities exchange to make or keep such records of transactions cleared for such member by another member as are customarily made and kept by the clearing member.

17.14(502) Records to be preserved by broker-dealers.

17.14(1) Every broker-dealer shall preserve for a period of not less than six years, the first two years in an easily accessible place, all records required to be made pursuant to these rules.

17.14(2) Every broker-dealer shall preserve for a period of not less than three years and, for the first two years, in an easily accessible place, the following:

a. All check books, bank statements, canceled checks and cash reconciliations.

b. All bills receivable or payable (or copies thereof) paid or unpaid relating to the business of such broker-dealer as such.

c. Originals of all communications received and copies of all communications sent by such broker-dealer (including interoffice memoranda and communications) relating to his business as such.

d. All trial balances, financial statements, branch office reconciliations and internal audit working papers, relating to the business of such broker-dealer as such.

e. All guarantees of accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any account, and copies of resolutions empowering an agent to act on behalf of a corporation.

f. All written agreements (or copies thereof) entered into by such broker-dealer relating to his business as such, including agreements with respect to any account.

17.14(3) Each such broker-dealer shall preserve for a period of not less than six years after the closing of any customer's account, any account cards or records which relate to the terms and conditions with respect to the opening and maintenance of such account.

17.14(4) Every such broker-dealer shall preserve during the life of the enterprise and of any successor enterprise all partnership articles or, in the case of a corporation, all articles of incorporation or charter, minute books and stock certificate books.

17.14(5) After a record or other document has been preserved for two years, a photograph thereof on film may be substituted therefor for the balance of the required time.

17.14(6) Compliance with the requirements of the securities and ex-

change commission with respect to preservation of records shall be deemed to be in compliance with this section.

17.15(502) Denial, suspension and revocation. Grounds for denial, suspension or revocation of registration shall in the public interest include, but not be limited to, the following, in addition to such other dishonest or unethical practices within the meaning of section 502.14, Code 1971.

17.15(1) Unreasonable delay or failure to execute orders, liquidate customer's accounts or in making delivery of securities purchased or remittances (or credit) of securities sold.

17.15(2) Selling securities at unfair prices in relation to market value, or with unreasonable or excessive markups or commissions.

17.15(3) Effecting transactions in the account of a customer without his knowledge or consent, or maintaining discretionary accounts without written authorization.

17.15(4) Willful switches, churning, overtrading or reloading of securities in a customer's account for the purpose of accumulating or compounding commissions.

17.15(5) Inducing a customer to invest beyond his known immediate financial resources or without regard to the nature and character of such account.

17.16 to 17.18 Reserved for future use.

17.19(502) Appointment and licensing of securities agents—general provisions.

17.19(1) Agents of a broker-dealer or issuer-dealer may be registered or reregistered as such under the Act, if the commissioner of insurance finds that the applicant is qualified, has sufficient training, knowledge and experience in the securities business, is of good repute, and has otherwise fully satisfied the requirements of the Act and the rules hereunder.

17.19(2) A director of a broker-dealer or any person occupying a similar status, or performing similar functions, who represents a broker-dealer or issuer-dealer in effecting or attempting to effect purchases or sales of securities in Iowa, must be registered as an agent of said broker-dealer or issuer-dealer.

17.19(3) An agent, including directors, may not be registered as agents for more than one broker-dealer or issuer-dealer at any one time.

17.19(4) The license period for each such agent shall be for a period of one year from date of issuance, renewable annually.

17.19(5) The annual licensing fee for each agent shall be five dollars and it shall be payable at the time said application for licensing or renewal of said license is made.

17.20(502) Applications. An application for an original or renewal agent's license shall be filed by the employer broker-dealer or issuer-dealer on the appropriate appointment and acceptance of agent form prescribed by the commissioner of insurance.

17.20(1) Appointment of agent's applications shall be accompanied by a five dollar licensing fee, and the scheduled exhibits specified in the appropriate form.

17.20(2) Additional exhibits or information not specifically required, but essential to a full presentation of all material facts relating to the applicant's qualifications should be furnished and properly identified.

17.20(3) The Iowa securities law does not require the posting of a surety bond on behalf of an agent.

17.21(502) Examination requirements. A first-time applicant for registration as a securities agent will be required to pass a written examination to determine the skill, competency, and knowledge of such applicant with respect to general securities matters, the Iowa securities law and regulations.

17.21(1) The date, time and place for taking such examination shall be determined and announced by the commissioner of insurance, and notices thereof shall be published or circulated and available to the applicants at the time of filing.

17.21(2) All registration applications involving individuals subject to examination must be filed with the insurance de-

partment at least five days prior to the date of examination.

17.21(3) Notwithstanding the five dollars applicant's licensing fee, each applicant must furnish with their application a company draft in the amount of five dollars to pay for the examination fee.

17.21(4) Examinations shall be composed of two parts: Part I shall cover the general securities subject matter; Part II shall cover the Iowa securities law and regulations. The passing score on each of the examinations shall be seventy percent for agents.

17.21(5) Exemptions—the following classes of persons shall be exempt from Part I of the examination:

a. Applicants who have passed the New York stock exchange or national association of securities dealers "registered representative" examination given on or after July 1, 1963.

b. Applicants who have passed an examination essentially identical in subject matter in another state, provided that the passing score attained on such examination was at least as high as required by this department.

17.22(502) Registration of issuer-dealers —general provisions.

17.22(1) An issuer may be registered to sell its own securities, if said securities have been approved for sale in Iowa by the commissioner of insurance, if the commissioner of insurance finds that the applicant is qualified, has personnel with sufficient training, knowledge and experience in the securities business, is of good repute, and has otherwise fully satisfied the requirements of the Act and the rules hereunder.

17.22(2) The qualification of each issuer-dealer shall run concurrently with the registration of said issuer-dealer's securities in the state of Iowa.

17.23(502) Applications.

17.23(1) Issuer-dealer applications shall be accompanied by the filing fee, consent to service of process, and the scheduled exhibits specified in the appropriate form.

17.23(2) An issuer-dealer, dealing only in its own approved securities, is not required to post a surety bond.

17.23(3) An issuer-dealer is not required to file a registration fee as such. However, the minimum fee for registration of said issuer-dealer's securities for sale in the state of Iowa shall be fifty dollars.

17.24(502) Examination requirements. A first-time applicant for registration as an issuer-dealer will be required to pass a written examination to determine the skill, competency, and knowledge of such applicant with respect to general securities matters, the Iowa securities law and regulations.

17.24(1) In the case of issuer-dealer applications the following classes of persons shall be subject to examination:

a. The principal of a sole proprietorship.

b. General partners of a partnership.

c. The executive officers of a corporation, provided that if it can be shown to the satisfaction of the commissioner of insurance that certain corporate officers will not be active in the selling of applicant's securities in Iowa, such officers shall not be required to take the examination.

17.24(2) The date, time and place for taking such examination shall be determined and announced by the commissioner of insurance, and notice thereof shall be published or circulated and available to applicants at the time of filing.

17.24(3) All registration applications involving individuals subject to examination must be filed with the insurance department at least five days prior to the date of examination.

17.24(4) Applicants must furnish with their application a company draft in the amount of five dollars to pay for the examination fee.

17.24(5) Examinations shall be composed of two parts: Part I shall cover the general securities subject matter; Part II shall cover the Iowa securities law and regulations. The passing score on each part of the examination shall be seventy percent for issuer-dealers.

17.24(6) Exemptions—the following classes of persons shall be exempt from Part I of the examination:

a. Applicants who have passed the New York stock exchange or national association of securities dealers "principal's" examination given on or after July 1, 1963.

b. Applicants who have passed an examination essentially identical in subject matter in another state, provided that the passing score attained on such examination was at least as high as required by this department.

17.25(502) Responsibility of agents. The ultimate responsibility for quality and conduct of agents must be with the issuer-dealer that employs said agent. Said employer issuer-dealer must bear the ultimate responsibility for supervision and control of said agent employee.

17.26 to 17.27 Reserved for future use.

17.28(502) Rules relating to the registration of securities. The commissioner of insurance will look with disfavor upon an application for registration of securities as not being in the public interest and tending to work a fraud upon purchasers that is incomplete and misleading in any material aspect or that results in unreasonable amount of underwriters' and sellers' discounts, commissions, or other compensation, or promotors' profits or participation or unreasonable amounts or kinds of options. Failure to comply with the following requirements may be considered grounds for an order denying effectiveness to, or suspending or revoking effectiveness of any registration, in the absence of good cause shown for an exception.

17.29(502) Maximum commissions and expenses.

17.29(1) In connection with the sale and promotion of a public offering, the aggregate underwriting and selling discounts or commissions and finder's fees (including cash, securities, options, warrants, contracts and anything else of value to accrue to the underwriters, dealers and finders in connection with the offering) shall not exceed ten percent of the aggregate amount of the public offering actually sold.

17.29(2) The selling expenses incurred in connection with the offering (including but not limited to the legal, engineering, printing and accounting charges) shall not exceed five percent of the aggregate amount of the public offering actually sold. All expenses not strictly accounted for will be considered underwriting commission, and will be included when determining the ten percent limitation on the underwriting commission.

17.30(502) Offering price.

17.30(1) On applications for the registration of securities by qualification or notification, the offering price of the issue sought to be registered shall bear a reasonable relationship to the established public market price, if there is an established price. Information shall be submitted justifying the adequacy of such public market, including the number of shares owned by public shareholders, the number of shares traded each of the six or more preceding months, the number of transactions during each of such months, the number of shareholders at the beginning and end of such period, the names and locations of dealers regularly making a market in the shares, and the newspapers and financial publications where the shares are regularly quoted. If there has been a significant change in the price-earnings multiple of the issuer over such period, information shall be submitted accounting for such change.

17.30(2) The offering price of securities when no public market price has been established should bear a reasonable relationship to one or more of the following:

a. Normally the maximum offering price should not exceed thirty-five times the net earnings per share of the issuer prior to the proposed offering date, or such other multiple earnings as the commissioner of insurance may prescribe from time to time. The price earnings ratio may be somewhat higher when the increased future earnings are clearly established.

b. Information may be submitted comparing the proposed offering price in relation to the current market prices of the companies closely similar and comparable to the issuer in terms of size, industry, products and other relevant factors. When appropriate, the market prices of comparable companies must be justified according to paragraph "*a*" above.

17.30(3) Submission of an underwriter's memorandum on the issuer pre-

pared in connection with the proposed offering, containing the foregoing information may justify the foregoing requirements.

17.31(502) Options and warrants. Options or warrants to purchase securities issued or sold to persons other than all of the purchasers of the securities must be justified by the applicant. The following policies shall be applicable in determining whether such options or warrants are justified:

17.31(1) Options to employees in the nature of restricted or qualified stock options for incentive purposes shall be considered justified if reasonable in number and method of exercise.

17.31(2) Options or warrants to underwriters shall be considered justified if all of the following conditions are met:

a. The options or warrants are issued to managing underwriters under a firm underwriting agreement, provided they are not transferable except in cases where the managing underwriter is a partnership and then only within the partnership.

b. The number of shares covered by all options or warrants does not exceed ten percent of the shares to be outstanding upon completion of the offering.

c. The options or warrants do not exceed five years in duration and are exercisable no sooner than one year after issuance.

d. The initial exercise price of the options or warrants is at least equal to the public offering price plus a step-up of said public offering price of either seven percent each year they are outstanding, so that the exercise price throughout the second year is one hundred seven percent, throughout the third year one hundred fourteen percent, throughout the fourth year one hundred twenty-one percent, throughout the fifth year one hundred twenty-eight percent; or in the alternative, twenty percent at any time after one year from the date of issuance; provided that an election as to either alternative must be made by the underwriters at the time that the options or warrants are issued.

e. The options or warrants are issued by a relatively small company, which is in the promotional stage, or which, because of its size, lacks public ownership of its shares, or other facts and circumstances make it appear that the issuance of options is necessary to obtain competent investment banking services; provided that the direct commissions to the underwriters are lower than the usual and customary commissions in the absence of such options or warrants.

f. The prospectus used in connection with the offering fully discloses the terms and the reason for the issuance of such options or warrants; provided that if such reason relates to future advisory services to be performed by the underwriter without compensation in consideration for the issuance of such options or warrants, a statement to that effect is placed in the prospectus.

g. Where it is necessary to include the value of the options or warrants in the computation of underwriting commissions, the market value of such options or warrants, if any, shall be used. In cases where no market value exists, a presumed fair value of twenty percent of the public offering price of the shares to which the options or warrants pertain shall be used, unless evidence indicates that a contrary valuation exists.

h. The same conditions shall be applied to options or warrants by selling shareholders, unless evidence indicates that the selling shareholders are so separated from the issuer and so lacking in control of the issuer as to require different treatment.

17.31(3) Options or warrants issued to financing institutions other than the underwriters in connection with financing arrangements made by the issuer shall be considered justified if all of the following conditions are met:

a. The options or warrants are issued contemporaneously with the issuance of the evidence of the indebtedness of the loan.

b. The options or warrants expire not later than the final maturity date of the loan.

c. The options or warrants are issued as a result of bona fide negotiations between the issuer and parties not affiliated with the issuer.

d. The exercise price of such options or warrants is not less than the fair market value of the shares into which they are exercisable on the date the loan is approved.

e. The number of shares issuable upon exercise of the options or warrants multiplied by the exercise price thereof does not exceed the face amount of the loan.

17.31(4) The total amount of options and warrants issued or reserved for issuance at the date of the public offering shall be reasonable. The amount of options and warrants shall be presumed reasonable if the number of shares represented by such options and warrants, excluding options to financing institutions and options in connection with acquisitions, does not exceed a number equal to ten percent of the number of shares to be outstanding upon completion of the offering or ten percent of the number of shares outstanding during the period the registration is in effect. The number of options and warrants reserved for issuance may be disregarded if the issuer files an undertaking or states in the prospectus that the amount of outstanding options and warrants shall not exceed the above limitation during the period the registration is in effect.

17.31(5) All options and warrants other than those issued to financing institutions shall be issued at not less than fair market value on the date of issuance.

17.31(6) This policy shall apply to applications for registration of equity securities or securities convertible into equity securities.

17.32(502) Cheap stock. The proposed offering of securities in which cheap stock has been or will be issued must be justified by the applicant.

17.32(1) Any securities sold or issued within two years prior to the public offering date to persons who at the time of sale or issuance were underwriters, promoters, finders, officers, directors, employees, or controlling stockholders of the issuer, for a consideration lower than the proposed net public offering price of such securities, including options and warrants exercised, in the absence of any public market for such securities or any substantial change in the earnings or financial position of the issuer, shall be presumed to be "cheap stock". If the shares were or are to be acquired by an underwriter, the difference between the consideration for the shares and the proposed public offering price, when added to the other expenses of the sale, shall not exceed the legal maximum.

17.32(2) Cheap stock shall not be considered justified unless both the following conditions are met:

a. The shares are sold or issued by an issuer which is in the promotional or developmental stage.

b. The number of shares sold or issued shall be reasonable in amount and the consideration shall have a reasonable relationship to the proposed public offering price.

17.32(3) The commissioner may require all cheap stock to be deposited in escrow under such terms and conditions as the commissioner shall prescribe.

17.32(4) The same policy shall be applied to cheap stock acquired from shareholders unless such shareholders are so lacking in control of the issuer as to require different treatment.

17.32(5) This policy shall apply to applications for registration of equity securities or securities convertible into equity securities. In the latter case, and in the absence of a public market for the equity securities, the conversion price shall be deemed to be the public offering price.

17.33(502) Promotors' investment.

17.33(1) The offering or proposed offering of an issuer which is in the promotional or developmental stage shall be considered unfair and inequitable to public investors unless the fair value of the equity investment of the officers, directors and promoters of such issuer, determined as of the offering date, equals at least ten percent of the total equity investment resulting from the sale of all of the securities which are the subject of the offering or proposed offering.

17.33(2) For purposes of this policy:

a. An issuer which is in the "promotional or developmental stage" shall mean an issuer which has no significant record of operations or earnings prior to the proposed offering date or the offering of whose securities cannot be justified on the basis of such record.

b. The "fair value of the equity investment" of the officers, directors and promoters shall mean the total of all sums contributed to the issuer in cash together with the reasonable value of all tangible assets contributed to the issuer, as determined by independent appraisal, and as adjusted by the earned surplus or deficit of the issuer subsequent to the dates of contribution.

c. The term "total equity investment" shall mean the total of: (1) The par or stated value of all securities outstanding or offered or proposed to be offered, and (2) the amount of surplus of any kind, regardless of description and whether or not restricted.

17.34(502) Nonvoting stock. Unless preferential treatment as to dividends and liquidation is provided with respect to the publicly offered securities or the differentiation is otherwise justified, the offering or proposed offering of equity securities of an issuer having more than one class of equity securities authorized or outstanding shall be considered unfair and inequitable to public investors if the class of equity securities offered to the public has no voting rights, or has less than equal voting rights, in proportion to the number of shares of each class outstanding, on all matters, including the election of members to the board of directors of the issuer.

17.35(502) Preferred stock and debentures.

17.35(1) The offering or proposed offering of preferred stock of an issuer shall be considered unfair and inequitable to public investors if the net earnings of the issuer for: (1) Its last year prior to the public offering or (2) the average of its last three years prior to the public offering, exclusive of nonrecurring items, or the substantiated future earnings capability of the issuer, is insufficient to cover the dividends on the securities proposed to be offered to the public.

17.35(2) The offering or proposed offering of debt securities, including debentures, notes and bonds of an issuer, shall be considered unfair and inequitable to public investors if the cash flow of the issuer for its last year prior to the public offering, or the average of its last three years prior to the public offering, exclusive of nonrecurring items and adjusted for the issuance of the debt securities, or the substantiated future cash flow capability of the issuer, is insufficient to cover the interest on the securities proposed to be offered to the public.

17.35(3) If the issuer has made any material acquisitions subsequent to the latest year for which actual figures are stated in the prospectus, the computation of earnings or cash flow for the purpose of this policy shall be made on a pro forma basis to include such acquisitions.

17.35(4) The issuance of preferred stock or debentures by an issuer in the promotional or developmental stage will not be permitted unless justified by the applicant.

17.35(5) This policy shall not apply to the issuance of debt securities by a nonprofit issuer, nor to the issuance of industrial development revenue bonds, nor to the issuance of securities pursuant to a voluntary or involuntary corporate reorganization, nor to the issuance of securities by an issuer whose financial structure or the issuance of whose securities is regulated effectively by a federal or state governmental authority.

17.36(502) Real estate investment trusts.

17.36(1) The offering or sale of securities of real estate investment trusts, as defined in sections 856, 857 and 858 of the Internal Revenue Code of 1954 may be deemed unfair and inequitable to public investors unless their declarations of trust or other organizational instruments contain provisions which satisfy the following minimum conditions:

a. A majority of the trustees shall not be affiliated with the adviser of the trust or any organization affiliated with the adviser of the trust, and shall be elected by the shareholders of the trust annually.

b. No trustee, officer or adviser of a trust, or any person affiliated with any such persons, shall sell any property or assets to the trust or purchase any property or assets from the trust, directly or indirectly, nor shall any such person receive any commission or other remuneration, directly or indirectly, in connection with the purchase or sale of trust assets, except pursuant to transactions that are fair and reasonable to the shareholders of the trust and that relate to:

(1) The acquisition of property or assets at the formation of the trust or shortly thereafter and is fully disclosed in the proposed prospectus;

(2) The acquisition by the trust of federally insured or guaranteed mortgages at prices not exceeding the currently quoted prices at which the federal national mortgage association is purchasing comparable mortgages;

(3) The acquisition of other mortgages on terms not less favorable to the trust than similar transactions involving unaffiliated parties; or,

(4) The acquisition by the trust of other property at prices not exceeding the fair value thereof as determined by independent appraisal.

All such transactions and all other transactions in which any such persons have any direct or indirect interest shall be approved by a majority of the trustees, including a majority of the independent trustees. All commissions or remuneration received by any such person in connection with any such transactions shall be deducted from the advisory fee.

c. The aggregate annual expenses of every character paid or incurred by the trust, excluding interest, taxes, expenses in connection with the issuance of securities, stockholder relations and acquisition, operation, maintenance protection and disposition of trust properties, but including management and advisory fees and mortgage servicing fees, shall not exceed:

(1) One and one-half percent of the average net assets of the trust, net assets being defined as total invested assets at cost less total liabilities excluding depreciation reserves, calculated at least quarterly on a basis consistently applied, or

(2) Twenty-five percent of the net income of the trust, excluding realized capital gains before deducting advisory and servicing fees and expenses, whichever is greater, calculated at least quarterly on a basis consistently applied, but in no event shall aggregate annual expenses exceed one and one-half percent of the total invested assets of the trust.

The adviser shall reimburse the trust at least quarterly for the amount by which aggregate annual expenses paid or incurred by the trust exceed the amounts herein provided.

d. The aggregate borrowings of the trust, secured and unsecured, shall not be unreasonable in relation to the net assets of the trust, as defined in paragraph "*c*" hereof, and the maximum amount of such borrowing shall be stated in the prospectus and declaration of trust.

e. The net assets of the trust, as defined in paragraph "*c*" hereof, prior to the initial public offering shall be $200,000.00 or ten percent of the net assets of the trust, whichever is less.

f. A trust shall not:

(1) Invest more than ten percent of its total assets in unimproved real property or mortgages on unimproved real property, excluding property being developed or property which will be developed within a reasonable period.

(2) Invest more than ten percent of its total assets in junior mortgages, excluding wrap-around type junior mortgages.

(3) Engage in any material trading activities with respect to its properties.

(4) Issue redeemable equity securities or equity securities of more than one class.

(5) Issue debt securities to the public unless the historical cash flow of the trust or the substantiated future cash flow of the trust, excluding nonrecurring items, is sufficient to cover the interest on the debt securities.

(6) Issue options or warrants to purchase its securities to the adviser to the trust or any person affiliated with the adviser, or at exercise prices less than the fair market value of such securities.

(7) Any advisory or management contract entered into by the trustees prior to the public offering shall be for a period not longer than three years, and any such contract entered into thereafter shall be for a period not longer than one year. Any such advisory or management contract shall provide that it may be terminated at any time without penalty, by the trustees or a majority of the holders of outstanding shares of bene-

ficial interest, upon not more than sixty days written notice to the adviser or manager.

(8) The trust shall prepare an annual report concerning its operations for each fiscal year ending after the public offering of its securities, including financial statements prepared in accordance with generally accepted accounting principles applied on a consistent basis and certified by certified public accountants. The annual report shall be delivered to each public shareholder and debenture holder within 120 days after the end of such fiscal year. There shall be an annual meeting of the holders of outstanding shares of beneficial interest of the trust upon reasonable notice following delivery of the annual report.

17.37 to 17.45 Reserved for future use.

17.46(502) Expense ratios of investment company shares. No investment fund shares shall be registered and no registration of investment fund shares shall be renewed if the application for registration or renewal of registration or any financial statements or documents filed with the commissioner of insurance in accordance with any agreement or commitment contained in an application for registration or renewal of registration indicate that:

17.46(1) The ratio of total operating and management expenses, exclusive of taxes and interest, for any period, of the issuer of such investment fund shares is, or is in excess of, twenty-five percent of the total investment income of such issuer.

17.46(2) The ratio of the total operating and management expenses (exclusive of taxes, interest, brokerage commissions and extraordinary charges such as litigation costs, but inclusive of an incentive-performance fee of the issuer of such investment fund shares) is in excess of one and one-half percent of the average net assets per annum. When a fund adopts a flexible advisory fee as an incentive, the penalty for poor performance shall be as great as the reward for superior performance as measured against the selected index.

17.47(502) Commissions to officers and directors. No commission or sales fee will be allowed either directly or indirectly to officers, directors or promoters of an issuer, when such issuer is a dealer in its own securities unless such officers, directors or promoters receive no other salary or remuneration from such issuer and do not sell securities in more than one issue at the same time.

17.48(502) Manual exemptions. Each of the following publications is approved by the commissioner as a recognized manual of securities within the meaning of that term as used in chapter 502.5(12), Code 1971:

17.48(1) Standard & Poor's Standard Corporation Descriptions.

17.48(2) Moody's Industrial Manual.

17.48(3) Moody's Bank and Finance Manual.

17.48(4) Moody's Municipal and Government Manual.

17.48(5) Moody's Public Utility Manual.

17.48(6) Moody's OTC Industrial Manual, only if audited financials of the issuer have been furnished to the publisher.

Proof of actual publication must be presented to the commissioner of insurance in order to prove compliance with chapter 502.5(12), Code 1971.

17.49(502) Approved stock exchanges. Each of the following national stock exchanges is approved by the commissioner as recognized and responsible exchanges:

17.49(1) American stock exchange.

17.49(2) Midwest stock exchange.

17.49(3) New York stock exchange.

17.49(4) Pacific Coast stock exchange.

17.50(502) Abandonment and withdrawal. The commissioner may, by notice to the applicant, order an applicant to register securities to be abandoned upon the failure of the applicant within a reasonable time to respond to any request for additional information upon the application; or the applicant may, with the consent of the commissioner, withdraw his application without prejudice. There can be no refund of the examination (filing) fee paid upon abandonment or withdrawal of the application to register securities.

17.51(502) Request for written interpretive opinion. Each request for a written interpretive opinion of the commissioner shall be made in writing and shall fully set forth the questions presented and the particular facts and circumstances upon which the opinion is requested.

17.52(502) Appearance and practice before the department. In any proceeding before the commissioner any person may be represented by an attorney at law admitted to practice before the highest court of any state or territory of the United States, or the court of appeals or the district court of the United States, District of Columbia. Any individual may, however, appear before the department in his own behalf, a member of a partnership may represent the partnership, and an authorized officer of a corporation, trust or association may represent such corporation, trust or association.

17.53(502) Filing and use of the prospectus.

17.53(1) *Delivery of prospectus.* Except for negotiations with and among underwriters and members of a selling group; and except for secondary trading of registered securities; but not including securities determined to be exempt under chapter 502.5, Code 1971:

a. No written offer of securities of an issuer required to be registered with the commissioner shall be made unless a prospectus or offering circular approved by the commissioner is concurrently given or has previously been given to the person to whom the offer is made, or has been sent to such person, under such circumstances that it would normally have been received by him at or prior to the time of such written offer; and

b. No securities of such issuer shall be sold unless such a prospectus is given to the person to whom the securities were sold, or is sent to such person under such circumstances that it would normally be received by him, with or prior to any confirmation of the sale, or prior to the payment by him of all or any part of the purchase price of the securities, whichever first occurs.

c. Nothing herein shall prevent the distribution of preliminary or final prospectuses pertaining to securities registered or being registered with the securities and exchange commission if such distribution takes place in accordance with the rules and regulations of the securities and exchange commission.

17.53(2) *Revised prospectus.* If the offering is not completed within six months from the date of order of registration, a revised prospectus shall, in the case of securities to be sold solely to the residents of Iowa and not registered with the securities and exchange commission or the subject of a notification under regulation A of the securities and exchange commission, be prepared, filed and used in accordance with these rules as for an original prospectus. Prospectuses relating to securities registered with or by subject of notification to the securities and exchange commission shall be revised in accordance with the applicable provisions of the federal laws relating thereto and the regulations of the securities and exchange commission thereunder. A prospectus shall not contain any untrue statement of material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

17.53(3) *Amendments to prospectus.* The prospectus shall constitute a part of the application and shall be amended in accordance with the provisions of these rules dealing with amendments to applications.

17.54(502) Reports subsequent to registration.

17.54(1) *Annual report.* An applicant for the registration of any securities registered with the department shall file an annual report on the proper form to be provided by the insurance department, in compliance with section 502.7, Code 1971, within thirty days subsequent to the anniversary date of the registration until the registration is terminated.

17.54(2) A termination of a registration of securities may be accomplished by filing a "Request for Waiver of Annual Reports" on the appropriate form to be furnished by the insurance department. No "Request for Waiver of Annual Reports" will be granted unless said request is attached to an accurate "Annual Report of Sales", as described in 17.54(1) above.

[Effective May 18, 1971]

LABOR BUREAU

Pursuant to authority of chapter 92 of the Code, the following rules are adopted.

[Filed April 15, 1971]

CHAPTER 2

CHILD LABOR

2.1 to 2.6 Reserved for future use.

2.7(92) Definition of week as used in section 92.7 of the Code is interpreted to mean Sunday through Saturday.

2.8(92) Definition of occupations of motor vehicle driver and helper as used in section 92.8(2) of the Code are interpreted as follows: The occupations of motor vehicle driver and outside helper on any public road, highway, or in any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation.

2.8(1) The following are exceptions for occupations of motor vehicle driver and helper as provided by section 92.8(2) of the Code and further defined by the committee on child labor.

a. Incidental and occasional driving shall be exempt from the above hazardous occupation and shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours provided further that the vehicle is equipped with a seat belt or similar device for the driver and for each helper, and that the employer has instructed each child that such belts or other devices must be used. This exemption shall not be applicable to any occupation of a motor vehicle driver which involves the towing of vehicles.

b. The driving of a school bus is exempt from the occupation of a motor vehicle driver and helper.

2.8(2) *Definitions.*

a. Motor vehicle. Any automobile, truck, truck tractor, trailer, semitrailer, motorcycle or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

b. Driver. Any individual who, in the course of his employment, drives a motor vehicle at any time.

c. Outside helper. Any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting and transporting or delivering goods.

d. Gross vehicle weight. Includes the truck chassis with lubricants, water, and full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis, and body equipment, and pay load.

2.8(3) Definition of occupations involved in the operation of power-driven woodworking machines as provided by section 92.8(4) of the Code are interpreted as follows: The occupations of operating power-driven woodworking machines including supervision or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

The operations of off-bearing from circular saws and from guillotine-action veneer clippers.

2.8(4) *Definitions.*

a. Power-driven woodworking machines. All fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, mailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

b. Off-bearing. The removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section includes: (1) The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and (2) the following operations when they do not involve the removal of material or refuse directly from a saw

table or from the point of operation: The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.

2.8(5) Definition of occupations involved in the operation of elevators and other power-driven hoisting apparatus as provided by section 92.8(6) of the Code are interpreted as follows:

a. Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or air-operated hoist not exceeding one ton capacity.

b. Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

c. Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

2.8(6) *Definitions.*

a. Elevator. Any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators, (including portable elevators or tiering machines) but shall not include dumbwaiters.

b. Crane. A power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, job, locomotive, motor truck, overhead travelling, pillar job, pintle, portal, semigantry, semiportal, storage bridge, tower, walking job, and wall cranes.

c. Derrick. A power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism and operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, ginpole, guy, and stiff-leg derricks.

d. Hoist. A power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base-mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum, and trolley suspension hoists.

e. High-lift truck. A power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork, or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include high-lift trucks known under such names as forklifts, fork trucks, forklift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of, but not the tiering of, material.

f. Manlift. A device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, or chain or similar method of suspension; such belt, cable, or chain operating in substantially vertical direction and being supported by and driven through pulleys, sheaves, or sprockets at the top or bottom.

2.8(7) *Exception.* Section 92.8(6) of the Code shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally

bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive overtravel by the car.

2.8(8) *Definitions as used in 2.8(7).*

a. Automatic elevator. A passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

b. Automatic signal operation elevator. An elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

2.8(9) Definition of excavation occupations as used in section 92.8(16) of the Code includes all occupations on the excavation site.

2.9 and 2.10 Reserved for future use.

2.11(92) Definition of superintendent as used in section 92.11 of the Code shall be interpreted to mean the superintendent of a public school, and in the case of a nonpublic accredited school to be the superintendent or individual with equal responsibilities.

2.12 to 2.16 Reserved for future use.

2.17(92) Definition of work as used in section 92.17(1) of the Code shall be interpreted to mean such work for which compensation is not usually given.

This rule is intended to implement chapter 92 of the Code of Iowa (as provided above).

[Effective April 15, 1971]

[Editor's Note: These rules have been filed by the department following disapproval by the Attorney General. See §17A.8 of the Code.]

MERIT EMPLOYMENT DEPARTMENT

Pursuant to the authority of chapter 19A of the Code, the rules appearing in the July, 1969 IDR Supplement [1971 IDR 583-588, relating to pay plan] are amended as follows:

[Filed April 14, 1971]

CHAPTER 4

PAY PLAN

1. On page 50, line 14, [1971 IDR, page 585, subrule 4.5(2)*b*, line 11] after the words—educational leave—add "(except as required by the appointing authority) or"

2. On page 50, line 14, [1971 IDR, page 585, subrule 4.5(2)*b*, line 12] after the words—leave without pay—add "which exceed 30 days,"

[Effective April 14, 1971]

MERIT EMPLOYMENT DEPARTMENT

(continued)

Pursuant to the authority of chapter 19A of the Code, the rules appearing in the July, 1969 IDR Supplement [1971 IDR, pages 589-593, relating to recruitment and examination] are amended as follows:

[Filed April 14, 1971]

CHAPTER 5

RECRUITMENT AND EXAMINATION

On page 42 [1971 IDR, page 592], delete section 5.10(62GA,ch 95). [Editor's Note: See rule 6.3]

[Effective April 14, 1971]

MERIT EMPLOYMENT DEPARTMENT

(continued)

Pursuant to the authority of chapter 19A of the Code, the rules filed with the secretary of state on September 18, 1970 [1971 IDR, pages 593 and 594, relating to eligible lists] are amended as follows:

[Filed April 14, 1971]

CHAPTER 6

ELIGIBLE LISTS

1. Delete: Section 6.6(4). [Editor's Note: See rule 7.7]

2. Renumber 6.6(5) to 6.6(4).

3. Renumber 6.6(6) to 6.6(5).

4. Renumber 6.6(7) to 6.6(6).

5. Renumber 6.6(8) to 6.6(7).

6. Renumber 6.6(9) to 6.6(8).

7. Renumber 6.6(10) to 6.6(9).

[Effective April 14, 1971]

MERIT EMPLOYMENT DEPARTMENT

(continued)

Pursuant to the authority of chapter 19A of the Code, the rules filed with the secretary of state on November 5, 1970 [1971 IDR, pages 595-598, relating to appointments] are amended by adding the following section:

[Filed March 9, 1971]

CHAPTER 8

APPOINTMENTS

"8.13(19A) Summer employment appointment. Upon request, the director may authorize the appointing authority to make summer employment appointments to one or more permanent or temporary positions providing the comptroller certifies the funds are available for payment and the positions are established. Such appointments shall be limited to ninety calendar days within the period of May 1 to September 30 in any year. Appointments may be made to any class on a work test basis and shall not be made in conjunction with an emergency appointment either prior to or subsequent to a summer employment appointment. No summer employment appointment shall confer on the incumbent any privilege, right of appeal or right of position, transfer, promotion, demotion or reinstatement; nor shall a summer employment incumbent be entitled to vacation or sick leave under these rules.

[Effective April 8, 1971]

MERIT EMPLOYMENT DEPARTMENT

(continued)

Pursuant to the authority of chapter 19A of the Code the rules filed with the secretary of state on November 5, 1970 [relating to probationary period, 1971 IDR, page 598] are amended as follows:

[Filed April 14, 1971]

CHAPTER 9

PROBATIONARY PERIOD

On page 1, line 24, at the end of section 9.4 [1971 IDR, page 598, rule 9.4(19A) at the end thereof] change the "." to "," and add "except where:

a. There are no eligibles on the promotional eligible list for the higher class and reasonable effort has been made to establish an eligible list for the higher class;

b. The probationary employee can be certified in accordance with 7.3(2) of these rules.

Such promoted probationary employee shall be allowed to count probationary time spent in the lower class toward the total required probationary period and pay shall be in accordance with 4.5(4)."

[Effective April 14, 1971]

MERIT EMPLOYMENT DEPARTMENT
(continued)

Pursuant to the authority of chapter 19A of the Code the rules filed with the secretary of state on November 5, 1970 [1971 IDR 604] are amended as follows:

[Filed April 14, 1971]

CHAPTER 14

VACATION AND LEAVE

1. On page 4, line 23, in section 14.4 [1971 IDR rule 14.4(19A), line 8] after the words—enforced leave—add "shall be charged against the employee's sick leave and".

2. On page 5, line 38, at the end of section 14.8 [1971 IDR rule 14.8(19A), line 19] after the words—shall apply—add "Leave without pay of thirty days or less shall not affect review date for merit increase or vacation and sick leave benefits."

[Effective April 14, 1971]

MERIT EMPLOYMENT DEPARTMENT
(continued)

Pursuant to the authority of chapter 19A of the Code, the rules filed with the secretary of state on November 10, 1970 [1971 IDR 604] are amended as follows:

[Filed May 1, 1971]

CHAPTER 14

VACATION AND LEAVE

On page 6, line 22, [1971 IDR rule 14.12(19A), line 4] after the words—seventh month of pregnancy,—add "but may be extended by the appointing authority where requested by the employee, if supported by competent medical determination and working conditions permit extension."

[Effective May 1, 1971]

NURSING HOME ADMINISTRATORS BOARD OF EXAMINERS

Pursuant to authority of chapter 1085, Acts of the Second Session of the 63rd General Assembly, [Chapter 147, Code 1971, sections 147.118 to 147.130, inclusive] the following rules are adopted.

[Filed February 23, 1971]

CHAPTER 21

LICENSURE OF NURSING HOME ADMINISTRATORS

21.1(147) Definitions. For the purpose of these rules the definitions set out in section 2 of chapter 1085, Acts of the Second Session of the 63rd General Assembly [section 147.118, Code 1971] shall be considered to be incorporated verbatim in these rules, except it shall not include adult foster homes, boarding homes and custodial homes as defined in section 135C.1 of the Code.

21.2(147) Minimum qualifications for licensure as a nursing home administrator.

21.2(1) *Personal qualifications of applicants.*

a. Applicant must be not less than twenty-one years of age at the time his application is filed.

b. Each applicant must establish to the satisfaction of the board of examiners for nursing home administrators that he is of reputable and responsible character.

c. Each applicant must establish to the satisfaction of the board of examiners for nursing home administrators that he is in sound physical and mental health.

21.2(2) *Education qualifications of applicants.*

a. High school or equivalent education. Each applicant must establish to the satisfaction of the board of examiners for nursing home administrators that he is a graduate of a high school accredited at the time of his graduation by the state department of public instruction or its equivalent of the state in which said high school is located; or that he has achieved a passing score on the gen-

eral education and development examination as may be recognized as the equivalent of high school graduation, by the state department of public instruction of the state in which the examination was completed. The educational requirement of high school graduation or equivalent will be waived for all applicants who fulfill the experience requirement for a temporary license as provided in section 4 of chapter 1085, Acts of the Second Session of the 63rd General Assembly. [147.120 of the Code]

b. Health care education.

(1) Each applicant must establish to the satisfaction of the board of examiners for nursing home administrators that he has successfully completed the academic and training program in nursing home administration prescribed, adopted and required by the board.

(2) Applicants prior to July 1, 1977 may fulfill the educational requirements by one year or more of employment as a health care administrator or an assistant and by showing evidence of satisfactory completion of at least one year of a course of study leading to a degree in health care administration, or its equivalent as determined by the board of examiners for nursing home administrators.

(3) The curriculum of the program in long term health care administration offered by the area community colleges, under the Iowa state department of public instruction, with an applied arts degree or its equivalent as determined by the board of examiners for nursing home administrators shall be the minimum education requirement for all new applicants as of July 1, 1977.

c. Examination. Each applicant shall be required to pass a written examination in the nursing home administration subjects listed in section 21.6(2)"*b*" in these rules and may at the board of examiners for nursing home administrators discretion be required to pass an oral examination.

21.2(3) *Experience.*

a. Any person who, on the effective date of chapter 1085, Acts of the Second Session of the 63rd General Assembly, July 1, 1970, has actually served as a health care administrator at least two years preceding such date, shall have satisfied the experience requirements.

b. One year of full-time paid employment as an administrative assistant in a licensed health care facility under the supervision of a licensed nursing home administrator subsequent to July 1, 1970 shall fulfill the experience requirements.

c. The experience requirement will be fulfilled by any individual who has successfully completed a course of study for a degree in a health care administration field. This degree, acceptable to the board of examiners for nursing home administrators, from an accredited institution must include an approved internship or its equivalent as determined by the board.

21.3(147) Application for licensure as a nursing home administrator.

21.3(1) Each applicant for licensure as a nursing home administrator shall make a verified application therefor on a form furnished by the board of examiners for nursing home administrators. The application and supporting data and documents as may be required by the board of examiners for nursing home administrators must be completed and on file at least thirty days prior to the announced licensure examination date. Each applicant found to be eligible for the examination will be notified by letter to the address shown on his application, of eligibility for, and of the time and place of the examination, at least five days prior to the examination date.

21.3(2) An examination fee of twenty-five dollars will be required for each written examination.

21.3(3) Each applicant who is otherwise qualified and has passed the approved written examination, and oral examination if requested by the board of examiners for nursing home administrators, will be notified of his eligibility for licensure.

21.3(4) Each applicant who fails the examination or who otherwise fails to meet the minimum score may apply for re-examination at the next examination scheduled by the board of examiners for nursing home administrators.

21.3(5) Application forms are available from the Iowa state department of

health, and license fees and examination fees are sent to: Iowa State Board of Examiners for Nursing Home Administrators, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

21.4(147) Licensure expiration, renewal, denial, revocation and suspension.

21.4(1) *Renewal of license.*

a. Each applicant for a renewal of a license shall file a renewal application on a form as prescribed by the board of examiners for nursing home administrators and shall provide such evidence of his ability and competence and evidence of continued education required by the board to continue as a licensed nursing home administrator.

b. Each applicant for the renewal of a license shall file his application at least forty-five days prior to the expiration date on his current license.

21.4(2) The board of examiners for nursing home administrators may deny an initial application, renewal application or may suspend or revoke a nursing home administrator license for the following:

a. The obtaining or attempting to obtain a license by fraud or deceit.

b. Conviction of a crime involving moral turpitude, a felony, or a crime involving violation of any narcotic or drug control law. The record of a conviction, or a copy thereof certified by the clerk of the court or by the judge in whose court the conviction is entered, is conclusive evidence of the conviction.

c. Habitual intoxication or addiction to the use of drugs.

d. Commitment to a mental institution or judicial determination of incompetence.

e. Gross negligence, fraud, dishonesty, malfeasance, cheating in the management of a nursing home or other conduct unbecoming to a person licensed or subject to licensure under this law when in the judgment of the board of examiners for nursing home administrators such conduct is detrimental to the best interest of the nursing home profession and the public.

21.5(147) License fees.

21.5(1) The fee for a license issued by examination is thirty dollars.

21.5(2) The fee for a license issued by reciprocity is thirty dollars.

21.5(3) The fee for a temporary license is thirty dollars except that the fee for a temporary license for the period from July 1, 1970 until December 31, 1970 is twenty dollars.

21.5(4) The fee for renewal of all licenses will be thirty dollars per year payable on or before December 13 of each calendar year.

21.6(147) Requirement for licensure.

21.6(1) As of the effective date of chapter 1085, Acts of the Second Session of the 63rd General Assembly, July 1, 1970, all persons acting or serving in the capacity of a nursing home administrator shall hold a nursing home administrator license issued by the board of examiners for nursing home administrators except as provided in section 147.126(3) of the Code.

21.6(2) *Examinations.*

a. Applications, properly completed, shall be filed with the board at their official address: Iowa State Board of Examiners for Nursing Home Administrators, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

b. Following is a listing of the subjects to be tested:

(1) Environmental health and safety.

(2) General administration.

(3) Patient care.

(4) Departmental organization and management.

(5) Community inter-relationships.

(6) Basic terminology.

c. A general average of no less than sixty percent of correct answers shall be considered to constitute a passing grade. Persons failing the examination shall retake the sections of the examination in which a score of less than sixty percent is received without addi-

tional fee upon evidence filed substantiating continued study in the sections failed.

d. Any applicant failing the examination who wishes to take a second partial examination on the sections failed must take such examination within one year.

e. Any applicant detected seeking or giving help while writing the examination will be dismissed and his paper collected. He may return for examination within one year upon reapplication.

21.6(3) *Provisional administrator.* In the event an existing nursing home loses the service of its licensed administrator, and the home is unable to secure another licensed administrator, an unlicensed person may be employed as a provisional administrator for a period not to exceed six months except as provided in section 147.126(3) of the Code. The provisional administrator shall apply to the board of examiners for nursing home administrators for a provisional letter within fifteen days of his appointment. This application shall be made on the regular application form furnished by the board of examiners for nursing home administrators and accompanied by a fee of thirty dollars for the examination of credentials. On or before the expiration of six months a licensed nursing home administrator must be employed. During this six-month period the provisional administrator may prepare for licensing if he meets the qualifications of other sections of these rules and section 4 of chapter 1085 [147.120 of the Code]. In the event a nursing home cannot secure a licensed nursing home administrator, the owner or governing body may, in consultation with the board of examiners for nursing home administrators have a licensed nursing home administrator appointed until the owner or governing body can secure one.

21.6(4) *Notice and hearing.*

a. Any proposed action by the board of examiners for nursing home administrators, denying, refusing to renew, suspending, or revoking a license, shall be communicated to the applicant by certified mail and addressed to his last known place of business or residency at least fifteen days in advance of the proposed action of the board.

b. Any applicant or licensee aggrieved by an action of the board of examiners for nursing home administrators respecting his application for licensure, renewal of same, or proposed suspension or revocation may within fifteen days of the receipt of notice of the action or proposed action of the board, request a hearing by the board.

(1) The board of examiners for nursing home administrators will set a date, time, and place for the hearing and the secretary will inform the aggrieved by certified mail, addressed to his last known business or residence address, of the scheduling of such hearing at least ten days in advance of the date set for same.

(2) The hearing may be before the board of examiners for nursing home administrators or any member or members of the board designated by the chairman to take testimony and conduct the hearing.

(3) A full and complete record shall be kept of all proceedings. A report, in whole or in summary, together with any exhibits produced, shall be furnished to the board of examiners for nursing home administrators at its next regular or special meeting.

(4) The applicant or licensee and his attorney, together with witnesses, may be present to testify and present evidence at the hearing.

(5) The applicant or licensee and his attorney may be present when the hearing reports and findings are presented to the board of examiners for nursing home administrators at its next regular or special meeting and shall be given an opportunity to sum up their position and present arguments before the board.

(6) All actions of the board of examiners for nursing home administrators shall be final but the aggrieved applicant or licensee may appeal the action of the board to the district court for review.

c. The board of examiners for nursing home administrators shall take appropriate action with respect to any verified charge or complaint to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of the Act

relating to the licensure and registration of nursing home administrators or these rules.

21.7(147) Reciprocity.

21.7(1) All applicants for licensure to practice as a nursing home administrator in the state of Iowa who hold a currently valid license, issued by examination in another state may make application for license by reciprocity with the board of examiners for nursing home administrators providing the other state holds a reciprocal agreement with Iowa. All applications shall be considered on each individual's own merits.

21.7(2) A license to practice as a nursing home administrator shall be granted by the board of examiners for nursing home administrators without examination or by as much examination as may be required by the board to establish the proficiency of each applicant.

21.7(3) Upon being granted a license to practice nursing home administration, an Iowa licensee shall thereafter comply with all rules and regulations for continuing licensure of nursing home administration in Iowa.

21.7(4) All applications for reciprocity shall be made on the official forms supplied by the Iowa state board of examiners for nursing home administrators. The secretary shall mail the official application forms as requests are received.

These rules are intended to implement section 5 of chapter 1085, Acts of the Second Session of the 63rd General Assembly.

[Effective March 25, 1971]

[Editor's Note: These rules have been filed by the department following disapproval by the Attorney General. See §17A.8 of the Code.]

REGENTS, BOARD OF

Pursuant to the authority of chapter 262 of the Code the following rules are adopted.

[Filed July 12, 1971]

CHAPTER 1
ORGANIZATION AND ADMINISTRATION

1.1(19A) Creation and purpose. The purpose of these rules is to give effect to the provisions of chapter 19A of the Code as enacted by the 62nd General Assembly, to establish an efficient, effective and uniform system of personnel administration for board of regents institutions and staff, to provide equal employment opportunity for all and career opportunities comparable to those in business and industry.

1.2(19A) Covered employees. All employees of the board of regents, except those exempted by the state merit employment Act, will be covered under the rules and regulations of this system. Employees hired into permanent positions one year or more prior to the date of implementation of these rules will be given permanent status and full rights hereunder. Employees hired less than one year prior to the date of implementation of these rules will be required to complete a probationary period in accordance with 7.9(19A). Service immediately prior to the date these rules are implemented will count as probationary time.

1.3(19A) Administration. Under the authority of the board of regents and the supervision of its executive secretary, a merit system co-ordinator will be responsible for the development and operation of the system in compliance with the objectives and intent of the state merit employment Act. At each board of regents institution the head thereof will designate an administrator to serve as resident director of the system. Under co-ordination by the merit system co-ordinator the resident director will be responsible at his institution for conducting a program of personnel administration in accordance with these rules.

1.3(1) *Records and reports.* The resident directors will maintain an individual file on each employee that will include a record of all personnel transactions affecting that individual. The resident directors will also maintain records on operations conducted under these rules and will periodically as requested, and at least annually, report a summary of such operations to the merit system co-ordinator. The resident director will establish, in co-operation with employing departments, a program that will provide for the regular evaluation, at least an-

nually, of the qualifications and performance of all employees.

1.3(2) *Nondiscrimination.* All programs and transactions administered under these rules will be conducted on the basis of merit and fitness without discrimination or favor because of political or religious opinions or affiliations or national origin, race, sex or age except as prescribed or permitted under state and federal law.

1.3(3) *Political activity.* No employee covered under this system will engage in any partisan political activity that is prohibited by law.

Those employees who are by law subject to the provisions of the federal Hatch Act will be informed of such provisions by the resident director at their institution and will be required to adhere thereto.

[Effective January 1, 1972]

REGENTS, BOARD OF
(continued)

Pursuant to the authority of chapter 262 of the Code the following rules are adopted.

[Filed May 11, 1971]

CHAPTER 5
APPLICATION AND EXAMINATION

5.1 Applications. Applications for admission to examination for employment will contain no question so formed as to elicit any information concerning national origin, race, sex, or political or religious affiliation, and the truth of statements made on the application will be certified by the signature of the applicant.

5.2 Examinations. Entrance to the service will be conducted on an open competitive basis. Examinations must be approved by the merit system co-ordinator and will be one of two kinds: Original entry or promotional. Examinations may, at the designation of the resident director, be conducted on a continuous basis, or they may be offered periodically as need or anticipated need for employees arises.

5.3 Character of examinations. Examinations may be assembled or unassembled and may include written, oral, physical, or performance tests, or any combination of these. They may take into consideration such factors as education, experience, aptitude, knowledge, character, physical fitness, or other qualifications or attributes which enter into the determination of the relative fitness of applicants.

5.3(1) *Assembled examinations.* Assembled examinations will be conducted for those classes for which written tests are practical. Such examinations may include one or more of the following in addition to the written tests: Skill demonstration tests, physical tests, oral interviews, and evaluations of training and experience.

5.3(2) *Unassembled examinations.* For those classes of a craft nature or where peculiar and exceptional qualifications are required and competition through an assembled examination is impractical, an unassembled examination may be held. Such examinations will consist of an evaluation of a statement of training and experience and such other materials as the applicants may be required to submit as evidence of fitness for a position, and may include oral interviews for evaluation of personal and technical qualifications and evaluations of other factors which enter into the determination of the relative fitness of applicants.

5.3(3) *Simplified examination procedure.* For positions involving unskilled, semiskilled, domestic, attendant or custodial work, where the character or conditions of employment make it impractical to supply the needs of the institution through procedures prescribed above, the resident director may adopt or authorize the use of such other procedures as he determines to be appropriate which will assure the selection of such employees on the basis of merit and fitness. Examinations so given will conform with and utilize such methods, forms and techniques as the director may require.

5.4 Announcement of examinations. Announcement of examinations will be made publicly and will include the title, the current salary range and the minimum qualifications for the class; the

date, time and place where the examination will be offered; and the manner in which applications for examination can be made. Announcements of original entry examinations will, in addition to other publication or distribution prescribed by the resident director, be displayed in the institution's employment office and distributed to all the state employment offices of the Iowa employment security commission. Announcements of promotional examinations will be displayed in the institution's employment office and at other locations on campus as may be prescribed by the resident director to bring such announcements to the attention of employees.

5.4(1) *Continuous examinations.* Announcement of original entry and competitive promotional examinations that are conducted on a continuous basis will be made at least once every six months, and will include a statement to the effect that applications will be accepted until further notice.

5.4(2) *Noncontinuous examinations.* Announcements of examinations not conducted on a continuous basis will include a statement indicating the latest date for filing application, and will be made public at least fifteen days before the closing date for accepting applications. If, at the closing date, the resident director determines that the number of qualified applicants is insufficient to warrant offering the examination, he may extend that date and reschedule the examination, providing that persons who have applied to take the examination are notified.

5.5 Eligibility to compete in examinations. Anyone who applies for employment in a specific class at a regents institution and who meets the minimum qualifications prescribed for that class, and who is not rejected or disqualified under 5.6, will have the right to take an examination when offered for that class.

5.6 Rejection or disqualification of applicants. The resident director may reject any applicant or, after examination, may refuse to certify any candidate if it is found that the person:

1. Does not meet the minimum required qualifications for the class;

2. Is so disabled that he cannot perform the duties of the job;

3. Habitually uses narcotics or uses intoxicating beverages to excess;

4. Has made a false statement of material fact in his application;

5. Has information concerning the examination to which he is not entitled;

6. Has reached or will within one year reach normal retirement age;

7. Has been convicted of a felony or an indictable misdemeanor which makes him unsuitable for employment in a particular class or position;

8. Has been dismissed from private or public service for a cause that would be detrimental to his employment with the regents.

A disqualified applicant or eligible will promptly be notified in writing of such action at his last known address. A disqualified applicant or eligible may request review of the reason for his disqualification. Such request will be in writing and upon receipt the resident director will give full consideration to the request, and notify the applicant of his decision in writing.

5.7 Administering the examination program.

5.7(1) *Security.* Necessary security precautions and procedures will be exercised by the resident director to maintain the highest integrity in the examination program.

5.7(2) *Notification of results.* Applicants will be notified in writing of the results of their test(s) as soon as possible, and test scores will be made available only to the applicant, the resident director and his staff, prospective employing departments, and the merit system co-ordinator.

5.7(3) *Review of ratings.* Any applicant may request a review of his test ratings, provided such a request is made within fifteen days after notification of examination results. Such reviews will be made available only to the applicant and prospective employing departments.

5.7(4) *Retaking examinations.* Applicants may apply to retake examinations, but may not take the same form of a written examination more than once in any three month period. Performance examinations, such as typing and short-

hand tests, may at the discretion of the resident director, be retaken after one week but may not thereafter be repeated more than once a month.

5.7(5) *Transfer of examination results.* At the request of an applicant who has passed an examination for employment in a class at any regents institution, the results of that examination will be forwarded to any other regents institution, and the name of that applicant will be placed on the register of eligibles for that class at that institution in accordance with these rules. Such a request will be made by the applicant in writing to the resident director at the institution where the examination was taken, will specify the other regents institutions at which the applicant wishes to be considered for employment, and will contain a statement from the applicant indicating that he will be reasonably available for interviews should his name be certified for appointment. The examination results will be forwarded by the resident director at the examining institution to the resident director at the institution(s) specified by the applicant and the resident director who receives the examination results will notify the applicant of said receipt.

A resident director may refuse to accept the results of a promotional examination taken by an employee of another regents institution.

5.7(6) *Applicants address.* It will, at all times, be the responsibility of the applicant to see that his address on file with the resident director is current and correct.

5.7(7) *Disposition of examinations.* After an examination is completed and scored, the completed examination will be forwarded to the office of the merit system co-ordinator for filing.

5.7(8) *Veterans preference.* Veterans preference as provided by law.

[Effective January 1, 1972]

REGENTS, BOARD OF
(continued)

Pursuant to the authority of chapter 262 of the Code the following rules are adopted.

[Filed May 11, 1971]

CHAPTER 6

CERTIFICATION AND SELECTION

6.1 Eligibility lists. Insofar as possible, eligibility lists will be established and maintained by the resident director to fill the employment needs of the institution. Provision is hereby made for three kinds of eligibility lists: Re-employment, promotional and original entry, each of which will be maintained by class of position.

Re-employment lists will consist of the names of permanent employees who have been laid off or demoted without prejudice in accordance with these rules and will be maintained in the reverse order of layoff or demotion. Re-employment rights will not apply to positions in a class higher than the class from which an employee was laid off or demoted.

Original entry and promotional lists will be established as the result of competitive examinations and will consist of the names of all applicants who have qualified by passing examinations and who have not been disqualified in accordance with these rules. They will be maintained in order of test score achievement beginning with the highest.

6.1(1) *Removal of names from eligibility lists.* In addition to the causes for rejection or disqualification set forth under 5.6, the resident director may permanently or temporarily remove names from eligible lists for the following reasons.

a. On receipt of a written statement from the eligible that he no longer desires consideration for a position in the class.

b. Appointment through certification from such eligible list to fill a permanent position.

c. Failure to respond within five working days to the written inquiry of the resident director relative to availability for appointment.

d. Declination of appointment without good cause or under conditions which the eligible previously indicated he would accept.

e. Failure to appear for a scheduled employment interview or to report for duty within a reasonable time specified by the employing department.

f. Failure to maintain a record of his current address with the resident director as evidenced by the return of a properly addressed unclaimed letter or other evidence.

g. Willful violation of any of the provisions of these rules.

6.1(2) *Duration of eligibility lists.* Eligibility lists will exist for a period of time no less than one year and no more than three years. Names may be added to or deleted from eligibility lists in accordance with these rules. The names of applicants who have not been appointed or otherwise removed from lists will be removed at the termination of the designated period of time.

6.1(3) *Notification of removal from eligibility lists.* Applicants whose names are removed from eligibility lists for any reason other than 6.1(1)"*a*" or 6.1(1)"*b*" above, will be immediately notified of such removal in writing by the resident director.

6.1(4) *Precedence of eligibility lists.* For appointment to permanent positions, eligibility lists will be used as follows:

Re-employment lists, including the names of qualified employees who may have accepted demotion in lieu of layoff, will supersede promotional and original entry lists.

In the absence of re-employment lists, vacancies will be filled by the promotion of qualified employees in accordance with these rules whenever practical and feasible.

Original entry eligibility lists will follow re-employment and promotion in the order of precedence.

6.2 Personnel requisitions. Requests to fill vacancies in permanent positions will be initiated in writing by the requesting department and forwarded to the resident director. The request will include the class of the position to be filled, the number of vacancies and the date of need.

6.3 Certification from eligibility lists. The resident director will certify the names of eligible candidates in the following manner.

From a re-employment list the resident director will certify for appointment the name of the one person at the head of the list if the vacancy to be filled exists in the college or operating division from which that person was laid off or demoted, or the names of the first three people if the vacancy occurs in a college or operating division other than the one from which the employee was terminated or demoted.

From promotional lists the resident director will certify for one vacancy the names of the three persons with the highest standing on the list, with one additional name in the order of their standing on the list for each additional vacancy or, if the number of vacancies exceeds four, the upper one-half of the promotional list, whichever is greater.

From original entry eligibility lists the resident director will certify the names of the three people with the highest standing on the list at the time the vacancy is declared.

6.3(1) *Eligibility registers.* An eligibility register will consist of the names of three available candidates who have the highest standing on an eligibility list. If a complete register is not available from a promotional eligibility list, the resident director may certify and refer enough other candidates in the order of their standing on an original entry eligibility list so that an employing department may have a choice of selection from three candidates. If a complete original entry register is not available, the resident director may refer additional candidates for appointment in accordance with these rules.

In the interest of speed and efficiency in the selection process, candidates may be certified and referred to more than one vacancy at the same time. However, with reasonable regard for candidates standing highest on eligibility lists, a resident director will not be required to make simultaneous certification of the same name on different certifications made concurrently for the same class of position. If more than one vacancy in the same class exists at the same time in one department, the resident director may certify and refer to that department three candidates plus one additional candidate for each vacancy in excess of one.

6.3(2) *Special qualifications.* An employing department may request in writ-

ing that the resident director certify for appointment candidates who have special qualifications in addition to the minimum qualifications prescribed in the class specifications. If, in the judgment of the resident director, such a request is validly related to job performance, he may certify, in the order of their standing on the register, only the names of eligibles who have such special qualifications.

6.4 Selection of employees. Employing departments will notify the resident director of all vacancies in permanent positions as far in advance of the date of need as possible. The resident director will certify as approved for appointment names of candidates in accordance with these rules, and will refer the certified candidates to be interviewed by the department in which the vacancy exists. Final selection will be made by the employing department. Nothing in these rules will require a department to hire any candidate, and nothing will preclude the filling of vacancies in accordance with other provisions in these rules, such as those concerning transfers, promotions, demotions and reinstatements. When a properly certified candidate is selected by a department, the department will so notify the resident director.

[Effective January 1, 1972]

REGENTS, BOARD OF
(continued)

Pursuant to the authority of chapter 262 of the Code the following rules are adopted.

[Filed May 11, 1971]

CHAPTER 7

APPOINTMENTS AND PROBATION

7.1 Appointments. All appointments under this system will be made in accordance with all the provisions of these rules including those concerning certification and selection unless otherwise specified.

7.2 Temporary appointments. Temporary appointments may be made to fill temporary positions or to fill permanent or continuous positions in the absence of an appropriate register. Temporary appointments will not be made for more than six months, and successive temporary appointments will not be allowed.

7.3 Emergency appointments. Appointments may be made without reference to the provisions of these rules regarding minimum qualifications, certification and selection, to provide for services needed in cases of emergency. Such appointments will be made only for the duration of the emergency and in no case will exceed sixty calendar days in any twelve-month period at any or all employing departments of board of regents institutions.

7.4 Irregular appointments. Irregular appointments may be made and approved by the resident director to provide for services needed on a periodic basis. Employees appointed on this basis will not work more than eight months in any year, but may, at the request of an employing department, be returned to duty in successive years.

7.5 Project appointment. When it is known in connection with a particular job, project, grant or contract that the services of an employee will be needed only for a limited duration, a project appointment may be made. Such an appointment will not be made for more than six months, however with the approval of the resident director it may be extended for one additional six month period. Any extension beyond one year must be approved by the merit system co-ordinator on the basis of a limited need that could not otherwise be efficiently and effectively filled. Successive project appointments will not be allowed.

7.6 Provisional appointments. In the absence of a register the resident director may approve a provisional appointment for a person who meets the minimum qualifications of the class in which the vacancy exists but who has not passed the examination for that class. A provisional appointee must immediately apply for examination and be examined as soon as practical. After certification from an appropriate register and successful completion of six months of active service in the class, a provisional appointee will have completed his probationary period and will have permanent status.

A provisional appointment will not exceed six months and successive provisional appointments will not be allowed.

7.7 Permanent appointments. A candidate who is certified from an eligibility register and appointed with the approval of the resident director to a permanent position, and who successfully completes a probationary period in accordance with these rules, will have permanent status.

7.8 Work test appointments. Work test appointments may be made and approved by the resident director to those positions for which a simplified examination procedure [5.3(3)] has been approved. At the successful completion of six months of service in a class to which a person received a work test appointment, he will have permanent status in that class.

7.9 Reinstatement. A permanent employee who has resigned in good standing may be reappointed without certification from an eligibility list, to a position in the same class from which he resigned or a lower class, provided that such reappointment is made within a period of time no greater than the period of his previous employment and in no case more than two years after the date of his resignation.

7.10 Probationary period.

7.10(1) *Purpose.* The probationary period will be an important part of the examination and selection process, and will be used by the employing department to closely observe and evaluate the employee's work, to train and aid the employee in adjustment to his position, and to reject and dismiss any employee whose performance fails to meet standards.

7.10(2) *Duration of probation.* A candidate who is certified from an original entry eligibility list and appointed to a permanent position will be on probation until he completes one year of active service in the class to which appointed. If a probationary employee is not dismissed during this time, he will, at the conclusion of the probationary period, have permanent status in that class. A period of temporary employment immediately preceding a permanent appointment to the same class may, at the request of the employing department, be counted as probationary service.

7.10(3) *Lay-offs during probation.* A certified employee who is laid off without prejudice during his probationary period will, upon written request to the resident director, be returned to the register from which he was certified.

7.10(4) *Dismissal during probation.* A certified employee who is rejected and dismissed during his probationary period, may be returned to the register from which he was appointed if, in the judgment of the resident director, he may be able to perform satisfactorily in another position.

[Effective January 1, 1972]

REGENTS, BOARD OF
(continued)

Pursuant to the authority of chapter 262 of the Code the following rules are adopted.

[Filed July 12, 1971]

CHAPTER 8

PROMOTIONS, DEMOTIONS, TRANSFERS AND TERMINATIONS

8.1(19A) Promotions.

8.1(1) *Selection.* In accordance with these rules and as far as practical and feasible, all vacancies will be filled by the promotion of qualified permanent employees, based on individual performance and examination results with due consideration for length of service and capacity for the new position.

8.1(2) *Qualifications.* A candidate for promotion must be certified by the resident director as possessing the qualifications required in the job specification for the class to which the candidate wishes to be promoted, and must qualify for the new position by promotional competitive or noncompetitive examination.

8.1(3) *Promotional eligibility lists.* The names of all permanent employees who receive passing grades on competitive promotional examinations will be placed on a promotional eligibility list in the order of their test score achievement, beginning with the highest. The duration of a promotional eligibility list will be the same as that established for the original entry list for the same classification.

8.1(4) *Promotion by competitive examination.* Examinations will be an-

nounced in accordance with 5.4(19A) and examination will be open to all qualified permanent employees of the institution at which the vacancy exists, or with the approval of the employing department and the resident director of that institution, the promotional examination may be made open to any permanent qualified employee at any institution under this system. Certification and selection will be made in accordance with the rules in chapter 6.

8.1(5) *Promotion by noncompetitive examination.* Upon written request from an employing department indicating the reasons therefor, a resident director may approve a noncompetitive promotion within a department and certify for such a promotion a permanent employee who has passed the appropriate examination and otherwise meets the qualifications for the class. Such a request will be approved by the resident director only if the reasons specified are in the interests of efficiency and effectiveness in the operation of the department.

8.2(19A) Transfers.

8.2(1) *Reassignments.* An employee may be reassigned at any time from one position to another in the same class within a department, except that a probationary employee who was certified to fill his position on the basis of special qualifications as provided in 6.3(2) will not be reassigned unless the new position requires the same special qualifications which justified the original certification.

8.2(2) *Special assignment.* When the services of an employee are temporarily needed in a position in the same or a different class within the institution other than the position to which the employee is assigned, he may be given special assignment, with the prior approval of the resident director and involved departments, to perform the duties of such position for a period not to exceed three months without change in title or status. In unusual circumstances, an extension of a special assignment for no more than one additional three-month period may be approved by the merit system co-ordinator on written request from the resident director.

8.2(3) *Intra- and Inter-institutional transfers.* With his approval a permanent employee may be transferred from one position to another in the same class or to a position in another class in the same pay grade, from one department to another department in the same or different institution under this system, provided both departments involved approve the transfer, and the resident director certifies that the employee meets the minimum qualifications for the class and has passed an appropriate examination.

Transfers to higher or lower classes will be governed by the provisions of these rules concerning promotion or demotion, respectively.

8.3(19A) Demotion (voluntary). If, for any reason, an employee wishes to be demoted to a position in a lower class, the resident director may, upon written request from the employee and with the approval of involved departments, effect such a demotion provided the employee is certified by the resident director as meeting the qualifications required for the lower class. Voluntary demotion will not be subject to appeal.

8.4(19A) Terminations.

8.4(1) *Resignations.* To resign in good standing an employee must notify the employing department of his intention to resign in writing at least ten days prior to the effective date of resignation, except in cases where the employing department agrees to a shorter period of notice. An employee who fails to give proper notice may, at the request of the employing department, be barred from future certification to that department or from reinstatement as provided for in these rules. Employees who resign will have no rights of appeal under these rules.

8.4(2) *Termination on expiration of appointment.* On expiration of an appointment of limited duration the employing department will report such action in writing to the resident director.

8.4(3) *Retirement.* Employees who are terminated at the normal retirement age prescribed by their institution or who retire voluntarily in accordance with 8.4(1) will be considered to have terminated in good standing and without prejudice and will have no rights of appeal under these rules.

8.4(4) *Reduction in force.* An institution may lay off an employee when it deems necessary because of shortage of funds or work, a material change in

duties or organization or abolishment of one or more positions. Reduction in force will be accomplished in a systematic manner and will be made in accordance with formula developed by the institution and reviewed and approved by the merit system co-ordinator for its conformance to these rules:

a. Reduction in force will be made by class of position.

b. Reduction in force may be made by organizational unit within an institution or institution-wide, as designated by the institution, provided such designation is reported to the merit system co-ordinator before the effective date of the reduction.

c. The order of reduction in force will be by type of appointment as follows: emergency, temporary, irregular, provisional, probationary, permanent.

d. Each employee affected by a reduction in force will be notified in writing of the lay-off and the reasons therefor at least ten days prior to the effective date of the lay-off.

e. There will be competition among all employees in the class of position or positions affected by the lay-off based on a retention points system that will consist of points for length of service and performance evaluation of all employees in the class within the organizational unit or units affected. Retention points will be calculated as follows:

(1) Length of service credit will be allowed at the rate of one point for each month of service. For the purpose of computing length of service credits, the institution will include all continuous periods of employment between the date of the original appointment and the date of the lay-off. Approved leaves of absence without pay, suspensions and lay-offs for periods exceeding fifteen consecutive days will not be counted; however the periods of service immediately preceding and following such periods will be counted. An employee who is returned to duty following approved military service will have all such time counted as continuous service. When an employee is off the payroll of the institution for more than fifteen consecutive days for a reason other than an approved leave of absence, suspension, lay-off or military service, the date that he returns to duty will be considered the date of original appointment for purposes of computing retention points.

(2) Performance evaluation credit will be allowed at the rate of one point for each month of service rated as satisfactory under a performance evaluation plan approved by the merit system co-ordinator. An additional one-half point will be added for each month of service during which performance is rated one or more levels above satisfactory. No credit will be allowed for service rated less than satisfactory. No performance exaluations which are made less than three months prior to a reduction in force will be used in determining performance evaluation credits. In the absence of a performance evaluation review, service will be considered as satisfactory and one point will be given for each month thereof.

(3) Length of service and performance evaluation points for service less than full time will be prorated in accordance with the percent of fractional employment. Reduction in force retention points will be the total of length of service and performance evaluation points in accordance with the approved formula.

f. Employees will be placed on the lay-off list beginning with the employee with the greatest number of retention points at top. Lay-offs will be made from the list in reverse order. Copies of the computation of retention points will be made available to affected employees. One copy will be retained by the resident director and one copy will be forwarded to the merit system co-ordinator at least ten days prior to the effective date of the lay-off.

g. When two or more employees have the same total of retention points, the order of termination will be determined by giving preference for retention to the employee who has the highest total budgeted earnings in the class of position affected by the lay-off.

h. The reduction in force formula approved by the merit system co-ordinator will be posted by the resident director so that all employees will have access to it.

i. An affected employee may appeal a reduction in force by filing, within

five days after notification as provided in paragraph "*d*" of this subrule, a written grievance with the resident director (at Step 3 of the grievance procedure provided in 10.3 or at a comparable step of a procedure approved under 10.3(1). If not satisfied with the decision rendered at that step, the employee may pursue his appeal in accordance with the grievance procedure.

j. A permanent employee in a class of position in which lay-offs are to be effected may, in lieu of lay-off, elect voluntary demotion to a position in the next lower class of position in the same series, or, in the absence of a lower class in the same series, to a class of position which the employee has formerly occupied while in the continuous employment of the institution. Such demotion or the occupying of a formerly held position will not be permitted, however, if the result thereof would be to cause the lay-off of a permanent employee with a greater combined total of retention points. To exercise the right of voluntary demotion or to occupy a formerly held position in lieu of lay-off, the employee must notify the resident director in writing of such election not later than five days after receiving notice of lay-off. Any permanent employee displaced under these provisions will have the right of election as provided herein.

An employee who is laid off or who accepts voluntary demotion in lieu of lay-off will, at his request, have his name placed on a re-employment eligibility list in accordance with chapter 6.

[Effective January 1, 1972]

REGENTS, BOARD OF
(continued)

Pursuant to the authority of chapter 262 of the Code the following rules are adopted.

[Filed July 12, 1971]

CHAPTER 9

DISCIPLINARY ACTIONS

9.1(19A) Causes for disciplinary action. All employees may be subject to disciplinary action for any of the reasons specified in section 19A.9(16) of the Code.

9.2(19A) Disciplinary actions. Disciplinary action will be reasonable, timely and related in severity to the seriousness of the offense, however, this will not preclude reasonable penalties of varying severity for an accumulation of offenses.

9.2(1) *Suspension.* A department head may, for cause in accordance with 9.1(19A), suspend any employee for such length of time as it considers appropriate but not to exceed ten days at any one time or twenty days in any twelve-month period. The department head will inform the affected employee of the suspension and the reasons therefor in writing within twenty-four hours of the time the action is taken. A copy of the suspension will be sent by the department to the resident director and will be maintained in the employee's personal file. The employee may appeal the action directly to Step 2 of the grievance procedure specified in 10.3(19A) or to a comparable step in a grievance procedure approved in accordance with 10.3(1). If not satisfied with the decision rendered at that step, the employee may pursue his appeal in accordance with the grievance procedure.

9.2(2) *Reduction of pay within grade.* A department head may, for cause in accordance with 9.1(19A), reduce the pay of an employee to a lower step within the pay grade assigned to the class of position. The department head will notify the affected employee of the reduction, the reasons therefor and the duration thereof, in writing within 24 hours of the time the action is taken. A copy of the reduction notice will be sent by the department to the resident director and will be maintained in the employee's personal file. The employee may appeal the action directly to Step 2 of the grievance procedure specified in 10.3(19A) or a comparable step in a grievance procedure approved in accordance with 10.3(1). If not satisfied with the decision rendered at that step, the employee may pursue his appeal in accordance with the grievance procedure.

9.2(3) *Demotion.* A department head may, for cause in accordance with 9.1(19A), demote an employee to a vacant position of like status in a lower class provided the employee meets the qualifications for that lower class. The

department head will notify the affected employee of the demotion and the reasons therefor in writing within twenty-four hours of the time the action is taken. A copy of the notice of demotion will be sent by the department to the resident director and will be maintained in the employee's personal file. The employee may appeal the action directly to Step 2 of the grievance procedure specified in 10.3(19A) or a comparable step in a grievance procedure approved in accordance with 10.3(1). If not satisfied with the decision rendered at that step, the employee may pursue his appeal in accordance with the grievance procedure.

9.2(4) *Discharge.* A department head may, for cause in accordance with 9.1(19A), discharge any employee. The department head will notify the affected employee of the discharge and the reasons therefor in writing within twenty-four hours of the time the action is taken. A copy of the notice of discharge will be sent by the department to the resident director and will be maintained in the employee's personal file. The employee may appeal the action directly to Step 2 of the grievance procedure specified in 10.3(19A) or a comparable step in a grievance procedure approved in accordance with 10.3(1). If not satisfied with the decision rendered at that step, the employee may pursue his appeal in accordance with the grievance procedure.

[Effective January 1, 1972]

REGENTS, BOARD OF
(continued)

Pursuant to the authority of chapter 262 of the Code the following rules are adopted.

[Filed July 12, 1971]

CHAPTER 10

GRIEVANCES AND APPEALS

10.1(19A) Appeals on position classification. A permanent employee may initiate a request for a review of the classification of his position to his department head. The department head may forward the request to the resident director with or without his support. Within ten days after the receipt of a written request from an employee, the department head or his representative will discuss the request with the employee and will inform him of its disposition. If the employee is not satisfied with the decision of his department, he may request that the resident director review his classification.

A department head may initiate a request for the review of the classification of any position under his jurisdiction, or he may forward to the resident director a request from any of his permanent employees.

The resident director will respond to requests for review of position classification as soon as reasonably possible and no later than forty-five days after the receipt of such a request. If not satisfied with the decision of the resident director, a department head or a permanent employee may request that he review his decision. If not satisfied with the final decision of the resident director, a department head or an affected permanent employee may appeal such decision to a qualified classification review committee appointed by the board of regents.

The classification review committee will conduct such investigation as it deems necessary to determine the proper allocation of the position, and will notify the involved parties of its decision within forty-five days after receipt of the appeal. The decision of the review committee will stand until significant changes in the duties and responsibilities of the position can be shown.

10.2(19A) Appeals on application, examination and certification procedures. Any applicant may appeal an action which he alleges to be in violation of these rules concerning applications, examinations or certification. The aggrieved applicant will first discuss the matter with the resident director and, if not satisfied with the explanation and decision given, may within twenty days after the occurrence of the alleged violation file a written appeal with the resident director at Step 3 of the grievance procedure provided in 10.3(19A), or at a comparable step of a procedure approved under 10.3(1). If the applicant is not satisfied with the decision rendered at that step he may pursue his appeal in accordance with the grievance procedure. If the grievance concerns the form or content of the application or an examination as approved by the merit system

co-ordinator, the co-ordinator will act jointly with the resident director and at subsequent steps in response to an appeal.

10.3(19A) Grievances. Disputes or complaints by permanent employees regarding the interpretation or application of institutional rules governing terms of employment or working conditions (other than general wage levels) or the provisions of these merit system rules (other than disputes whose resolution is provided for in 10.1(19A) and 10.2(19A) will be resolved in accordance with the following procedure, except at institutions where a varied procedure has been approved by the merit system co-ordinator in accordance with 10.3(1).

Step 1. A dissatisfied employee will first discuss his problem with his immediate supervisor. It is presumed that the majority of disputes, complaints or misunderstandings will be resolved at this point. If the employee is still dissatisfied after such discussion, he may within ten days after the occurrence of the matter leading to his dissatisfaction or within ten days after such time that the employee has, or could reasonably be expected to have, knowledge of such occurrence, file a written grievance with his immediate supervisor. The supervisor will review the grievance with the employee and will transmit his decision to the employee in writing within five days after receiving the grievance.

Step 2. If the employee is not satisfied with the decision of his supervisor, he may within five days after receiving that decision appeal it to his department head. Such an appeal will be in writing and will contain all of the information included in the initial grievance, the decision of the supervisor, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee. The department head will investigate the grievance and will give the employee or a representative of his choosing the right to present his case orally. The department head may affirm, reverse or modify the supervisor's decision and will notify the employee of his decision in writing within ten days after receiving the appeal.

Step 3. If the employee is not satisfied with the decision of his department head, he may within five days after receiving that decision, appeal it to the dean of the college or the head of the major operating division in which he is employed. The dean or the division head and the resident director will jointly represent the institution at this step of the appeal procedure. The appeal will be in writing and will include all of the information included in the initial grievance and subsequent appeals, all the decisions related thereto, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee.

The dean of the college or head of the division and the resident director will investigate the grievance and will give the employee or a representative of his choosing the right to present his case orally. The institutional representatives may affirm, reverse or modify the decision of the department head, and will notify the employee of their decision in writing within ten days after receiving the appeal.

Step 4. If the employee is not satisfied with the decision rendered at Step 3 of the grievance procedure, he may within five days after receiving that decision appeal it to the chief administrator of the institution. The appeal will be in writing and will include all of the information included in the initial grievance and subsequent appeals, all decisions related thereto, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee.

The chief administrator or his designee will investigate the grievance and will give the employee the right to present his case orally. The chief administrator may affirm, reverse or modify the decision rendered at Step 3 and will notify the employee of his decision in writing within ten days after receiving the appeal.

Step 5. If the employee is not satisfied with the decision rendered under Step 4, he may within five days after receiving that decision request a hearing before the appeals board. Such a request will be in writing, will include all of the information included in the initial grievance and subsequent appeals, all of the decisions related thereto, and any other pertinent information the employee may wish to submit.

The appeal will be signed and dated by the employee and will be directed to the merit system co-ordinator who will arrange for a hearing before the appeals board. The appeals board will inform both parties in writing of its decision within forty-five days after the appeal is filed with the merit system co-ordinator.

A written grievance will contain a brief description of the complaint or dispute and the pertinent circumstances and dates of occurrence. It will specify the institutional or merit system rule which has allegedly been violated and will state the corrective action desired by the employee.

At each step of the grievance procedure, the employee may be represented by one or two persons of his choosing. The name of such representatives will be noted on the written grievance and on each subsequent appeal. Presentations, reviews, investigations and hearings held under this procedure may be conducted during working hours, and employees who participate in such meetings will not suffer loss of pay as a result thereof.

If an employee does not appeal a decision rendered at any step of this procedure within the time prescribed by these rules, the decision will become final. If an institutional representative does not reply to an employee's grievance or appeal within the prescribed time, the employee may proceed to the next step. With the consent of both parties, any of the time limits prescribed in these rules may be extended.

10.3(1) *Institutional grievance procedure.* An institution may develop a grievance procedure for all or a segment of its employees that varies from the procedure prescribed in paragraph 10.3, provided that such a procedure begins with discussion between an employee and his immediate supervisor and provides for a final hearing in accordance with Step 5 of the grievance procedure prescribed herein. Such an institutional procedure will incorporate all the rights provided employees in this chapter, will be made known to the employees to whom it applies, and must be approved by the merit system co-ordinator. In the absence of an approved institutional procedure, 10.3(19A) will apply.

10.3(2) *Appeals board.* The board of regents will appoint for three year terms (except for the initial appointments which may vary in duration) at least five persons who will be available to serve as members of an appeals board. Such persons will be knowledgeable in the field of employee relations or a related field and will have demonstrated their ability to make sound, impartial and objective judgments.

Appointments will be made on a nonpartisan basis, and the names of persons so appointed will make up a list from which three will be selected to hear a dispute appealed to the last step of the grievance procedure and render a decision thereon subject only to review by the courts.

While all members of the appeals board will function in an impartial manner, they will be selected one by each of the parties to the dispute; the two members so selected will, by mutual agreement or by alternately striking names from the list, select the third member.

The members of the appeals board will elect one of their number to serve as chairman. The chairman will establish procedures for the conduct of the hearing in a fair and informal manner that will afford each party reasonable and ample opportunity to present his case and to rebut the presentation of the other. The chairman will be responsible for presenting the decision of the appeals board to the involved parties and to the board of regents within the prescribed time.

[Effective January 1, 1972]

REGENTS, BOARD OF
(continued)

Pursuant to the authority of chapter 262 of the Code the following rules are adopted.

[Filed July 13, 1971]

CHAPTER 11
VACATIONS AND LEAVES OF ABSENCE

11.1(19A) Attendance. Employing departments will establish work schedules and other regulations regarding attendance that they deem necessary in accordance with these rules and the policy and rules of their institution, and such sched-

ules and rules will be made known to affected employees.

11.2(19A) Vacations. Permanent employees will accrue and take vacations as provided by law. Employees will be entitled to take only that vacation time which they have accrued and while employee preferences will be given major consideration, employing departments will have final authority to schedule vacations.

Permanent part-time employees will accrue vacation in an amount equivalent to their fractional employment. An employee who is transferred, promoted or demoted from one position to another position under this system will not lose any accumulated vacation time as a result thereof.

11.3(19A) Holidays. Employees will be granted holidays approved by the board of regents.

11.4(19A) Sick leave. Permanent employees will accrue and may be granted sick leave as provided by law. A permanent part-time employee will accrue sick leave in an amount equivalent to his fractional employment, and no employee will be granted sick leave in excess of his accumulation.

An employee who is transferred, promoted or demoted from one position to another position under this system will not lose any accumulated sick leave as a result thereof.

11.5(19A) Military leave. Permanent employees will be granted military leave as provided by law, with pay not to exceed thirty calendar days in any twelve month period.

11.6(19A) Maternity leave. Maternity leave may be granted to permanent employees to commence not earlier than the sixth month of pregnancy and to expire not later than three months after the conclusion of the pregnancy.

11.7(19A) Court and jury service. When, in obedience to a subpoena or direction by proper authority, an employee appears as a witness or serves as a member of a jury in any public or private litigation, he will be entitled to his regular compensation provided he surrenders to his employing institution any pay he receives, other than reimbursement for travel or personal expenses, for such service.

11.8(19A) Voting leave. Any person entitled to vote in a public election is entitled to time off from work with pay on any public election day for a period not to exceed two hours in length. Application for time off for voting should be made to the employee's supervisor prior to election day. The time to be taken off may be designated by the supervisor. Time off for voting may be granted only if the employee's working hours do not allow a three-hour period outside of working hours during which the polls are open.

11.9(19A) Funeral leave. In the event of death in the immediate family, an employee may be excused with pay for a period from the date of death to and including the date of the funeral not to exceed, except under special circumstances, three days. Immediate family is interpreted to include husband or wife, mother and father and mother-in-law and father-in-law, son and daughter and son-in-law and daughter-in-law, brother and sister and brother-in-law and sister-in-law. For other relatives, an employee may be excused with pay for a period not to exceed, except under special circumstances, one day.

11.10(19A) Leave of absence without pay. In the best interests of the institution and with the approval of the resident director, a department head may grant an employee a leave of absence without pay for up to one year. A leave of absence may be extended for no more than one additional year, except when such a leave is granted to an employee who is still incapacitated after exhausting his sick leave and vacation accumulations. In this case the leave may be extended until the employee is able to return to work. An employing department may require an employee to exhaust all accumulated vacation before taking a leave of absence without pay.

On conclusion of a leave of absence without pay, an employee, if qualified, will be returned to the position from which he was granted leave or to another position in the same class. If such a position no longer exists, the lay-off provisions of these rules will take effect.

11.11(19A) Election leave. Employees who become candidates for public office will be granted election leaves as provided by law.

[Effective January 1, 1972]

REGENTS, BOARD OF
(continued)

RESOLUTION

(Adopted by Board of Regents, January, 1971)

WHEREAS, the General Assembly of the state of Iowa has heretofore found that the security and welfare of the state requires that this and future generations of Iowans are assured of ample opportunity for the fullest development of their intellectual capabilities and that this opportunity would be jeopardized unless state institutions of higher learning accommodate the growing numbers of youth who aspire to a higher education; and

WHEREAS, the state Board of Regents has heretofore determined that these needs were so great as to require the acquisition and construction of essential housing, dining, student life and academic building facilities for institutions of higher learning under its control; and

WHEREAS, in the past decade the growth of such academic and nonacademic facilities on the campus of the state University of Iowa has been rapidly extended and improved to meet the increasing enrollment; and

WHEREAS, it is the philosophy that public higher education in the state of Iowa should consist of and include in addition to the basic and primary academic pursuits the additional enrichment afforded by student life facilities and programs as, for example, lectures by guest speakers, social events, musical and theatrical performances, and student organization activities; and

WHEREAS, it is the philosophy of higher education in the state of Iowa that all such activities and functions form a part of the total higher educational experience and education of students; that the acquisition and construction of dining, residence halls and student life facilities is an integral part of the activities and functions of the state University of Iowa; that residence hall life on the campus of the state University of Iowa is an important part of the total education of each student, providing an opportunity for an independence that develops responsibility, consideration for others, and self-discipline; that the "give and take" environment of the residence halls provides an enrichment which promotes the personal, social and academic development of students; that residence hall life affords students an opportunity to further develop their interests, abilities and skills; that opportunity of association of older students with the younger or less experienced is an educational asset; that providing dining facilities assures a balanced and healthful diet at an economic cost to students essential to successful studies and healthy mental and physical being; and that student life facilities provide a means of organization and financing through which many important activities, services and facilities could not otherwise be made available to students at the University of Iowa; and

WHEREAS, it is further the philosophy of higher education in the state of Iowa as interpreted by this board that while residence hall life is a valuable experience and an integral part of the educational program, it is not necessarily essential over the full span of every student's college life; and

WHEREAS, consistent with this philosophy and because of a need to provide in an efficient and economic manner basic housing, dining and student life facilities, the state of Iowa, acting through the state Board of Regents, has entered into agreements for the financing of housing, dining and student life facilities by the issuance, sale and delivery of revenue bonds and other forms of indebtedness which are secured by incoming revenues derived from the utilization of such facilities to an optimum advantage of the student body and that this board has covenanted and agreed to continue such use in the future by the establishment of such "parietal rules" as may be necessary to ensure the financial integrity of said bonds; and

WHEREAS, this board now desires to adopt a resolution further implementing its purposes and philosophy in the utilization of housing, dining and other student life facilities provided for the use and benefit of the students of the state University of Iowa through the establishment of a "parietal rule" having for its essential intent and purpose the carrying out of the objectives of higher education of the state of Iowa as contemplated herein;

NOW, THEREFORE: Be It Resolved by the state Board of Regents of the state of Iowa that [illegible]

the state University of Iowa be amended by the addition of a "parietal rule" as follows:

Pursuant to the authority of sections 262.12 and 262.9(3) of the Code rules appearing in 1966 IDR relating to admissions are hereby amended. Division II, Supplemental Specific Regulations for Each Institution, under A, state University of Iowa, appearing on pages 629, 630 [1971 IDR 799], is amended by adding the following new paragraph after the words "and registrar." on page 630 [1971 IDR 799].

[Filed June 18, 1971]

Parietal rule. All unmarried freshman and sophomore students who have not attained the age of twenty-one years on or before the first day of classes of a semester or session are required, as a condition of registration at the state University of Iowa for the semester or session, to reside in university residence halls, except as hereinafter provided. Failure of a student to comply with this condition of registration is cause for denial or cancellation of registration.

Exemptions. Students subject to the parietal rule may request an exemption for the following reasons:

1. Actual local residence with parent, legal guardian, grandparent, adult sister or brother, or adult aunt or uncle.

2. Medical necessity certified in writing by a licensed physician, subject to the approval of the university which shall establish appropriate standards of general application for the determination of medical necessity.

3. Mandatory religious obligations impossible of performance in the residence halls which the student attests in writing that he in fact regularly observes and which a clergyman of the student's religious faith certifies in writing are mandatory.

4. Actual local residence in a place of bona fide employment certified in writing by the employer as a necessary condition of employment and in exchange for which the student receives at least one-half of the rent normally charged.

5. Actual local residence in a social fraternity or sorority chapter house or other residential living unit operated and maintained by a recognized student organization exclusively for its members, which residential living unit has been approved by the university as providing those housing, dining, and student life facilities which are essential to carrying out the philosophy of higher education contemplated by the establishment of the parietal rule.

All requests for exemption from the parietal rule shall be submitted to the university at least thirty days prior to the beginning of the semester or session for which exemption is requested, unless a later time is authorized. The university may require that requests be submitted on prescribed forms and that supporting documents or other evidence be provided, and the burden is on the student to demonstrate to the satisfaction of the university that he is entitled to an exemption. The university is authorized to establish further internal procedures for the administration of these rules and to delegate to appropriate university staff personnel any duty or function prescribed herein.

Enforcement. Failure of a student subject to the parietal rule to comply with this condition of registration is cause for denial or cancellation of registration. If, upon registration or at any time thereafter, a student subject to the parietal rule is found not to be in compliance therewith, including the failure of a student who has been granted an exemption to comply with the conditions thereof, a written notice shall be sent to the student affording him a reasonable opportunity to submit proof of compliance or otherwise to show cause why his registration should not be denied or cancelled or his exemption revoked. If the student fails to submit proof or show cause satisfactory to the university, his registration shall forthwith be denied or canceled or his exemption revoked, as the case may be. Upon subsequent application and proof of compliance satisfactory to the university and upon payment of all required fees, the student shall be registered or reinstated in accordance with established procedures.

Review. A student aggrieved by any adverse decision with respect to the administration of the parietal rule may request an administrative review of the decision by the university. Such request shall be made in writing and shall state with particularity the reasons therefor.

Pending administrative review, the student's registration shall not be denied or canceled. After review, the decision of the university is final, subject to the student's right to request a review by the state board of regents in accordance with procedures established by the board. Unless otherwise ordered by the board, a student must be in compliance with the parietal rule as a condition of continued registration at the university pending board action on the request for review.

Definitions. As used herein, the following words shall mean:

1. "University" means the state University of Iowa or the appropriate university administrator to whom any particular duty or function prescribed herein is delegated.

2. "Parietal rule" means the condition of registration at the university established by these rules.

3. "Freshman" student means any undergraduate student registered for nine or more semester hours who has not previously earned twenty-eight or more semester hours of credit toward a baccalaureate degree at the university.

4. "Sophomore" student means any undergraduate student registered for nine or more semester hours who has not previously earned fifty-six or more semester hours of credit toward a baccalaureate degree at the university.

For the academic year 1971-72 the rules shall apply only to freshman students and to sophomore transfer students who have not previously completed at least thirteen semester hours while in residence at the university.

[Effective beginning with the fall semester 1971]

REGENTS, BOARD OF
(continued)

RESOLUTION

(Adopted by Board of Regents, April, 1971)

WHEREAS, the General Assembly of the state of Iowa has heretofore found that the security and welfare of the state requires that this and future generations of Iowans are assured of ample opportunity for the fullest development of their intellectual capabilities and that this opportunity would be jeopardized unless state institutions of higher learning accommodate the growing numbers of youth who aspire to a higher education; and

WHEREAS, the state Board of Regents has heretofore determined that these needs were so great as to require the acquisition and construction of essential housing, dining, student life and academic building facilities for institutions of higher learning under its control; and

WHEREAS, in the past decade the growth of such academic and nonacademic facilities on the campus of the University of Northern Iowa has been rapidly extended and improved to meet the increasing enrollment; and

WHEREAS, it is the philosophy that public higher education in the state of Iowa should consist of and include in addition to the basic and primary academic pursuits the additional enrichment afforded by student life facilities and programs as, for example, lectures by guest speakers, social events, musical and theatrical performances, and student organization activities; and

WHEREAS, it is the philosophy of higher education in the state of Iowa that all such activities and functions form a part of the total higher educational experience and education of students; that the acquisition and construction of dining, residence halls and student life facilities is an integral part of the activities and functions of the University of Northern Iowa; that residence hall life on the campus of the University of Northern Iowa is an important part of the total education of each student, providing an opportunity for an independence that develops responsibility, consideration for others, and self-discipline; that the "give and take" environment of the residence halls provides an enrichment which promotes the personal, social and academic development of students; that residence hall life affords students an opportunity to further develop their interests, abilities and skills; that opportunity of association of

older students with the younger or less experienced is an educational asset; that providing dining facilities assures a balanced and healthful diet at an economic cost to students essential to successful studies and healthy mental and physical being; and that student life facilities provide a means of organization and financing through which many important activities, services and facilities could not otherwise be made available to students at the University of Northern Iowa; and

WHEREAS, it is further the philosophy of higher education in the state of Iowa as interpreted by this board that while residence hall life is a valuable experience and an integral part of the educational program, it is not necessarily essential over the full span of every student's college life; and

WHEREAS, consistent with this philosophy and because of a need to provide in an efficient and economic manner basic housing, dining and student life facilities, the state of Iowa, acting through the state Board of Regents, has entered into agreements for the financing of housing, dining and student life facilities by the issuance, sale and delivery of revenue bonds and other forms of indebtedness which are secured by incoming revenues derived from the utilization of such facilities to an optimum advantage of the student body and that this board has covenanted and agreed to continue such use in the future by the establishment of such "parietal rules" as may be necessary to ensure the financial integrity of said bonds; and

WHEREAS, this board now desires to adopt a resolution further implementing its purposes and philosophy in the utilization of housing, dining and other student life facilities provided for the use and benefit of the students of the University of Northern Iowa through the establishment of a "parietal rule" having for its essential intent and purpose the carrying out of the objectives of higher education of the state of Iowa as contemplated herein;

NOW, THEREFORE: Be It Resolved by the state Board of Regents of the state of Iowa that the rules for admission to the University of Northern Iowa be amended by the addition of a "parietal rule" as follows:

Pursuant to the authority of sections 262.12 and 262.9(3) of the Code rules appearing in 1966 IDR relating to admissions are hereby amended. Division II Supplemental Specific Regulations for Each Institution, under C, State College of Iowa, appearing on page 637, [1971 IDR 805] is amended by adding the following new paragraph after the words "be denied." on page 637 [1971 IDR 805].

[Filed June 18, 1971]

Parietal rule. All unmarried freshman and sophomore students who have not attained the age of twenty-one years on or before the first day of classes of a semester or session are required, as a condition of registration at the University of Northern Iowa for the semester or session, to reside in university residence halls, except as hereinafter provided. Failure of a student to comply with this condition of registration is cause for denial or cancellation of registration.

Exemptions. Students subject to the parietal rule may request an exemption for the following reasons:

1. Actual local residence with parent, legal guardian, grandparent, adult sister or brother, or adult aunt or uncle.

2. Medical necessity certified in writing by a licensed physician, subject to the approval of the university which shall establish appropriate standards of general application for the determination of medical necessity.

3. Mandatory religious obligations impossible of performance in the residence halls which the student attests in writing that he in fact regularly observes and which a clergyman of the student's religious faith certifies in writing are mandatory.

4. Actual local residence in a place of bona fide employment certified in writing by the employer as a necessary condition of employment and in exchange for which the student receives at least one-half of the rent normally charged.

5. Actual local residence by sophomore students who wish to live in houses operated by university recognized student organizations of which they are members; such houses must meet at last the minimum housing standards of the city of Cedar Falls and the university's own reg-

ulations governing student organizations and their operation of houses.

All requests for exemption from the parietal rule shall be submitted to the university at least thirty days prior to the beginning of the semester or session for which exemption is requested, unless a later time is authorized. The university may require that requests be submitted on prescribed forms and that supporting documents or other evidence be provided, and the burden is on the student to demonstrate to the satisfaction of the university that he is entitled to an exemption. The university is authorized to establish further internal procedures for the administration of these rules and to delegate to appropriate university staff personnel any duty or function prescribed herein.

Enforcement. Failure of a student subject to the parietal rule to comply with this condition of registration is cause for denial or cancellation of registration. If, upon registration or at any time thereafter, a student subject to the parietal rule is found not to be in compliance therewith, including the failure of a student who has been granted an exemption to comply with the conditions thereof, a written notice shall be sent to the student affording him a reasonable opportunity to submit proof of compliance or otherwise to show cause why his registration should not be denied or canceled or his exemption revoked. If the student fails to submit proof or show cause satisfactory to the university, his registration shall forthwith be denied or canceled or his exemption revoked, as the case may be. Upon subsequent application and proof of compliance satisfactory to the university and upon payment of all required fees, the student shall be registered or reinstated in accordance with established procedures.

Review. A student aggrieved by any adverse decision with respect to the administration of the parietal rule may request an administrative review of the decision by the university. Such request shall be made in writing and shall state with particularity the reasons therefor. Pending administrative review, the student's registration shall not be denied or canceled. After review, the decision of the university is final, subject to the student's right to request a review by the state board of regents in accordance with procedures established by the board. Unless otherwise ordered by the board, a student must be in compliance with the parietal rule as a condition of continued registration at the university pending board action on the request for review.

Definitions. As used herein, the following words shall mean:

1. "University" means the University of Northern Iowa or the appropriate university administrator to whom any particular duty or function prescribed herein is delegated.

2. "Parietal rule" means the condition of registration at the university established by these rules.

3. "Freshman" student means any undergraduate student registered for nine or more semester hours who has not previously earned thirty-one or more semester hours of credit toward a baccalaureate degree at the university.

4. "Sophomore" student means any undergraduate student registered for nine or more semester hours who has earned at least thirty-two and not more than sixty-three semester hours of credit toward a baccalaureate degree at the university.

[Effective beginning with the fall semester 1972]

REVENUE DEPARTMENT

Pursuant to the authority of section 441.47 of the Code the following rules are adopted.

[Filed May 11, 1971]

CHAPTER 9

EQUALIZATION OF VALUATIONS OF CLASSES OF PROPERTY

9.1(441) Abstract of assessment. Each county assessor and city assessor in the state shall use the form of abstract prescribed and furnished by the department of revenue, and shall certify the data and figures contained in the abstract to the department promptly after the final adjournment of the regular or extended session of the local board of review. The actual values and taxable values of property reported on the abstract filed by each assessor jurisdiction shall be reviewed and considered by the director

of revenue in the equalization of valuations process.

9.2(441) Adjusted valuations. The director of revenue shall proceed to review the current year abstracts of assessment filed by each assessor jurisdiction commencing on the first Monday in July, and may commence sending tentative property valuation notices on and after the second Monday in July of the same year to the county auditors of the counties whose reported actual values and taxable values of real and personal property the director has reviewed and made a determination as to whether the values of any kind or class of property reported are in need of an adjustment for purpose of equalization of valuations in the several counties.

9.3(441) Determination of level of assessment for each class of property.

9.3(1) *Agricultural realty outside and within incorporated cities and towns (more than ten acres).*

a. Use of assessment-sales ratio study. Basic data shall be that submitted to the department of revenue by county recorders and assessors in accordance with section 421.17, subsection 6, of the Code, which, as provided in section 441.21, subsection 1, of the Code, shall be refined by eliminating any reported abnormal sales of real estate or by adjusting same to eliminate the effect of factors which distort market value of said real estate, as primarily determined from communications by and between the department with buyers and sellers of agricultural property sold and reported to the department by county recorders and assessors. The basic data used shall be for the year immediately prior to the year of equalization of valuations, but if in the opinion of the director of revenue such basic data is not adequate for a statistical sample, other prior years' sales adjusted for subsequent changes in either assessed value or market value may be used. The assessment-sales ratio to be used for these classes of property shall be determined from the assessment-sales ratio study and such assessment-sales ratio shall be used in determining market value, as provided in section 441.21, subsection 1"*b*", of the Code.

b. Use of income capitalization study.

(1) The capitalization rate established by the state board of tax review pursuant to section 441.21, subsection 1"*a*", of the Code, shall be used in the capitalization of income procedure.

(2) The average net income per acre for each county shall be developed and determined by and from studies made by the department of revenue in conjunction and co-operation with appropriate departments of Iowa State University, Ames, Iowa. Where necessary, adjustment may be made for known special circumstances such as assessments or costs for levees, drainage or irrigation. Wherever possible emphasis shall be given to the results of reports of soil surveys completed since January 1, 1949, in determining the productivity and earning capacity of agricultural property.

(3) The income value shall be determined by dividing the average net income per acre by the capitalization rate.

c. Determining actual value per acre of agricultural realty.

(1) The average value per acre of agricultural property in a county shall be determined by combining fifty percent of the market value and fifty percent of the income value determined under these rules.

(2) Comparison shall be made by the director of revenue of the determined actual value per acre figures with the per acre values shown by the latest annual Iowa brokers' survey conducted by personnel of Iowa State University, Ames, Iowa, and pertinent data and figures contained in the federal farm census, and also pertinent data and figures assembled by field representatives of the department of revenue assigned to giving assistance in assessment matters to county and city assessors and local boards of review, and reference shall be made to other related material from reliable sources.

9.3(2) *Residential realty outside and within incorporated cities and towns (ten acres or less).*

a. Use of assessment-sales ratio study. Basic data shall be that submitted to the department of revenue by county recorders and assessors in accordance with section 421.17, subsection 6, of the Code, which, as provided in section

441.21, subsection 1, of the Code, shall be refined by eliminating any reported abnormal sales of real estate or by adjusting same to eliminate the effect of factors which distort market value of said real estate. The basic data used shall be for the year immediately prior to the year of equalization of valuations, but if in the opinion of the director of revenue such basic data is not adequate for a statistical sample, other prior years' sales adjusted for subsequent changes in either assessed value or market value may be used. Other pertinent data and figures from reliable sources will be considered in the equalization of valuations process, if it is found that the sales reported are not representative of these classes of property for any assessor's jurisdiction for the purpose of determining the level of assessment for taxation purpose.

b. Use of other relevant data. Population trends and figures reported by the U.S. Census Bureau for the year 1970 for Iowa cities and towns, and the number of dwellings by cities and towns accounted for on the abstract of assessment for the current year of each assessor jurisdiction, and the average taxable value of the number of dwellings so accounted for will be used for comparative valuation purposes. Reference shall be made to any other pertinent information.

9.3(3) *Mercantile or commercial realty outside and within incorporated cities and towns.*

a. Use of assessment-sales ratio study. Basic data shall be that submitted to the department of revenue by county recorders and assessors in accordance with section 421.17, subsection 6, of the Code, which, as provided in section 441.21, subsection 1, of the Code, shall be refined by eliminating any reported abnormal sales of real estate or by adjusting same to eliminate the effect of factors which distort market value of said real estate. The basic data used shall be for the year immediately prior to the year of equalization of valuations, but if in the opinion of the director of revenue such basic data is not adequate for a statistical sample, other prior years' sales adjusted for subsequent changes in either assessed value or market value may be used. Other pertinent data and figures from reliable sources will be considered in the equalization of valuations process, if it is found that the sales reported are not representative of these classes of property for any assessor's jurisdiction for the purpose of determining the level of assessment for taxation purpose.

b. Use of income data. The large variety of business enterprises and the numerous types and sizes of commercial buildings, as well as the great number of different businesses carried on in every assessor jurisdiction, do not permit the direct use of an income factor. Any pertinent income data and figures relating to Iowa commercial or mercantile properties obtained from a reliable source shall be considered in the equalization of valuations process.

c. Use of other relevant information.

(1) Consideration shall be given to relevant information assembled by field representatives of the department of revenue assigned to assisting local assessors and local boards of review in the assessment of mercantile or commercial realty located within assessor jurisdictions in the state and whose duties require them to travel into and through all counties of the state, which places them in a position to observe these classes of property and to have knowledge of methods used by the local assessors in valuing such classes of property.

(2) Population trends and figures reported by the U.S. Census Bureau for the year 1970 for Iowa cities and towns, and data as to retail sales in Iowa cities and towns as contained in the latest annual Iowa retail sales tax reports issued by the department of revenue will be used for comparative valuation purposes.

9.3(4) *Industrial and manufacturing property outside and within incorporated cities and towns.*

a. What is included in these classes of realty. Lands, lots, industrial buildings and structures, also machinery used in manufacturing establishments and for purpose of taxation regarded as real estate under section 428.22 of the Code.

b. Use of assessment-sales ratio study. Basic data shall be that submitted to the department of revenue by county recorders and assessors in accordance with section 421.17, subsection 6, of the Code, which, as provided in section

441.21, subsection 1, of the Code, shall be refined by eliminating any reported abnormal sales of real estate or by adjusting same to eliminate the effect of factors which distort market value of said real estate. The basic data used shall be for the year immediately prior to the year of equalization of valuations, but if in the opinion of the director of revenue such basic data is not adequate for a statistical sample, other prior years' sales adjusted for subsequent changes in either assessed value or market value may be used. Other pertinent data and figures from reliable sources will be considered in the equalization of valuations process, if it is found that the sales reported are not representative of these classes of property for any assessor's jurisdiction for the purpose of determining the level of assessment for taxation purpose.

c. *Use of income data.* The numerous types and sizes of industrial or manufacturing buildings located in the several assessor jurisdictions in the state and the many different products manufactured and the great variations in the number of employees in the manufacturing plants do not permit the direct use of an income factor.

d. Use of other relevant information. Consideration shall be given to relevant information assembled by field representatives of the department of revenue assigned to assisting local assessors and local boards of review in the valuing and assessing of industrial or manufacturing realty located within assessor jurisdictions in the state, and particular consideration will be given to the findings of representatives of the department of revenue as to the extent to which each assessor in the state has valued and assessed these classes of property in compliance with industrial or manufacturer's guidelines given all assessors in the state by the department of revenue. Any substantial deviation which can be justified, from those guidelines shall be taken into consideration in the equalization of valuations process. Data regarding Iowa manufacturers published by the Iowa development commission, Des Moines, Iowa, shall also be considered, as will be pertinent data published by the U.S. department of commerce.

9.3(5) *Forest and fruit-tree reservations.*

a. Use of assessment-sales ratio study. Forest and fruit-tree reservations shall be assessed on a taxable valuation as provided under section 441.22, of the Code. Any sales of either forest reservations or fruit-tree reservations reported to the department of revenue by county recorders and assessors in accordance with section 421.17, subsection 6, of the Code, will not be used.

b. Use of income data. Income from any forest reservation or fruit-tree reservation is restricted by reason of provisions of chapter 161, of the Code.

c. Use of other relevant information. As long as the present statutory limitations pertaining to forest reservations and fruit-tree reservations are in effect, it will be recognized that the equalization of the valuations of such classes of property is accomplished by operation of law (section 441.22, of the Code).

9.3(6) *Livestock and tangible personal property—use of relevant data.* Reference shall be made to guidelines contained in the most recent Iowa Personal Property Price Guide compiled by the department of revenue in conjunction with the price guide committee of the Iowa State Association of Assessors, a copy of which guide was made available to each assessor jurisdiction in the state, and in any case where it is evident the reported actual value and assessed value of this kind and class of property justifiably deviates from those guidelines such will be considered in the equalization of valuations process. Any other pertinent data published by the U.S. government or by any department or agency of the state of Iowa shall be considered.

9.4(441) Judgment of assessors and local boards of review. Nothing stated in these rules should be construed as prohibiting the exercise of honest judgment, as provided by law, by the assessors and local boards of review in matters pertaining to valuing and assessing of individual properties within their respective jurisdiction.

9.5(441) Protests against proposed increases in valuations of property described on tentative property valuation notices. The director of revenue shall take into consideration all pertinent facts contained in a written protest submitted by and in any oral presentation made against a proposed increase in the valuation of

a kind or class of property by those officials and others who it is provided in section 441.48, of the Code, may protest. The director of revenue in the case any such protest is made shall not issue a final property valuation notice without first taking into consideration such facts presented.

9.6(441 and 421) Reconvening of local boards of review—equalization of valuations of kinds and classes of property. Tentative property valuation notice showing a proposed percentage increase in the reported valuations for a kind or class of real property. The director of revenue shall in such cases order the local board of review to reconvene in special session for the purpose of hearing any and all protests that any affected property owner or taxpayer within the jurisdiction of said board may have, whose valuations of property, if adjusted pursuant to the tentative property valuation notice issued by the director to the county auditor of the county would result in a greater taxable value than permitted by section 441.21, of the Code, and where the property owner or taxpayer is able to show to the satisfaction of the local board of review that an inequity would result if the provisions of such tentative notice would be applied to his property, the local board of review in such cases would be authorized to exonerate the property owner from all or the appropriate part of the percentage increase so ordered by the director, by adjusting the taxable value of the property of the owner thereof to twenty-seven percent of actual value. Any such adjustment made by the local board of review shall not exceed the percentage increase provided for in the director's tentative notice, and action taken by it at such special session shall be reported to the director of revenue who shall review same and either approve or disapprove same.

[Effective June 10, 1971]

WATER POLLUTION CONTROL COMMISSION

WATER QUALITY STANDARDS

Pursuant to the authority of sections 455B.9 and 455B.13, Code 1971, as amended by S.F. 502, Acts of the 64th G.A., rules appearing in July 1967 Supplement, Iowa Departmental Rules, pages 38, 39, [1971 IDR 955, rule 1.2(455B)] are rescinded and the following adopted in lieu thereof.

[Filed June 8, 1971]

1.2(455B) Surface water quality criteria.

1.2(1) *General policy considerations.* Surface waters are to be evaluated according to their ability to support the legitimate (beneficial) uses to which they can feasibly be adapted, and this specific designation of quality areas shall be done by the Iowa water pollution control commission.

Sampling to determine conformance to these criteria shall be done at sufficient distances downstream from waste discharge points to permit adequate mixing of waste effluents with the surface waters.

1.2(2) *General criteria.* The following criteria are applicable to all surface waters at all places and at all times:

a. Free from substances attributable to municipal, industrial, or other discharges that will settle to form putrescent or otherwise objectionable sludge deposits;

b. Free from floating debris, oil, scum and other floating materials attributable to municipal, industrial or other discharges in amount sufficient to be unsightly or deleterious;

c. Free from materials attributable to municipal, industrial or other discharges producing color, odor or other conditions in such degree as to be detrimental to legitimate uses of water;

d. Free from substances attributable to municipal, industrial or other discharges in concentrations or combinations which are detrimental to human, animal, industrial, agricultural, recreational, aquatic or other legitimate uses of the water.

1.2(3) *Specific criteria for designated water uses.* The following criteria are applicable at flows greater than the lowest flow for seven consecutive days which can be expected to occur at a frequency of once every ten years.

a. Public water supply. The following criteria for surface water quality

apply to the point at which water is withdrawn for treatment and distribution as a potable supply.

(1) *Bacteria.* Waters shall be considered to be of unsatisfactory bacteriological quality as a source when:

A sanitary survey indicates the presence or probability of the presence of sewage or other objectionable bacteria-bearing wastes, or

Numerical bacteriological limits of 2000 fecal coliforms per 100 ml for public water supply raw water sources are exceeded during the low flow periods when such bacteria can be demonstrated to be attributed to pollution by sewage.

(2) *Radioactive substances.* Gross beta activity (in the known absence of 90 strontium and alpha emitters) shall not exceed 1000 picocuries per liter.

The concentration of 226 radium and 90 strontium shall not exceed 3 and 10 picocuries per liter respectively.

The annual average concentration of specific radionuclides, other than 226 radium and 90 strontium, shall not exceed 1/30 of the appropriate maximum permissible concentration for the 168 hour week as set forth by the International Commission of Radiological Protection and the National Committee on Radiation Protection.

Because any human exposure to unnecessary ionizing radiation is undesirable, the concentrations of radioisotopes in natural waters shall be maintained at the lowest practicable level.

(3) *Chemical constituents.* Not to exceed the following concentrations:

Specific Constituents (mg/l)

Arsenic	0.05	Cyanide	0.025
Barium	1.0	Fluoride	1.5
Cadmium	0.01	Lead	0.05
Chromium (hexavalent)	0.05	Phenols (Other than natural sources)	0.001

All substances toxic or detrimental to humans or detrimental to treatment processes shall be limited to nontoxic or nondetrimental concentrations in the surface water.

(4) *Finished water quality.* Waters designated as a source of public water supply shall be of such quality that existing U.S. Public Health Service Drinking Water Standards for finished water can be met after conventional water treatment, consisting of coagulation, sedimentation, rapid sand filtration and disinfection.

b. Aquatic life. The following criteria are designed for the maintenance and propagation of a well-balanced fish population. They are applicable to any place in surface waters but cognizance will be given to opportunities for admixture of waste effluents with such waters.

(1) *Warm water areas. Dissolved oxygen*: Not less than 5.0 mg/l during at least sixteen hours of any twenty-four-hour period and not less than 4.0 mg/l at any time during the twenty-four-hour period.

pH: Not less than 6.8 nor above 9.0

Temperature.

Mississippi River—Not to exceed an 89° F. maximum temperature from the Minnesota border to the Wisconsin border and a 90° F. maximum temperature from the Wisconsin border to the Missouri border nor a 5° F. change from background or natural temperature in the Mississippi River.

Missouri River—Not to exceed a 90° F. maximum daily temperature nor a 5° F. increase over background or natural temperature.

Interior streams—Not to exceed a 90° F. maximum temperature nor a maximum 5° F. increase over background or natural temperature.

Lakes and reservoirs—Not to exceed a 90° F. maximum temperature nor a maximum 3° F. increase over background or natural temperature.

Chemical constituents. Not to exceed the following concentrations:

Specific constituents (mg/l)

Ammonia Nitrogen (N)	2.0	*Copper	0.02
*Arsenic	1.0	Cyanide	0.025
*Barium	5.0	*Lead	0.10
*Cadmium	0.05	*Zinc	1.0
*Chromium (hexavalent)	0.05	Phenols (Other than natural sources)	0.001
*Chromium (trivalent)	1.00		

*A maximum of 5.0 mg/l for the entire heavy metal group shall not be exceeded.

All substances toxic or detrimental to aquatic life shall be limited to nontoxic or nondetrimental concentrations in the surface water.

(2) *Cold water areas.* All criteria stated for warm water areas apply to cold water areas except as follows:

Dissolved oxygen. Not less than 7.0 mg/l during at least sixteen hours of any twenty-four-hour period nor less than 5.0 mg/l at any time during the twenty-four-hour period.

Temperature. Not to exceed a 68° F. maximum temperature. The rate of change due to added heat shall not exceed 2° F. per hour with a 5° F. maximum increase from background temperature.

c. Recreation. The following criteria are applicable to any waters used for recreational activities involving whole body contact such as swimming and water skiing:

Bacteria. Waters shall be considered to be of unsatisfactory bacteriological quality for the above recreational use when:

A sanitary survey indicates the presence or probability of the presence of sewage or other objectional bacteria-bearing wastes or

Numerical bacteriological limits of 200 fecal coliforms per 100 ml for primary contact recreational waters are exceeded during low flow periods when such bacteria can be demonstrated to be attributable to pollution by sewage.

1.2(4) *Disinfection.* Continuous disinfection shall be provided for all municipal waste treatment effluents and for all other wastes which may be sources of bacterial pollution throughout the year where such wastes are discharged into waters designated for public water supplies and throughout the recreational season (April 1 to October 31) where such wastes are discharged into waters used or classified for recreational use and at all other times as necessary to prevent bacterial pollution which may endanger the public health or welfare.

1.2(5) *Nondegradation.* Waters whose existing quality is better than the established standards as of the date on which such standards become effective will be maintained at high quality unless it has been affirmatively demonstrated to the state that a change is justifiable as a result of necessary economic or social development and will not preclude present and anticipated use of such waters. Any industrial, public or private project or development which would constitute a new source of pollution or an increased source of pollution to high quality waters will be required to provide the necessary degree of waste treatment to maintain high water quality. (In implementing this rule, the appropriate agency of the federal government will be kept advised and will be provided with such information as it will need to discharge its responsibilities under the federal Water Pollution Control Act, as amended.)

1.2(6) *Interstate waters.*

a. The Mississippi river, Missouri river, Fox river, Des Moines river, East Fork of the Des Moines river, West Fork of the Des Moines river, Iowa river, Cedar river, Shellrock river, Winnebago river, Wapsipinicon river, Upper Iowa river, Chariton river, Middle Fork Medicine river, Weldon river, Little river, Thompson river, East Fork of the Big river, Grand river, Platte river, East Fork of the 102 river, Middle Fork of the 102 river, Nodaway river, West Tarkio river, Tarkio river, Nishnabotna river, Little Sioux river, Rock river and Kanaranzi Ditch are hereby designated as interstate waters.

b. Treatment. All municipal wastes discharged into the interstate waters of the Mississippi river and the Missouri river shall receive a minimum of ninety percent reduction of BOD prior to discharge, no later than dates fixed by order of the Iowa water pollution control commission. All industrial wastes discharged into such interstate waters shall receive equivalent treatment prior to discharge, no later than dates fixed by order of the Iowa water pollution control commission.

[Effective June 8, 1971]